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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Part 5001

[Docket No. RUS–19–Agency–0030]

RIN 0572–AC56

OneRD Guaranteed Loan Regulation, Corrections

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, Department of Agriculture (USDA).

ACTION: Final rule; technical correction.

SUMMARY: On December 10, 2021, Rural Development's Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service (referred to as ''the Agency'' or ''Agency'') published a final rule with comment for the OneRD Guaranteed Loan regulation (OneRD). The final rule made necessary revisions to the policy and procedures that strengthened the oversight and management of the growing Community Facilities, Water and Waste Disposal, Business and Industry, and Rural Energy for America guarantee portfolios. Following final implementation of the rule, the Agency found that a correction due to an omission is necessary. This technical correction makes an amendment to fix a paragraph reference.

DATES: Effective July 15, 2022.

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Susan Woolard, Special Projects Coordinator, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250; telephone, 202–720–9631; email, *susan.woolard@usda.gov*.

SUPPLEMENTARY INFORMATION: The Agency is issuing a technical correction to the final rule that published December 10, 2021, at 86 FR70349 that amended 7 CFR part 5001. This correction amends § 5001.126 by updating the cross-references within paragraph (e) to reflect the changes to this paragraph the Agency made in the December 2021 rule.

List of Subjects in 7 CFR Part 5001

Business and industry, Community facility, Energy efficiency improvement, Loan programs, Renewable energy, Rural areas, Rural development, Water and waste disposal.

For the reasons stated in the preamble, the Agency corrects 7 CFR part 5001 with the following technical amendment:

■ 1. The authority citation for part 5001 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1926(a); 7 U.S.C. 1932(a); and 7 U.S.C. 8107.

■ 2. Amend § 5001.126 by revising paragraph (e) introductory text to read as follows:

§ 5001.126 Borrower Eligibility.

* * * * *

(e) *REAP loan guarantees.* To be eligible for a loan guarantee under REAP, a borrower must meet the requirements specified in paragraphs (e)(1) through (5) of this section.

* * * * *

Justin Maxson,

Deputy Under Secretary, Rural Development.

[FR Doc. 2022–15105 Filed 7–14–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2021–BT–DET–0022]

RIN 1904–AF25

Energy Conservation Program: Final Determination of Air Cleaners as a Covered Consumer Product

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

ACTION: Final rule; final determination.

SUMMARY: The U.S. Department of Energy (''DOE'') has determined that air cleaners qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act, as amended (''EPCA''). DOE has determined that classifying air cleaners as covered products is necessary or appropriate to carry out the purposes of EPCA, and that the average U.S. household energy use for air cleaners is likely to exceed 100 kilowatt-hours per year.

DATES: This final determination is effective September 13, 2022.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, 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/EERE-2021-BT-DET-0022.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Statutory Authority

EPCA [1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain consumer products, referred to generally as ''covered products.'' [3] In addition to specifying a list of consumer products that are covered products, EPCA contains provisions that enable the Secretary of Energy to classify additional types of consumer products as covered products. For a given consumer product to be classified as a covered product, the Secretary must determine that: classifying the product as a covered product is necessary or appropriate to carry out the purposes of this chapter; and the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (''kWh'') (or its British thermal unit (''Btu'') equivalent) per year. (42 U.S.C. 6292(b)(1)) [4]

When considering covering additional consumer product types, DOE must first determine whether these criteria from 42 U.S.C. 6292(b)(1) are met. Once a determination is made, the Secretary may prescribe test procedures to measure the energy efficiency or energy use of such product. (42 U.S.C. 6293(a)) Furthermore, once a product is determined to be a covered product, the Secretary may establish standards for such product, subject to the provisions in 42 U.S.C. 6295(o) and (p), provided that DOE determines that the additional criteria at 42 U.S.C. 6295(*l*) have been met. Specifically, 42 U.S.C. 6295(*l*) requires the Secretary to determine that: the average household energy use of the products has exceeded 150 kWh per household for a 12-month period; the aggregate 12-month energy use of the products has exceeded 4,200 gigawatt-hours; substantial improvement in energy efficiency of products of such type is technologically feasible; and application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1))

II. Current Rulemaking Process

DOE has not previously conducted a rulemaking for air cleaners. DOE published in the **Federal Register** a notification of proposed determination of coverage (''NOPD'') on September 16, 2021 (''September 2021 NOPD''), in which it determined tentatively that air cleaners satisfy the provisions of 42 U.S.C. 6292(b)(1). 86 FR 51629.

DOE received comments in response to the September 2021 NOPD from the interested parties listed in Table II.1.

TABLE II—1 WRITTEN COMMENTS RECEIVED IN RESPONSE TO SEPTEMBER 2021 NOPD

Commenter(s)	Abbreviation	Docket No.	Commenter type
Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'')	AHRI	9	Trade Association.
The Appliance Standards Awareness Project (''ASAP''), the American Council for an Energy-Efficient Economy (''ACEEE''), Consumer Federation of America (''CFA''), and the Natural Resources Defense Council (''NRDC'').	ASAP *et al*	7	Efficiency Organizations.
The Association of Home Appliance Manufacturers (''AHAM'')	AHAM	13	Trade Association.
ACEEE, ASAP, AHAM, CFA, and NRDC	Joint Commenters	12	Efficiency Organizations and Trade Association.
Carrier Corporation	Carrier	6	Manufacturer.
Corn	Corn	4	Individual.
Daikin U.S. Corporation	Daikin	10	Manufacturer.
Brassell Estate	Brassell Estate	3	Individual.
Kodiak Steel Homes	KSH	2	Builder.
New York State Energy Research and Development Authority	NYSERDA	5	State Agency.
Northwest Energy Efficiency Alliance	NEEA	11	Efficiency Organization.
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; collectively, the California Investor-Owned Utilities.	CA IOUs	8	Utility.

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

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

[3] The enumerated list of covered products is at 42 U.S.C. 6292(a)(1)–(19).

[4] DOE has defined ''household'' to mean an entity consisting of either an individual, a family, or a group of unrelated individuals, who reside in a particular housing unit. For the purpose of this definition: Group quarters means living quarters that are occupied by an institutional group of 10 or more unrelated persons, such as a nursing home, military barracks, halfway house, college dormitory, fraternity or sorority house, convent, shelter, jail or correctional institution. Housing unit means a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but does not include group quarters. Separate living quarters means living quarters: to which the occupants have access either: directly from outside of the building, or through a common hall that is accessible to other living quarters and that does not go through someone else's living quarters, and occupied by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building. 10 CFR 430.2.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[5]

After considering public comments on the September 2021 NOPD, DOE is issuing this final determination of coverage for this product. DOE is not prescribing test procedures or energy conservation standards as part of this determination.

After publishing the September 2021 NOPD, DOE initiated rulemaking activities to consider potential test procedure and energy conservation standards for consumer air cleaners by publishing a request for information (''RFI'') on January 25, 2022 (''January 2022 RFI''). 87 FR 3207.[6] Through the January 2022 RFI, DOE sought data and information regarding development and evaluation of a new test procedure that would be reasonably designed to produce test results, which reflect energy use during a representative average use cycle for the product without being unduly burdensome to conduct. Additionally, the January 2022 RFI solicited information regarding the development and evaluation of potential new energy conservation standards for air cleaners, and whether such standards would result in significant energy savings, be technologically feasible and economically justified.

In response to the January 2022 RFI, DOE received certain comments pertaining to the scope of coverage and definition for air cleaners, which are discussed in the following sections. All other comments in response to the January 2022 RFI pertaining to the test procedure or standards rulemaking will be addressed in the subsequent rulemakings, should DOE pursue such rulemakings.

III. General Discussion

Air cleaners are consumer products designed to remove particulate matter and other contaminants from the air to improve indoor air quality. DOE's analysis indicates that air cleaners meet the statutory requirements under 42 U.S.C. 6292(b)(1), and therefore issues this final determination that air cleaners are a covered product. DOE will consider test procedure and energy conservation standards rulemakings for air cleaners in the future. DOE will determine if air cleaners satisfy the provisions of 42 U.S.C. 6295(*l*)(1) during the course of the energy conservation standards rulemaking.

While DOE received comments on specific topics in response to the September 2021 NOPD, discussed in sections III.A and III.B of this document, commenters also provided general feedback on the proposed determination of coverage for air cleaners.

The Joint Commenters supported DOE's proposal to include room air cleaners as a covered product and stated that they are negotiating potential test procedures and energy conservation standards for air cleaners. (Joint Commenters, No. 12 at p. 1) In additional comments filed separately, AHAM supported DOE's efforts to establish air cleaners as a covered product. (AHAM, No. 13 at p. 1) AHAM also commented that it is working on an updated standard to measure energy consumption for room air cleaners, AHAM AC–7–2021 and requested DOE to incorporate this standard by reference, once it is published, as the DOE test procedure. (AHAM, No. 13 at pp. 1–2)

The CA IOUs also supported DOE's proposal to make air cleaners a covered consumer product. (CA IOUs, No. 8 at p. 1) The CA IOUs cited the U.S. Environmental Protection Agency (''EPA'') and various State Technical Reference Manuals in commenting that the estimated lifetime of air cleaners is 9 years, and therefore, urged DOE to regulate air cleaners as soon as possible. (CA IOUs, No. 8 at p. 2) The CA IOUs encouraged DOE to work towards ensuring that air cleaners are not only efficient, but also meet consumer expectations for effectiveness, and that the information provided to consumers is clear. (CA IOUs, No. 8 at p. 5)

NYSERDA estimated that a potential standard for air cleaners would yield 0.19 million metric tons of carbon dioxide emissions reductions and result in $290 million of net present value for the state of New York. Given the significant emissions reductions, net present value, anticipated continued growth in sales, and important health benefits delivered by air cleaners, NYSERDA supported the coverage of air cleaners and encouraged DOE to move quickly to establish standards and test procedures. NYSERDA further indicated that there are many high efficiency, low-priced air cleaners on the market, which would make air cleaners a strong candidate for DOE standards. NYSERDA commented that other states have started establishing standards for air cleaners and a federal standard, established by DOE, is thus important. (NYSERDA, No. 5 at pp. 2–3)

AHRI commented that DOE should account for potential conflicts that could be caused by multiple regulations, and enumerated the various performance-based requirements and state regulations applicable to air filters that remove particulates from the air stream in ducted forced-air heating or cooling systems in residential and commercial buildings. According to AHRI, energy efficiency is important, but the main purpose of air cleaners it to provide clean air, which should be the primary focus for product design. (AHRI, No. 9 at pp. 1–3) Carrier generally supported the initiative to establish air cleaners as a covered product, but stated that the proposed definition and scope of coverage is broad and would include air cleaners that may not meet EPCA requirements. (Carrier, No. 6 at p. 1)

Corn and the Brassell Estate supported the air cleaners coverage determination with Corn stating that they are vital especially given Covid-19. (Corn, No. 4 at p. 1; Brassell Estate, No. 3 at p. 1)

DOE notes that many stakeholders commented in support of DOE's efforts to establish air cleaners as a covered consumer product. In this notice, DOE is classifying air cleaners as a covered product.

A. Scope of Coverage

Air cleaners are products designed to remove particulate matter and other contaminants from the air to improve indoor air quality. A wide range of consumer air cleaner products are available on the market, including tabletop units, units designed for single rooms or multiple rooms, and whole-home units integrated into a central heating and cooling system. Air cleaners employ a wide variety of technologies to achieve the primary function of removing particulate matter and other contaminants from the air, and may also include other secondary functions that supplement or enhance the primary function such as providing air circulation, humidification or dehumidification, and other forms of indoor air quality improvement.

EPCA does not define air cleaners. In the September 2021 NOPD, DOE proposed the following definition to describe the scope of ''air cleaners'' as a covered product:

An air cleaner is a consumer product that:

[5] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to determine coverage for air cleaners. (Docket No. EERE–2021–BT–DET–0022, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document). When referring to comments received on another docket, the docket number is included prior to the commenter's name.

[6] In response to requests from stakeholders, DOE re-opened the comment period to the January 2022 RFI for an additional 40 days. 87 FR 11326 (Mar. 1, 2022).

(1) Is a self-contained, mechanically encased assembly;

(2) Is powered by single-phase electric current;

(3) Removes, destroys, or deactivates particulates and microorganisms from the air;

(4) Excludes products that destroy or deactivate particulates and microorganisms solely by means of ultraviolet light without a fan for air circulation; and

(5) Excludes central air conditioners, room air conditioners, portable air conditioners, dehumidifiers, and furnaces as defined in 10 CFR 430.2. 86 FR 51629, 51632.

DOE developed the definition proposed in the September 2021 NOPD based on reviewing definitions specified in the industry standard ANSI/AHAM AC–1–2020, *Portable Household Electric Room Air Cleaners* (''ANSI/AHAM AC–1–2020''), the definitions on the ENERGY STAR website and the ENERGY STAR Product Specification for Room Air Cleaners, Version 2.0, Rev. April—2021 (''ENERGY STAR V. 2.0 Specification''), and a wide variety of air cleaning consumer products currently on the market. 86 FR 51629, 51632.

In response to the September 2021 NOPD, the Joint Commenters stated that they generally agreed with DOE's proposed definition and provided some suggested revisions. Specifically, the Joint Commenters suggested the second criterion in the proposed definition to be clarified to state that it is a unit that includes ''an electric cord'' to differentiate from whole-home units. With regard to the third criterion, the Joint Commenters suggested edits to note that an air cleaner may also remove pollutants such as volatile organic compounds (''VOCs'') and/or microorganisms from the air, in addition to particulates, to include all types of air cleaner functionality. With regard to the fourth criterion, the Joint Commenters suggested replacing ''destroy or deactivate particulates and microorganisms'' with ''operate'' to remove language that commenters stated was not necessary to repeat. (Joint Commenters, No. 12 at p. 2)

In response to the January 2022 RFI, the Joint Commenters further commented on DOE's proposed definition. The Joint Commenters suggested a definition of ''consumer room air cleaner'' as follows: Consumer room air cleaner means a consumer product which (1) includes conventional room air cleaners and miscellaneous room air cleaners; (2) is a self-contained, mechanically encased assembly; (3) is powered by single-phase electric current; and (4) excludes central air conditioners, room air conditioners, portable air conditioners, dehumidifiers, and furnaces, as defined in 10 CFR 430.2. (EERE–2021–BT–STD–0035, Joint Commenters, No. 8 at p. 2) The Joint Commenters further suggested definitions for the terms ''conventional room air cleaner'' and ''miscellaneous room air cleaner'' as follows: Conventional room air cleaner means a consumer room air cleaner that (1) is an electric corded unit; (2) operates with a fan for air circulation; and (3) removes, destroys, and/or deactivates particulates and may also remove pollutants, such as VOCs and microorganisms, from the air. Miscellaneous room air cleaner means a consumer room air cleaner that (1) operates without a fan for air circulation; and (2) removes, destroys, and/or deactivates particulates and may also remove pollutants, such as VOCs and microorganisms, from the air. (*Id.*) The Joint Commenters stated that their recommended definition is restricted to consumer room air cleaners because that corresponds to the scope of products subject to their ongoing negotiations. (*Id.*) In particular, the Joint Commenters suggested clarifying that ''conventional room air cleaners'' have electric cords, which would differentiate portable air cleaners from whole-home units. (*Id.*)

The Joint Commenters further stated that they no longer agree with DOE's proposal to exclude from coverage products that use only an ultraviolet (''UV'') light and do not have a fan for air circulation, stating that these products are already beginning to appear on the market and are being marketed as room air cleaners. (*Id.* at p. 3) The Joint Commenters stated that products that use UV light for air cleaning purposes should be addressed as air cleaners, not illumination devices, and that it is important for them to be included in the scope of coverage such that a test procedure and standards can be developed at some point. (*Id.*)

Additionally, the Joint Commenters stated that they no longer recommend that DOE include the requirement for a cord for all air cleaners because they expect that future products might be powered via a terminal box, socket, or other type of direct connection. (*Id.*) The Joint Commenters stated that such possible products would include UV bulbs represented to be air cleaners, but may not be connected via a cord. (*Id.*)

Daikin suggested the following additions to the air cleaners definition: specifying that the air cleaner be powered directly from 120V supplied by a plug; has a maximum airflow rate of 400 cubic feet per minute (''CFM''); is marketed for residential use with the primary function of removing, destroying, or deactivating particulates and microorganisms from the air; and excludes products without a fan, products that provide incidental air cleaning, products powered by external transformers, or ancillary products used in conjunction with, or inside ducts of, heating, ventilation, and air conditioning (''HVAC'') equipment. (Daikin, No. 10 at pp. 2–3) Carrier provided similar suggestions including: specifying the air cleaner must be rated at 120V; designed to supply nominal airflow rate less than or equal to 400 CFM; and marketed for the primary functions of removing, destroying, or deactivating particulates and microorganisms from the air in a residential occupancy. (Carrier, No. 6 at p. 2) Daikin additionally commented that since clean air delivery rate (''CADR''), which is the metric that is calculated in ANSI/AHAM AC–1–2020, is a performance metric that is determined via testing, the scope should be defined based on the nominal airflow rate of the unit. Daikin commented that air cleaners in a residential space with existing HVAC equipment would rarely require high CFM. According to Daikin, air cleaners with airflow rates of 400 CFM and above would be considered excessive and unnecessary for residential spaces. (Daikin, No. 10 at p. 2) Similarly, Carrier also commented that it did not support including large portable air cleaners with nominal airflow rates higher than 400 CFM typically used in commercial applications, since these would not meet the airflow limits of ANSI/AHAM AC–1–2020. (Carrier, No. 6 at p. 2) Carrier commented that it would be reasonable to include air cleaners that are currently within the scope of ANSI/AHAM AC–1–2020 and the ENERGY STAR V. 2.0 Specification (*i.e.,* those with airflow rates equal to or less than 400 CFM) in the definition of a covered air cleaner, but asserted that including any other air cleaner products within the scope would not meet the requirements of 42 U.S.C. 6292(b)(1)(B) and therefore it would not be appropriate to include such products in the air cleaner scope of coverage. (Carrier, No. 6 at p. 3)

In a comment in response to the January 2022 RFI, Daikin reiterated its concerns about products that may be included within DOE's proposed definition, and urged DOE to review its recommendations in Daikin's September 2021 NOPD comments. (Daikin, EERE–2021–BT–STD–0035, No. 12 at p. 2)

AHRI suggested several revisions to the definitions DOE proposed in the September 2021 NOPD and reiterated these comments in response to the January 2022 RFI. Specifically, AHRI suggested revising the second criterion in DOE's proposed definition to state that an air cleaner is directly powered

by 120 volt (''V''), single-phase electric current supplied by a National Electrical Manufacturers Association (''NEMA'') 1–15P or 5–15P plug. AHRI additionally recommended including the following items in DOE's proposed definition of an air cleaner: is designed to supply airflow less than or equal to 400 CFM; is marketed for the primary functions of removing, destroying, or deactivating particulates and microorganisms from the air in a residential occupancy; excludes products that destroy or deactivate particulates and microorganisms solely by means of UV light or electrostatic air filters with or without a fan for air circulation; excludes products without a fan; and, excludes incidental air cleaning products, which AHRI defined as a consumer product that would meet the definition of an air cleaner, but which provides an additional function, not related to air purification, within the same housing, such as a vacuum cleaner, fresh air ventilators, oven hood, refrigerator, or desiccant dehumidifier, and whose air purification function is incidental to its other functions. (AHRI, No. 9 at pp. 4–5; EERE–2021–BT–STD–0035, AHRI, No. 15 at p. 5) In response to the January 2022 RFI, Madison Indoor Air Quality (''MIAQ'') provided the same suggested modifications to the proposed definitions in the September 2021 NOPD as suggested by AHRI in its comments. (EERE–2021–BT–STD–0035, MIAQ, No. 5 at pp. 4–5) AHRI and MIAQ asserted that the modifications it provided to the air cleaners definition would ensure that the scope of coverage only included portable, plug-in air cleaners. AHRI commented that limiting the voltage to ''directly powered by 120V'' would ensure that products powered by single-phase 240V electrical supply or through an external transformer would be excluded. AHRI further commented that combination products, as defined in the ENERGY STAR V. 2.0 Specification, and defined as incidental products in AHRI's comments, should also be excluded. (AHRI, No. 9 at pp. 5–6; EERE–2021–BT–STD–0035, AHRI, No. 15 at pp. 5–6; EERE–2021–BT–STD–0035, MIAQ, No. 5 at pp. 4–5)

AHRI commented that the DOE proposed definition would include products that are not presently included in ANSI/AHAM AC–1–2020 or covered by the ENERGY STAR V. 2.0 Specification. AHRI commented that the definition it suggested would ensure non-portable air cleaners, such as those that are mounted on walls and ceilings, or that provide whole-home cleaning in conjunction with central heating or air conditioning systems, would not be included in the scope of coverage. Further, AHRI explained that justifying a scope expansion would require robust analysis that would involve significant time and resources. (AHRI, No. 9 at p. 4; EERE–2021–BT–STD–0035, AHRI, No. 15 at pp. 3–4) AHRI further commented that products with airflow rates over 400 CFM should be excluded from the scope of coverage because they are not currently covered by the ENERGY STAR V. 2.0 Specification or ANSI/AHAM AC–1–2020 and cannot be tested according to the ANSI/AHAM AC–1–2020 standard. (AHRI, No. 9 at p. 4; EERE–2021–BT–STD–0035, AHRI, No. 15 at p. 4)

In response to the January 2022 RFI, MIAQ provided similar suggestions as AHRI for products that should be excluded from the air cleaner scope of coverage. MIAQ disagreed with the inclusion of non-portable air cleaners, such as those mounted on walls and ceilings, or that provide whole-home air cleaning in conjunction with central heating or air conditioning systems. (EERE–2021–BT STD–0035, MIAQ, No. 5 at p. 3) Further, MIAQ commented that the ANSI/AHAM AC–1–2020 standard does not adequately cover non-portable products, and products with airflow rates over 450 CFM are not covered by the ENERGY STAR Program. (EERE–2021–BT STD–0035, MIAQ, No. 5 at p. 3)

In response to the January 2022 RFI, Synexis LLC (''Synexis'') commented that the proposed DOE definition for consumer air cleaners does not account for all of the various technologies that exist in this space and could benefit from further clarification. (EERE–2021–BT–STD–0035, Synexis, No. 14 at p. 1) Synexis agreed with the first and second criteria in the proposed definition, but stated that the third and fourth criteria could be further clarified by providing specific information about air cleaning mechanisms and claims associated with these devices (*e.g.,* devices that utilize high efficiency particulate air (''HEPA''), charcoal, carbon, or minimum efficiency reporting value (''MERV'') filters or devices that utilize photocatalytic oxidation (''PCO''), bipolar ionization, or other similar technologies, *etc.*) that would be in scope. Regarding the fifth criterion, Synexis stated that portable air conditioners that incorporate filtration mechanisms with any supplemental claims related to cleaning the air (*i.e.,* in addition to cooling) should not be excluded from the definition of consumer air cleaners. (EERE–2021–BT–STD–0035, Synexis, No. 14 at pp. 1–2)

Blueair commented in response to the January 2022 RFI that it supports the definition proposed in the September 2021 NOPD (EERE–2021–BT–STD–0035, Blueair, No. 10 at p. 2) Lennox International Inc. (''Lennox'') also commented in response to the January 2022 RFI supporting the exclusion of UV lights from the definition, commenting that these products are already subject to ''lamp'' regulations. (EERE–2021–BT–STD–0035, Lennox, No. 7 at p. 2)

In response to the January 2022 RFI, NEEA commented that it supports DOE's proposal to use a broad definition for room air cleaners that includes both portable and mounted units, but that it also supports excluding other products that fit into alternate DOE product categories, namely those that are classified as ''lamps primarily designed to produce radiation in the ultraviolet region of the spectrum.'' (NEEA, EERE–2021–BT–STD–0035, No. 13 at p. 3) The CA IOUs recommended that DOE change the third criterion to state ''removes, destroys, and/or deactivates particulates, microorganisms, and/or pollutants from the air'' to encompass technologies that do a combination of these actions. The CA IOUs also suggested that the fourth criterion should be edited such that it is as comprehensive as the third criterion. (CA IOUs, No. 8 at p. 3) The CA IOUs commented that the definition of air cleaners should encompass all air cleaner technologies, including UV light, heat, PCO, and photoelectrochemical oxidation (''PECO''), beyond the fan, filters, electrostatic plates, and ion generators that are referenced in ANSI/AHAM AC–1–2020. (CA IOUs, No. 8 at p. 3)

In response to the January 2022 RFI, the CA IOUs reiterated its support for DOE's proposal in the September 2021 NOPD to cover a more comprehensive range of the consumer market for air cleaning and purification, rather than just portable air cleaners. The CA IOUs recommended that mounted and whole-home/in-duct units as well as UV lamps marketed as air cleaners be within the scope of coverage. (EERE–2021–BT–STD–0035, CA IOUs, No. 9 at pp. 9–10)

Regarding the clause ''single-phase electric current'' in DOE's proposed definition in the September 2021 NOPD DOE notes that this phrase was intended to include air cleaners that operate at both 120V and 240V. DOE has identified products that are designed to operate via both 120V and 240V supply power, but otherwise meet the criteria of the proposed definition of ''air cleaner.'' To remove any potential misunderstanding that the definition of ''air cleaner'' is

limited to products that are powered via 120V supply power, in this final determination, DOE is adopting a definition that specifies, in part, that air cleaners are units that are ''electrically powered'' so as not to limit the definition to any particular electrical power source.

Similarly, DOE is not limiting the scope of coverage to a plug-in or corded unit. In-duct/whole-home air cleaners are of a type that are distributed in commerce for residential use, but may not be ''plug-in'' or ''corded.'' Additionally, as the Joint Commenters noted in their comments in response to the January 2022 RFI, products could be powered via other types of direct connections that are not plug-in or corded. (EERE–2021–BT–STD–0035, Joint Commenters, No. 8 at p. 3) As discussed in the September 2021 NOPD, ANSI/AHAM AC–1–2020 includes air cleaners that include appropriate wall mounting brackets or specifically designated instructions to mount the air cleaner integrally to the wall, *i.e.,* ''non-portable'' air cleaners. 86 FR 51629, 51632. DOE recognizes that while these products may require additional considerations pertaining to the installation instructions as ''portable'' air cleaners, such air cleaners may not be ''plug-in'' or ''corded,'' but may be of a type distributed into commerce for personal use.

Further, based on an analysis of products available on the market, DOE notes that the pollutants that may be removed by air cleaners are not limited to particulate matter and microorganisms. Accordingly, DOE is proposing to include VOCs in the list of pollutants. DOE is additionally clarifying that any air cleaner that *contains means to* remove, destroy, or deactivate pollutants would be considered an air cleaner. DOE is revising the definition proposed in the September 2021 NOPD to state that an air cleaner ''contains means to remove, destroy, or deactivate particulates, VOCs, and/or microorganisms from the air.''

Additionally, DOE is not limiting the definition based on an airflow threshold (*e.g.,* less than or equal to 400 CFM). In-duct/whole-home air cleaners have a range of airflow specifications and such specifications may not adequately distinguish between air cleaners and air cleaning products that are commercial and industrial equipment.[7] Similarly, DOE is not including additional information about the types of filters or technologies utilized by air cleaners, since the definition specified in this notice is based on the functionality provided by the unit and would include all types of filters and technology types.

Regarding products that operate only on UV light (*e.g.,* without a fan for air circulation), as discussed in the September 2021 NOPD, the energy-consuming component of such products would be a fluorescent lamp or light-emitting diode that emits light in the UV portion of the electromagnetic spectrum. 86 FR 51629, 51632. Accordingly, DOE would classify these products as a type of lamp under EPCA (See the definition of ''lamps primarily designed to produce radiation in the ultraviolet region of the spectrum'' and ''light-emitting diode or LED'' in 10 CFR 430.2). *Id.* DOE did not receive any comments regarding how such products would be distinguished from the currently applicable definitions.

Regarding products that provide functionality in addition to air purification within the same housing, DOE proposed to exclude certain products that provide air cleaning functionality in addition to other functionality, such as central air conditioners, room air conditioners, portable air conditioners, dehumidifiers, and furnaces, in the September 2021 NOPD. *Id.* DOE is retaining these exclusions in the adopted definition of ''air cleaner.'' DOE is also modifying the definition as proposed to explicitly provide that ''air cleaners'' means a product for improving indoor air quality to clarify that the term does not include products that may provide some air cleaning as an ancillary function (*e.g.,* a vacuum cleaner).

In response to the January 2022 RFI, Lennox supported the exclusion of air cleaners associated with central air conditioning and furnace systems from the scope of a DOE consumer air cleaner efficiency standard, asserting that those products are already covered by DOE standards. Additionally, Lennox commented that the ANSI/AHAM AC–1–2020 standard and ENERGY STAR V. 2.0 Specification are only applicable to portable units, so air cleaners associated with central air conditioning and furnace systems would not be appropriate for this rulemaking. (EERE–2021–BT–STD–0035, Lennox, No. 7 at pp. 1–2) AHRI also commented that there are no test procedures to measure the energy use of in-duct air cleaners with only air cleaning components without a fan and as such, these products should be excluded from the coverage determination. AHRI further stated that energy conservation standards for portable and non-portable air cleaners, or ''incidental air cleaners'' (as defined by AHRI), would be different and it would not be appropriate to include these products in the same regulation. (AHRI, No. 9 at p. 6)

Additionally, AHRI commented that DOE should exclude commercial products, which AHRI described as products typically used in hospitals, airports, commercial buildings, and laboratories and have high airflow and capacity not meant for residential use. AHRI stated that air cleaners are not on the statutory list of commercial/industrial equipment permissible for regulation and noted that commercial products typically cannot be purchased by consumers, for consumer applications. AHRI noted that commercial air purifiers cannot be purchased for personal use and installation in homes and that these products are sold through business-to-business sales channels. Finally, AHRI commented that DOE has not conducted the appropriate analysis to include commercial air cleaners and that adequate test procedures do not exist. (AHRI, No. 9 at pp. 6–7; EERE–2021–BT–STD–0035, AHRI, No. 15 at pp. 4–5)

In response to the January 2022 RFI, MIAQ also stated that commercial products should be excluded since air cleaners are not on the statutory list of commercial equipment permissible for regulation, the determination of energy savings would be substantially different for commercial equipment, consumer and commercial equipment are fundamentally different and have different statutory requirements, and commercial products are not available to consumers for personal use. (EERE–2021–BT STD–0035, MIAQ, No. 5 at pp. 3–4)

Daikin commented that the definition of an air cleaner as proposed in the September 2021 NOPD is broad and could encapsulate unintended products. Daikin asserted that DOE did not consider whether a product is distributed in commerce for residential or commercial use, but whether it is of a type of product distributed in commerce for residential use. Daikin stated that air cleaners marketed and sold solely for commercial applications are typically not sold through retail stores, but rather via a contractor, dealer, or distributor, and such products should be excluded from the definition of an air cleaner. (Daikin, No. 10 at pp. 1–2) Carrier commented that it did not support including whole-home air cleaners in conjunction with central heating/air conditioning systems in the

[7] AprilAire Electronic Air Purifier—Model 5000 is an example of such a whole-home air purifier. *https://www.aprilaire.com/whole-house-products/air-purifiers/model-5000.*

definition and scope of coverage. (Carrier, No. 6 at p. 1)

Trane Technologies commented in response to the January 2022 RFI that permanently mounted HVAC systems in buildings are already substantially regulated through building codes, product standards, and DOE regulations, and that no further standards for these product types should be considered without an exhaustive and multi-stakeholder consultative process. (EERE–2021–BT–STD–0035, Trane Technologies, No. 3 at p. 3)

ASAP *et al.* supported a broad definition for air cleaners, such that it would include air cleaners such as whole-home units. (ASAP *et al.* No. 7 at p. 2) NEEA supported coverage for air cleaners, but noted that DOE's proposed definition did not specifically exclude whole home ventilation equipment. NEEA recommended clarifying the definition to apply only to products that have a primary purpose of removing, destroying, or deactivating particulates, which would exclude products with a secondary function of improved air quality through increased ventilation, such as energy recovery ventilation systems. NEEA stated that expanding the scope to include non-portable air cleaners may require future coordination with AHAM and ENERGY STAR to align certification requirements and definitions. (NEEA, No. 11 at p. 2)

The purpose of the proposed definition, and the modified definition adopted in this final determination, is to identify the scope of certain consumer products (*i.e.,* air cleaning products) that are covered products. In identifying whether a product is a consumer product for consideration as a covered product, DOE evaluates whether such product: in operation consumes, or is designed to consume, energy; and, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual. (42 U.S.C. 6291(1))

DOE is also not including marketing considerations as part of the definition. In determining whether an air cleaning product were a consumer product, and therefore potentially a covered product, DOE would evaluate whether it is *of a type* of product distributed in commerce for residential use. (42 U.S.C. 6291(1); *emphasis added*)

AHRI also commented that the ANSI/AHAM AC–1–2020 standard is not the appropriate test procedure for other products potentially included in the scope of DOE's proposed definition, such as oven hoods or fresh air ventilators. (AHRI, No. 9 at p. 4; EERE–2021–BT–STD–0035, AHRI, No. 15 at p. 4)

Daikin commented that DOE's proposed definition covers a broad range of products, many of which cannot be tested using ANSI/AHAM AC–1–2020 or the ENERGY STAR V. 2.0 Specification. (Daikin, No. 10 at p. 2)

In response to the January 2022 RFI, MIAQ stated that the ANSI/AHAM AC–1–2020 standard is not suitable for very large or very small products due to the fixed room size of the test chamber, and is not appropriate for other products potentially included in the proposed definition, such as oven hoods or fresh air ventilators. Since all of these products would require unique test methods, MIAQ asserted that they should be excluded from the air cleaner scope of coverage. (EERE–2021–BT STD–0035, MIAQ, No. 5 at p. 3)

KSH referenced the ENERGY STAR V. 2.0 Specification's definition for a plug-in type air cleaner and commented that the test method for plug-in type air cleaners should specify that the unit should be plugged in to the outlet such that the unused socket remains accessible. (KSH, No. 2 at p. 1)

The CA IOUs commented that whole-home air purification solutions raise issues pertaining to the applicability of test procedures based on the installed application, and provided multiple examples in which according to the CA IOUs the energy use of such air purification systems is not addressed in DOE's current test procedures for consumer products. The CA IOUs also provided references to existing test procedures and building standards provisions [8] that may be useful to DOE in its efforts to establish appropriate test procedures for such whole-home air purification systems. (EERE–2021–BT–STD–0035, CA IOUs, No. 9 at p. 11)

AHRI additionally commented that it could not provide information on technology options to improve the efficiency of air cleaners until the scope of coverage and associate definition were amended to exclude non-portable products. (AHRI, No. 9 at p. 7)

Daikin commented that it believed there may be challenges on further improving the energy efficiency of air cleaners due to the lack of potential technology options. Daikin commented that most air cleaners are free-air discharge cleaners, which do not have significant potential for energy savings. Additionally, Daikin commented that changes in motors and impellers, or modifications to reduce energy consumption in standby or off mode would not provide significant savings. Daikin commented that reducing energy consumption by reducing the pressure drop due to filters would impact the performance of air cleaners. (Daikin, No. 10 at p. 3) Daikin also stated that some products such as humidifiers or dehumidifiers may also filter/clean air, and the mechanism to generate airflow is the same and the energy consumption cannot be isolated to air cleaning only. (Daikin, No. 10 at p. 2) Carrier commented that it did not have additional information on efficiency-related technology options for air cleaners. (Carrier, No. 6 at p. 3)

NEEA recommended that air cleaner product classes should be separated by CADR/W and that standards should be established as a function of capacity. NEEA further recommended that DOE consider overall unit function when establishing standards because air cleaners that filter smaller particles often use more energy. (NEEA, No. 11 at p. 2–) NEEA also commented that efficient motors, fans, and controls should be investigated as design options for energy savings because the energy consumption of air cleaners is likely to increase in the coming years due to an increase in consumer interest for these products. (NEEA, No. 11 at p. 3) NEEA recommended that DOE include technology options such as UV light, heat, PCO, and PECO in its assessment of applicable product categories. (NEEA, No. 11 at p. 3)

NEEA also supported the development of efficiency standards and test procedures for whole-home ventilation systems, but stated that metrics specific to such systems should be established through a separate rulemaking instead of combining these equipment types with air cleaners. (NEEA, No. 11 at p. 2) NEEA further commented that DOE should consider including a maximum allowable standby or partial on-mode power limit in any future energy conservation standard because the hours of operation as well as the functionality offered in standby mode (*e.g.,* accent lights, heat, *etc.*) may vary widely. NEEA commented that DOE should consider efficient motors, fans, and controls as technology options and noted that it may be able to provide additional data sources through its Retail Products Platform program. (NEEA, No. 11 at p. 3)

The CA IOUs recommended that DOE should take into account how air cleaners provide different services and applications for a variety of consumer

[8] As an example, the CA IOUs referenced ANSI/ASHRAE Standard 62.1–2019 which prescribes certain requirements by reference to the UL 2998 standard regarding ozone and UV generation.

needs as the standard-setting process continues. They also commented that the technology options for air cleaners that use fans include multiple speed motors and sensors that automatically adjust fan speed. The CA IOUs also recommended an investigation into the sensitivity of sensors and controls, the number of fan speeds available, and the degree to which they can reduce energy consumption while maintaining performance. The CA IOUs also commented to investigate energy consumption in standby mode for these products. (CA IOUs, No. 8 at pp. 3–4)

DOE welcomes comments provided by stakeholders regarding applicable test procedures and potential technology options, product classes, and efficiency levels. However, the air cleaner definition adopted in this final determination establishes the coverage of ''air cleaners'' for the purpose of Part A of EPCA. The scope of coverage is separate from a determination of the applicability of test procedures or energy conservation standards, should DOE establish test procedures and energy conservation standards. The scope of any test procedure or energy conservation standards would be considered in these respective rulemakings to the extent DOE pursues such rulemakings. As such, DOE is not limiting the scope of ''air cleaner'' as a covered product based on the potential availability of an industry test standard, or other test procedure or standards related issues.

Daikin commented that a labeling rule under 42 U.S.C. 6295(l)(1) could be a good driving factor for manufacturers and consumers to manufacture and consume higher efficiency products. (Daikin, No. 10 at pp. 3–4) DOE notes that the requirements under 42 U.S.C. 6295(l) are only applicable once a coverage determination has occurred and if and when DOE considers establishing standards.

The CA IOUs stated that they are engaged in discussions with several stakeholders as part of a working group to develop further recommendations regarding definitions, scope, test procedures, and efficiency standards. The CA IOUs further commented that the working group is in alignment with DOE's proposal to exclude products that offer air purification as a secondary function, but for which the main functionality, and related energy consumption, is already regulated as a covered product, such as those for central air conditioners, dehumidifiers, *etc.* The CA IOUs suggested DOE consider recommendations that the working group develops. (CA IOUs, No. 8 at p. 3) DOE welcomes comments and recommendations from the working group and will consider developments made by the working group on matters concerning definitions, scope, test procedures, and efficiency standards during the appropriate stage of each rulemaking.

In summary, based on the preceding discussion, DOE is defining ''air cleaner'' as a product for improving indoor air quality, other than a central air conditioner, room air conditioner, portable air conditioner, dehumidifier, or furnace, that is an electrically-powered, self-contained, mechanically encased assembly that contains means to remove, destroy, or deactivate particulates, VOCs, and/or microorganisms from the air. It excludes products that operate solely by means of ultraviolet light without a fan for air circulation.

B. Evaluation of Air Cleaners as a Covered Product Subject to Energy Conservation Standards

The following sections describe DOE's evaluation of whether air cleaners fulfill the criteria for being added as a covered product pursuant to 42 U.S.C. 6292(b)(1). As stated, DOE may classify a consumer product as a covered product if:

(1) Classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA; and

(2) The average annual per-household energy use by products of such type is likely to exceed 100 kWh (or its Btu equivalent) per year.

1. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA

DOE has determined that coverage of air cleaners is necessary or appropriate to carry out the purposes of EPCA, which include:

(1) To conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses; and

(2) To provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. (42 U.S.C. 6201(4) and (5))

In the September 2021 NOPD, DOE cited data presented by EPA for the ENERGY STAR Air Cleaners Program that estimated that overall shipments of room air cleaners (a subset of the products covered by the definition of ''air cleaner'' adopted in this final determination) were 5.17 million units. 86 FR 51629, 51633. DOE also referenced the energy consumption ratings contained in the ENERGY STAR database of certified room air cleaners,[9] which demonstrated significant variation in the total energy consumption among different models,[10] suggesting that technologies exist to reduce the energy consumption of air cleaners. *Id.* DOE requested data and information regarding current annual shipments of air cleaners and the installed base of air cleaners. *Id.*

AHRI agreed with DOE's estimates of shipments data, based on EPA and AHAM data. (AHRI, No. 9 at p. 7) ASAP *et al.* commented that the most recent ENERGY STAR data for 2020 reported 6.5 million shipments of ENERGY STAR-certified units,[11] total shipments are likely significantly greater, and product demand in the residential sector is projected to grow at a CAGR of 6.2 percent through 2028.[12] Furthermore, ASAP *et al.* cited ENERGY STAR data to assert that air cleaners represent a large potential for energy savings. In particular, ASAP *et al.* stated that ENERGY STAR-certified room air cleaners are more than 25 percent more efficient than standard models and that the minimum CADR per watt (''CADR/W'') rating in the current ENERGY STAR database ranged from 1.9 to 2.9 CADR/W; the most efficient models had rated values of 14.8 CADR/W. (ASAP *et al.,* No. 7 at p. 1)

ASAP *et al.* commented that the most recent ENERGY STAR unit shipment data for room air cleaners is 6.5 million shipments of ENERGY STAR-certified units, and commented that the estimated market penetration is not provided in the ENERGY STAR data. Using the most recent year in which ENERGY STAR provided market penetration data (2019), DOE approximates that roughly 40 percent of the market is at or above the ENERGY STAR level and estimates the total shipments of room air cleaners to be approximately 16 million units.

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[9] The ENERGY STAR Product Specification defines ''room air cleaner'' as ''an electric appliance with the function of removing particulate matter from the air and which can be moved from room to room.'' See Eligibility Criteria Version 2.0, Rev. April 2021, available at *https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Version%202.0%20Room%20Air%20Cleaners%20Specification_Rev%20April%202021_with%20Partner%20Commitments.pdf.*

[10] ENERGY STAR Certified Room Air Cleaners Database. Accessed June 24, 2021. Available online at *www.energystar.gov/productfinder/product/certified-room-air-cleaners/.*

[11] *www.energystar.gov/sites/default/files/asset/document/2020%20USD%20Summary%20Report_Lighting%20%20EVSE%20Update.pdf.* EPA did not report the ENERGY STAR market penetration of room air cleaners for 2020 ''due to indications of dramatic changes in the market in 2020 that are inconsistent with previous market trends.''

[12] *www.grandviewresearch.com/industry-analysis/us-air-purifier-market.*

DOE has determined that the coverage of air cleaners is both necessary and appropriate to carry out the purposes of EPCA. As indicated by the ENERGY STAR and shipments data, air cleaners comprise a significant and growing sector of the consumer products market. As a coverage determination is a prerequisite to establishing standards for these products, classifying air cleaners as a covered product is necessary and appropriate to carry out EPCA's purposes to: Conserve energy supplies through energy conservation programs; and provide for improved energy efficiency of major appliances and certain other consumer products. (42 U.S.C. 6201(4) and (5))

2. Average Household Energy Use

In the September 2021 NOPD, DOE estimated the average household energy use for air cleaners, in households that use the product, using power consumption data reported in the ENERGY STAR product database.[13] 86 FR 51629, 51633. The ENERGY STAR database is the only publicly available source, of which DOE is aware, that provides energy consumption data for air cleaners. For each model, the database lists the annual energy use in kilowatt-hours per year (''kWh/yr''), along with other relevant performance metrics, as measured according to ANSI/AHAM AC–1–2020. 86 FR 51629, 51633. In the September 2021 NOPD, DOE estimated the average annual energy consumption of air cleaners to be 299 kWh/yr among all models in the ENERGY STAR database. DOE also noted that the ENERGY STAR program estimated that standard (*i.e.,* non-ENERGY STAR qualified) consumer air cleaners operating continuously use around 550 kWh/yr.[14] DOE requested data and information regarding annual energy use estimates for air cleaners. 86 FR 51629, 51633.

The CA IOUs commented that the average household energy use from air cleaners likely exceeds the thresholds set by 42 U.S.C. 6292(b)(1) and 42 U.S.C. 6295(*l*), stating that the annual energy consumption of ENERGY STAR products currently listed is nearly 300 kWh/yr and estimating 450 kWh/yr for non-ENERGY STAR units. (CA IOUs, No. 8 at p. 2) The CA IOUs further stated that the hours of use for air cleaners would likely vary based on household needs and there was a wide range of estimates in federal and state sources. The CA IOUs asserted that, based on various sources, air cleaners may be operated between 6 and 24 hours per day.[15] (CA IOUs, No. 8 at p. 2) The CA IOUs commented that DOE should account for the variable hours of operation for air cleaners depending on consumer needs. The CA IOUs provided examples in which some air cleaners may run constantly but seasonally to counter high pollen content or wildfire smoke, while others may be used during all seasons but only during portions of the day. (CA IOUs, No. 8 at p. 54) The CA IOUs also stated that while only a minority of households owned air cleaners, of those owners, more than 20 percent had at least two air cleaners, based on California Residential Appliance Saturation Survey (''RASS'') data. (CA IOUs No. 8 at p. 2)

AHRI commented that it was difficult to provide data and information regarding annual energy use estimates for air cleaners, particularly for products not covered by the ENERGY STAR Program, such as non-portable products (wall mounted, ceiling-mounted, and whole home units). (AHRI No. 9 at p. 7) Carrier commented that it did not have information on energy use estimates for air cleaners, and stated that it is unlikely this data exists for whole-home air cleaners and large portable air cleaners with nominal airflow above 400 CFM because there is not a standard test procedure for these products. (Carrier No. 6 at p.3) Daikin commented that it did not have information on typical operational hours of air cleaners. (Daikin No. 10 at p. 3)

AHRI urged DOE to publish its energy use analysis for the proposed determination. According to AHRI different types of air cleaners employ different technologies with distinctly different energy use patterns and hours of operation, which should be accounted for in the energy use analysis. (AHRI No. 9 at p. 6) Daikin asked if DOE's annual energy use estimate considered number of operating hours and also requested DOE to provide its methodology for the calculation of annual energy use. Daikin noted that this same methodology could be applied to non-ENERGY STAR qualified products to obtain data. (Daikin No. 10 at p.3)

In the absence of additional data, DOE is using the estimates available from the ENERGY STAR database to estimate the energy use for this final determination. The ENERGY STAR database includes products with various technologies and EPA notes in the ENERGY STAR database that it calculates the annual energy consumption based on an estimated 16 hours/day in active mode (also referred to as on mode or operating mode) and 8 hours/day in standby mode (or inactive mode). DOE has used these estimates for its energy use analysis. The ENERGY STAR database includes a range of air cleaners with reported annual energy consumption ranging from 123 kWh/yr to 770 kWh/yr, with an average annual energy consumption of 299 kWh/yr. The average energy consumption of non-ENERGY STAR qualified models is likely higher.

Although the ENERGY STAR program covers only portable configurations of air cleaners, the similarity in fundamental design and operation (*i.e.,* a fan or other means for air circulation and a means for of removing, destroying, or deactivating contaminants from the air) of non-portable products (*e.g.,* wall-mounted, ceiling-mounted, whole-home units) indicates that non-portable air cleaners are likely to have similar or higher energy consumption as compared to portable air cleaners.

Based on this analysis, DOE determines that the average annual per-household energy use for air cleaners is likely to exceed 100 kWh/yr, satisfying the provisions of 42 U.S.C. 6292(b)(1).

IV. Final Determination

Based on the foregoing discussion, DOE concludes that including air cleaners, as defined in this final determination, as covered products is necessary and appropriate to carry out the purposes of EPCA, and the average annual per-household energy use by products of such type is likely to exceed 100 kWh/yr. Based on the information discussed in sections III.B of this final determination, DOE is classifying air cleaners as covered product.

This final determination does not establish test procedures or energy conservation standards for air cleaners. DOE will address test procedures and energy conservation standards through its normal rulemaking process.

V. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned

[13] *www.energystar.gov/productfinder/product/certified-room-air-cleaners/results.*

[14] *Air Purifiers (Cleaners).* Accessed June 28, 2021. Available online at: *www.energystar.gov/products/air_purifiers_cleaners.*

[15] The CA IOUs commented that in a 2018 technical summary titled, *Residential Air Cleaners,* EPA stated that ''air cleaning is limited to less than 25 percent of the 8,760 hours in a year'', which translates to 6 hours per day.

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 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. This determination has been determined to be not significant for purposes of E.O. 12866. As a result, OMB did not review this determination.

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 and a final regulatory flexibility analysis (''FRFA'') for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This determination sets no standards; it only positively determines that future standards may be warranted and should be explored in an energy conservation standards and test procedure rulemaking. Economic impacts on small entities would be considered in the context of such rulemakings. On the basis of the foregoing, DOE certifies that the coverage determination would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a FRFA for this determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This determination, which concludes that air cleaners meet the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this proposed action rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE analyzed this regulation in accordance with the National Environmental Policy Act (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A6. This rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking and otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. In this final determination, DOE positively determines that future standards may be warranted and that environmental impacts should be explored in an energy conservation standards rulemaking. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or an environmental impact statement.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this determination and concludes 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 product that is the subject of this determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to

minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the 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 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 requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this determination according to UMRA and its statement of policy and determined that the determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 15, 1988), DOE has determined that this determination 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 of 2001

Section 515 of the Treasury and General Government Appropriation Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under E.O. 12866, or any successor Executive order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This determination, which does not amend or establish energy conservation standards for air cleaners, is not a significant regulatory action under E. O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards

development process and the analyses that are typically used and has prepared a Peer Review report pertaining to the energy conservation standards rulemaking analyses.[16] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[17]

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this final determination prior to its effective date. The report will state that it has been determined that the final determination is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final determination.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on June 21, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 22, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends part 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by adding in alphabetical order the definition of ''air cleaner'' to read as follows:

§ 430.2 Definitions.

* * * * *

Air cleaner means a product for improving indoor air quality, other than a central air conditioner, room air conditioner, portable air conditioner, dehumidifier, or furnace, that is an electrically-powered, self-contained, mechanically encased assembly that contains means to remove, destroy, or deactivate particulates, VOC, and/or microorganisms from the air. It excludes products that operate solely by means of ultraviolet light without a fan for air circulation.

* * * * *

[FR Doc. 2022–13655 Filed 7–14–22; 8:45 am]

BILLING CODE 6450–01–P

[16] ''Energy Conservation Standards Rulemaking Peer Review Report.'' 2007. Available at www.*energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0.*

[17] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0384; Project Identifier AD–2022–00027–E; Amendment 39–22122; AD 2022–15–03]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–14–06 for all Pratt & Whitney (PW) PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. AD 2021–14–06 required repetitive borescope inspections (BSI) of certain low-pressure compressor (LPC) rotor 1 (R1) until replacement of electronic engine control (EEC) full authority digital electronic control (FADEC) software with updated software. AD 2021–14–06 also required a BSI after installation of the updated EEC FADEC software if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. AD 2021–14–06 also required, depending on the results of the BSI, replacement of the LPC R1. Since the FAA issued AD 2021–14–06, the manufacturer redesigned the compressor intermediate case (CIC) assembly to incorporate a shortened bleed duct configuration and updated the EEC FADEC software. This AD continues to require repetitive BSI of certain LPC R1s until replacement of EEC FADEC software with updated software and also a BSI after installation of the updated EEC FADEC software if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. This AD continues to require, depending on the results of the BSI, replacement of the LPC R1. This AD also requires removal and replacement of the existing CIC assembly with a CIC assembly eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 19, 2022.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@pw.utc.com;* website: *http://fleetcare.pw.utc.com.* You may view this service information at the Airworthiness Products Section, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0384; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for

Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021), (AD 2021–14–06). AD 2021–14–06 applied to all PW PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. The NPRM published in the **Federal Register** on April 04, 2022 (87 FR 19405). The NPRM was prompted by reports of inflight shutdowns due to failure of the LPC R1 and by subsequent findings of cracked LPC R1s during inspection. Additionally, the manufacturer redesigned the CIC assembly to incorporate a shortened bleed duct configuration. The shortened bleed duct addresses the unsafe condition by preventing the coincidence between bleed and the acoustic excitation. The manufacturer also updated the EEC FADEC software to provide compatibility with both current and future operation of engines and airplanes with the redesigned CIC assembly installed. In the NPRM, the FAA proposed to continue to require removal from service of certain EEC FADEC software and the installation of a software version eligible for installation. The NPRM proposed to require a BSI of LPC R1 for damage and cracks after replacing certain EEC FADEC software versions. The NPRM proposed to continue to require a BSI of LPC R1 after installation of an eligible EEC FADEC software version if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. The NPRM proposed to continue to require, depending on the results of the BSI, replacement of the LPC R1. The NPRM also proposed to require removal and replacement of certain CIC assemblies, identified by part number, with a CIC assembly eligible for installation.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from three commenters. The commenters were Air Line Pilots Association, International (ALPA), Delta Air Lines, Inc, (DAL), and an individual commenter. One commenter, ALPA, supported the proposal without change. Two commenters, DAL and an individual commenter, requested changes. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Revise the Required Action Proposed in Paragraph (g)(3)

DAL requested that the FAA remove the following language as proposed in paragraph (g)(3) of the NPRM: ''after installation of the EEC FADEC software version eligible for installation as required by paragraphs (g)(1) and (g)(2) of this AD.'' DAL noted that this requirement would create an unnecessary restriction on when the BSI of the LPC R1 can be accomplished and may cause operators to perform a second BSI if the BSI of the LPC R1 was performed prior to the software upgrade.

The FAA agrees and has revised paragraph (g)(3) of this AD as requested by DAL.

DAL also requested that the FAA revise paragraph (g)(3) of this AD by changing the language from ''For the model turbofan engines identified in paragraphs (g)(1) and (g)(2) . . .'' to ''For the model turbofan engines identified in paragraphs (g)(1) or (g)(2). . . .'' DAL noted that there is no overlap in turbofan engine models between paragraphs (g)(1) and (g)(2), thus it is not possible for an engine model to be identified in both paragraphs.

The FAA disagrees with changing this AD as requested by DAL. Paragraph (g)(3) of this AD applies to the model turbofan engines identified in paragraph (g)(1) and the model turbofan engines identified in paragraph (g)(2). The FAA did not change the AD as a result of this comment.

Request To Include Future Revisions to Service Information

DAL requested that the FAA add ''or later'' to Note 1 to paragraph (g)(4) to allow for the use of future revisions to PW Service Bulletins (SBs) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021, and PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021. DAL noted that this would ensure that any LPC R1 serial numbers added in subsequent revisions to these SBs would be included in the applicability of this AD. DAL also requested that the FAA add ''or later'' to Note 2 to paragraph (g)(5) to allow for the use of future revisions to PW engine maintenance manual (EMM) PW1000G–A–72–00–00–02A–0B5A–A. DAL noted that this would ensure that any changes made to the guidance on determining N1 exceedance duration would be applicable within the AD. DAL also requested that the FAA add ''or later'' to Note 3 to paragraph (g)(5) to allow for the use of future revisions to PW EMM PW1000G–A–72–31–00–00A–312A–D, Issue No. 017, dated March 19, 2021. DAL noted that this would ensure that any changes made to the guidance on performing the BSI of the LPC R1 will be applicable within the AD. DAL also requested that the FAA add a reference to A220 aircraft maintenance publication (AMP) Task BD500–A–J72–00–00–02AAA–0B5A–A to help ensure consistency across different manuals used by on-wing maintenance personnel.

The FAA disagrees with adding ''or later'' to the service information referenced in notes to paragraph (g) of this AD. The use of notes in the regulatory text is for informational purposes only, and the use of this service information is not required by this AD, but may assist the operator while complying with this AD. Therefore, including future revisions of the service information referenced in the notes would not affect the applicability of this AD. Additionally, future revisions of the service information have not yet been published by the manufacturer or reviewed by the FAA. The FAA disagrees with the need to add reference to future PW EMM revisions within Note 2 to paragraph (g)(5) of this AD, as the currently cited documents provide the appropriate guidance. The FAA did not change the AD as a result of these comments.

Request To Correct Reference to EEC FADEC Software Version

DAL and an individual commenter requested that the FAA revise paragraph (h)(1) of this AD to change the EEC FADEC software version eligible for installation from version V2.11.12.4 to version V2.11.12.1. Both commenters noted that PW SB PW1000G–A–73–00–0052–00A–930A–D, Issue No. 001, dated October 7, 2021, defines EEC FADEC software version V2.11.12.1 as the software version that is eligible for installation on PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines.

The FAA agrees and has updated paragraph (h)(1) of this AD.

Conclusion

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

Related Service Information

The FAA reviewed PW SB PW1000G–A–73–00–0025–00B–930A–D, Issue No. 001, dated November 23, 2021; PW SB PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021; PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021; PW SB PW1000G–A–73–00–0052–00A–930A–D, Issue No. 001, dated October 7, 2021; PW SB PW1000G–A–72–00–0121–00B–930A–D, Issue No. 001, dated July 9, 2021; PW SB PW1000G–A–72–00–0175–00A–930A–D, Issue No. 001, dated July 1, 2021.

PW SB PW1000G–A–73–00–0025–00B–930A–D, Issue No. 001, dated November 23, 2021, describes procedures for replacing or modifying the EEC to incorporate EEC FADEC software version V9.6.5.6 in PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. PW SBs PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021, and PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021, describe procedures for performing repetitive BSIs of LPC R1s. PW SB PW1000G–A–73–00–0052–00A–930A–D, Issue No. 001, dated October 7, 2021, describes procedures for replacing or modifying the EEC to incorporate EEC FADEC software version V2.11.12 in PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3 model turbofan engines. PW SBs PW1000G–A–72–00–0121–00B–930A–D, Issue No. 001, dated July 9, 2021, and PW1000G–A–72–00–0175–00A–930A–D, Issue No. 001, dated July 1, 2021, describe procedures for replacing or modifying the CIC assembly.

The FAA also reviewed Section PW1000G–A–72–00–00–02A–0B5A–A of PW EMM, Issue No. 016, dated January 15, 2021; and Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021. Section PW1000G–A–72–00–00–02A–0B5A–A of PW EMM, Issue No. 016, dated January 15, 2021, describes procedures for inspecting the engine for possible engine damage after receiving notification of an N1 or N2 overspeed operation. Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021, describes procedures for performing a BSI of the LPC.

Costs of Compliance

The FAA estimates that this AD affects 114 engines installed on airplanes of U.S. registry. The FAA estimates that five percent of engines installed on airplanes of U.S. registry will require EEC FADEC software upgrade and BSI of the LPC R1.

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
Replace EEC FADEC software	2 work-hours × $85 per hour = $170	$0	$170	$19,380
BSI of the LPC R1	2 work-hours × $85 per hour = $170	0	170	969
Replace CIC assembly	428 work-hours × $85 per hour = $36,380	124,522	160,902	18,342,828

The FAA estimates the following costs to do any necessary inspection if certain Onboard Maintenance Message fault codes are displayed or if any necessary replacement is required based on the results of the inspection. The agency has no way of determining the number of aircraft that might need these replacements or inspections:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC R1	40 work-hours × $85 per hour = $3,400.	$156,000	$159,400
BSI of the LPC R1 if Onboard Maintenance Message fault codes are displayed and meet specified criteria.	2 work-hours × $85 per hour = $170.	$0	$170

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 individuals.

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 has 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 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021); and

■ b. Adding the following new airworthiness directive:

2022-15–03 Pratt & Whitney: Amendment 39–22122; Docket No. FAA–2022–0384; Project Identifier AD–2022–00027–E.

(a) Effective Date

This airworthiness directive (AD) is effective August 19, 2022.

(b) Affected ADs

This AD replaces AD 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021).

(c) Applicability

This AD applies to Pratt & Whitney PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by reports of in-flight shutdowns due to failure of the low-pressure compressor (LPC) rotor 1 (R1) and by subsequent findings of cracked LPC R1s during inspection. The FAA is issuing this AD to prevent failure of the LPC R1. The unsafe condition, if not addressed, could result in an uncontained release of the LPC R1, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with installed electronic engine control (EEC) full authority digital electronic control (FADEC) software earlier than EEC FADEC software version V2.11.10.4, before further flight, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(2) For PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines with installed EEC FADEC software earlier than EEC FADEC software version V9.5.6.7, before further flight, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(3) For the model turbofan engines identified in paragraphs (g)(1) and (g)(2) of this AD, before further flight, perform a one-time borescope inspection (BSI) of the LPC R1 for damage and cracks at the following LPC R1 locations:

(i) The blade tip;

(ii) The leading edge;

(iii) The leading edge fillet to rotor platform radius; and

(iv) The airfoil convex side root fillet to rotor platform radius.

(4) Based on the results of the BSI required by paragraph (g)(3) of this AD, before further flight, remove and replace the LPC R1 if:

(i) There is damage on an LPC R1 that exceeds serviceable limits; or

(ii) Any crack in the LPC R1 exists.

Note 1 to paragraph (g)(4): Guidance on determining the serviceable limits in paragraphs (g)(4) and (6) of this AD can be found in Pratt & Whitney (PW) Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021.

(5) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with EEC FADEC software version V2.11.10.4 or later installed, within 15 flight cycles after receipt of Onboard Maintenance Message fault code 7100F0029 or 7100F0030, perform a BSI of the LPC R1 for damage and cracks at the locations specified in paragraph (g)(3) of this AD if the fault code is displayed on the Active Failure Messages and meets the following criteria:

(i) N1 Exceedance is above 95.2%;

(ii) N1 Exceedance occurred above 29,100 feet;

(iii) N1 Exceedance occurs for a duration of 40 seconds (15 seconds of cockpit display) or more during any flight; and

(iv) Compressor intermediate case (CIC) assembly installed has part number (P/N) 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001.

Note 2 to paragraph (g)(5): Guidance on determining the N1 Exceedance duration can be found in Section PW1000G–A–72–00–00–02A–0B5A–A of PW engine maintenance manual (EMM), Issue No. 016, dated January 15, 2021.

Note 3 to paragraph (g)(5): Guidance on performing the BSI can be found in Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021.

(6) Based on the results of the BSI required by paragraph (g)(5) of this AD, before further flight, remove and replace the LPC R1 if:

(i) There is damage on an LPC R1 that exceeds serviceable limits; or

(ii) Any crack in the LPC R1 exists.

(7) For all affected model turbofan engines, at the next engine shop visit after the effective date of this AD, remove CIC assembly with P/N 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001 and replace with a CIC assembly eligible for installation.

(8) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with installed EEC FADEC software version V2.11.10.4, at the next engine shop visit after the effective date of this AD, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(9) For PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines with installed EEC FADEC software version V9.5.6.7, at the next engine shop visit after the effective date of this AD, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(h) Definitions

(1) For the purpose of this AD, ''EEC FADEC software version eligible for installation'' is EEC FADEC software version V2.11.12.1 or later for PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines, and EEC FADEC software version V9.6.5.6 or later for PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines.

(2) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of the LPC Flange 1 or separation of the LPC Flange 4, except for the following situations, which do not constitute an engine shop visit.

(i) Separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance.

(ii) Separation of engine flanges solely for the purpose of replacing the fan without subsequent maintenance.

(3) For the purpose of this AD, a ''CIC assembly eligible for installation'' is any CIC assembly that does not have P/N 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001.

(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 Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov.*

(2) For service information identified in this AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@pw.utc.com;* website: *http://fleetcare.pw.utc.com.*

(3) You may view this referenced 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.

(k) Material Incorporated by Reference

None.

Issued on July 7, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–15131 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0470; Project Identifier MCAI–2021–01002–T; Amendment 39–22112; AD 2022–14–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by reports that some oxygen box assemblies had their piston ejected during the mask deployment test. This AD requires a one-time inspection of each passenger oxygen box dual manifold assembly to find and replace affected parts. This AD also prohibits installing affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 19, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 19, 2022.

ADDRESSES: For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0470.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0470; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–30, dated September 7, 2021 (TCCA AD CF–2021–30) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0470.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on April 26, 2022 (87 FR 24476). The NPRM was prompted by reports that some oxygen box assemblies had their piston ejected during the mask deployment test. The NPRM proposed to require a one-time inspection of each passenger oxygen box dual manifold assembly to find and replace affected parts. The NPRM also proposed to prohibit installing affected parts. The FAA is issuing this AD to address a possible in-service piston ejection when used for emergency descent, smoke, or fire that may result in a high rate of oxygen leakage, which could prematurely deplete the oxygen for all passengers. 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

Bombardier, Inc., has issued the following service information.

- Service Bulletin 700–35–5004, Revision 02, dated August 27, 2021.
- Service Bulletin 700–35–5502, dated August 27, 2021.
- Service Bulletin 700–35–6004, Revision 05, dated August 27, 2021.
- Service Bulletin 700–35–6502, dated August 27, 2021.

This service information describes procedures for inspecting each passenger oxygen box dual manifold assembly to find affected parts, and replacing affected parts. These documents are distinct because they

apply to different airplane configurations.

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

Costs of Compliance

The FAA estimates that this AD affects 308 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$26,180

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 34 work-hours × $85 per hour = $2,890	Up to $1,700	Up to $4,590

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–14–07 Bombardier, Inc.: Amendment 39–22112; Docket No. FAA–2022–0470; Project Identifier MCAI–2021–01002–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 19, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by reports that some passenger oxygen box dual manifold had their piston ejected during the mask deployment test due to a non-conformity in manufacturing. The FAA is issuing this AD to address a possible in-service piston ejection when used for emergency descent, smoke, or fire that may result in a high rate of oxygen leakage, which could prematurely deplete the oxygen for all passengers.

(f) Compliance

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

(g) Definition

An affected part is a passenger oxygen box assembly having a dual manifold assembly having part number 100–009–39 and a lot and serial number specified in figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) – *Affected Part*

Lot Numbers Affected	Serial Numbers Affected
3516-001	3516-001-01 through 3516-001-60 inclusive
3538-002	3538-002-01 through 3538-002-60 inclusive
3598-001	3598-001-01 through 3598-001-60 inclusive
3568-001	3568-001-01 through 3568-001-60 inclusive
3724-001	3724-001-01 through 3724-001-20 inclusive
3724-002	3724-002-01 through 3724-002-12 inclusive
3706-001	3706-001-01 through 3706-001-40 inclusive

(h) Required Actions

Within the applicable compliance time specified in paragraph (h)(1) or (2) of this AD: Inspect each passenger oxygen box dual manifold assembly to determine if it is an affected part, as defined in paragraph (g) of this AD, and replace any affected part in accordance with paragraph 2.B. of the Accomplishment Instructions of the applicable Bombardier service bulletin specified in figure 2 to paragraph (h) of this AD. Replace any affected part before further flight.

(1) For airplanes having serial numbers 9771, 9779, 9784, 9788 through 9824 inclusive, 9853 through 9857 inclusive, and 9859 through 9876 inclusive, within 4 months after the effective date of this AD.

(2) For airplane having serial numbers 9877 through 9879 inclusive, and 60001 through 60042 inclusive, within 30 months after the effective date of this AD.

Figure 2 to paragraph (h) – *Applicable Service Bulletins*

Airplane Model and Serial Numbers	Applicable Service Bulletin
BD-700-1A10, serial numbers 9771, 9779, 9784, 9788, 9789, 9791 through 9797 inclusive, 9799 through 9806 inclusive, 9808, 9809, 9811, 9812, 9814 through 9818 inclusive, 9820 through 9824 inclusive, 9853 through 9857 inclusive, 9859, 9860, 9863 through 9871 inclusive, 9873 through 9879 inclusive, and 60005 through 60042 inclusive	700-35-6004, Revision 05, dated August 27, 2021
BD-700-1A10, serial numbers 9861, 9872, and 60001 through 60042 inclusive	700-35-6502, dated August 27, 2021
BD-700-1A11 serial numbers 9790, 9798, 9807, 9810, 9813, 9819, 9853 through 9857 inclusive, 9859 through 9862 inclusive, and 9868 through 9879 inclusive	700-35-5004, Revision 02, dated August 27, 2021
BD-700-1A11, serial numbers 60007 through 60042 inclusive	700-35-5502, dated August 27, 2021

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected part as defined in paragraph (g) of this AD, on any airplane.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (j)(1) through (7) of this AD, as applicable.

(1) Bombardier Service Bulletin 700–35–5004, dated December 10, 2018.

(2) Bombardier Service Bulletin 700–35–5004, Revision 01, dated November 29, 2019.

(3) Bombardier Service Bulletin 700–35–6004, dated December 10, 2018.

(4) Bombardier Service Bulletin 700–35–6004, Revision 01, dated January 16, 2019.

(5) Bombardier Service Bulletin 700–35–6004, Revision 02, dated April 5, 2019.

(6) Bombardier Service Bulletin 700–35–6004, Revision 03, dated May 31, 2019.

(7) Bombardier Service Bulletin 700–35–6004, Revision 04, dated November 29, 2019.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–30, dated September 7, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0470.

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

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(4) and (5) of this AD.

(m) 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) Bombardier Service Bulletin 700–35–5004, Revision 02, dated August 27, 2021.

(ii) Bombardier Service Bulletin 700–35–5502, dated August 27, 2021.

(iii) Bombardier Service Bulletin 700–35–6004, Revision 05, dated August 27, 2021.

(iv) Bombardier Service Bulletin 700–35–6502, dated August 27, 2021.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com*; internet *https://www.bombardier.com*.

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

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

Issued on June 27, 2022.

Christina Underwood,

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

[FR Doc. 2022–15190 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0468; Project Identifier MCAI–2021–01243–T; Amendment 39–22115; AD 2022–14–10]

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) 2018–13–08, which 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. AD 2018–13–08 required repetitive inspections for cracking of the radius of the front spar vertical stringers and the horizontal floor beam on frame (FR) 36, repetitive inspections for cracking of the fastener holes of the front spar vertical stringers on FR 36, and repair if necessary, and, for certain airplanes, a potential terminating action modification of the center wing box area. This AD was prompted by a determination that additional airplanes are subject to the unsafe condition. This AD revises the applicability by adding airplanes and retains the requirements of AD 2018–13–08; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 19, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 19, 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–2022–0468.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0468; 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, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3229; 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 2021–0241, dated November 8, 2021 (EASA AD 2021–0241) (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 2018–13–08,

Amendment 39–19320 (83 FR 33809, July 18, 2018) (AD 2018–13–08). AD 2018–13–08 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 22, 2022 (87 FR 24081). The NPRM was prompted by a report that, during a center fuselage certification full-scale fatigue test, cracks were found on the front spar vertical stringer at a certain frame. The NPRM was also prompted by a determination that Model A321 airplanes that have incorporated modification 160021 are also subject to the unsafe condition. The NPRM proposed to revise the applicability by adding airplanes and retain the requirements of AD 2018–13–08, as specified in EASA AD 2021–0241.

The FAA is issuing this AD to address fatigue cracking of the front spar vertical stringers on the wings, which, if not corrected, could result in the reduced 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.

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 2021–0241 describes procedures for repetitive special detailed inspections for cracking of the radius of the front spar vertical stringers, horizontal floor beam radius and fastener holes of the front spear vertical stringers on frame 36. EASA AD 2021–0241 further describes procedures for repetitive high frequency eddy current (HFEC) inspections for cracking of the horizontal floor beam, repetitive HFEC inspections for cracking of the fastener holes of the front spar vertical stringers on FR 36, repetitive rototest inspections of the fastener holes of the spar vertical stringers, and repair. EASA AD 2021–0241 also describes procedures for the modification of the center wing box area. The modification is required for airplanes in configuration 1, 2 or 3; and for airplanes in configuration 5, 6, or 7, the modification is optional and is a terminating action for the repetitive inspections when done within a specified time frame. The modification includes related investigative and corrective actions. Related investigative actions include an HFEC inspection on the radius of the rib flanges, a rototest inspection of the fastener holes, detailed and HFEC inspections for cracking on the cut edges, detailed and rototest inspections on all open fastener holes, and an inspection to determine if secondary structure brackets are installed. Corrective actions include reworking the secondary structure bracket and repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,549 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 2018–03–08	Up to 273 work-hours × $85 per hour = $23,205.	$87,500	Up to $110,705	Up to $1,107,050 for certain airplanes.*
New inspections	25 work-hours × $85 per hour = $2,125	$100	$2,225	$3,446,525.
New modification (5 airplanes)	Up to 403 work-hours × $85 per hour = $34,255.	Up to $316,900	Up to $351,1555	Up to $1,755,775.

* This estimate is based on the determination in AD 2018–13–08 that only 10 airplanes of U.S. registry needed to accomplish all required actions, including the modification; other airplanes were only required to accomplish the terminating actions.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
Up to 409 work-hours × $85 per hour = $34,765	Up to $66,050	Up to $100,815.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions 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) 2018–13–08, Amendment 39–19320; (83 FR 33809, July 18, 2018); and

■ b. Adding the following new AD:

2022–14–10 Airbus SAS: Amendment 39–22115; Docket No. FAA–2022–0468; Project Identifier MCAI–2021–01243–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 19, 2022.

(b) Affected ADs

This AD replaces AD 2018–13–08, Amendment 39–19320 (83 FR 33809, July 18, 2018) (AD 2018–13–08).

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0241, dated November 8, 2021 (EASA AD 2021–0241).

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report that, during a center fuselage certification full-scale fatigue test, cracks were found on the front spar vertical stringer at a certain frame. This AD was also prompted by a determination that Model A321 airplanes that have incorporated modification 160021 are also subject to the unsafe condition. The FAA is issuing this AD to address fatigue cracking of the front spar vertical stringers on the wings, which, if not corrected, could result in the reduced 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 2021–0241.

(h) Exceptions to EASA AD 2021–0241

(1) Where EASA AD 2021–0241 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0241 does not apply to this AD.

(3) Where paragraph (3) of EASA AD 2021–0241 specifies actions for airplanes repaired ''in accordance with instructions approved by EASA or approved under Airbus DOA,'' for this AD use ''using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.''

(4) Where paragraph (4) of EASA AD 2021–0241 specifies to ''contact Airbus for approved corrective action instructions and accomplish those instructions accordingly'' if cracks are detected, for this AD if any cracking is detected, 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 DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(5) Where paragraph (8) of EASA AD 2021–0241 specifies actions for airplanes inspected by additional instructions ''approved before the effective date of this AD by Airbus DOA,'' for this AD use ''approved before the effective date of this AD by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.''

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0241 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(ii) AMOCs approved previously for AD 2018–13–08 are approved as AMOCs for the corresponding provisions of EASA AD 2021–0241 that are required by paragraph (g) of this AD.

(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, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3229; 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 2021–0241, dated November 8, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0241, 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 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–15189 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0505; Project Identifier MCAI–2021–01289–T; Amendment 39–22111; AD 2022–14–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 19, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 19, 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–2022–0505.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0505; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0258, dated November 17, 2021 (EASA AD 2021–0258) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A300–600 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The NPRM published in the **Federal Register** on May 6, 2022 (87 FR 27029). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0258.

The FAA is issuing this AD to prevent reduced structural integrity of the airplane. See the MCAI for additional background information.

EASA previously issued EASA AD 2019–0090, dated April 26, 2019 (EASA AD 2019–0090), requiring the actions described in the Airbus A300–600 Airworthiness Limitations Section (ALS), Part 2, ''Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' Revision 03, dated December 14, 2018, which also includes the limit of validity (LOV) for the Model A300–600 airplanes. EASA AD 2019–0090 corresponds to FAA AD 2019–21–01, Amendment 39–19767 (84 FR 56935, October 24, 2019) (AD 2019–21–01). Since that EASA AD was issued, Airbus published the Variation, as defined in EASA AD 2021–0258, which reduces the LOV for Model A300–600 airplanes, reflecting the engineering data that supports the structural maintenance program and that corresponds to the period of time during which it is demonstrated that Widespread Fatigue Damage will not occur. EASA AD 2021–0258 does not supersede EASA AD 2019–0090, but does specify that it invalidates the LOV as specified in the Airbus A300–600 ALS, Part 2. Therefore, this AD would replace the LOVs specified in Airbus A300–600 Airworthiness Limitations Section (ALS), Part 2, ''Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' Revision 03, dated December 14, 2018, as required by FAA AD 2019–21–01.

For the reason described above, this AD requires compliance with the reduced LOV as specified in the variation.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) and FedEx who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comments 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 2021–0258 describes new or more restrictive airworthiness limitations for airplane LOVs. 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 110 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2022–14–06 Airbus SAS: Amendment 39–22111; Docket No. FAA–2022–0505; Project Identifier MCAI–2021–01289–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 19, 2022.

(b) Affected ADs

This AD affects AD 2019–21–01, Amendment 39–19767 (84 FR 56935, October 24, 2019) (AD 2019–21–01).

(c) Applicability

This AD applies to all Airbus SAS Model A300 B4–601, B4–603, B4–620, B4–622 B4–605R, B4–622R, C4–605R Variant F, F4–605R, and F4–622R airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0258, dated November 17, 2021 (EASA AD 2021–0258).

(h) Exceptions to EASA AD 2021–0258

(1) Where EASA AD 2021–0258 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0258 specifies ''This AD invalidates the LOV [limit of validity] as specified in Airbus A300–600 ALS Part 2 Revision 03 [EASA AD 2019–0090],'' this AD replaces the LOVs specified in paragraph 3.1 of Airbus A300–600 Airworthiness Limitations Section (ALS), Part 2, ''Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' Revision 03, dated December 14, 2018, as required by FAA AD 2019–21–01.

(3) Paragraph (2) of EASA AD 2021–0258 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The ''Remarks'' section of EASA AD 2021–0258 does not apply to this AD.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0258.

(j) 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 (k) 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 local flight standards district office/certificate holding district 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.

(k) Related Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0258, dated November 17, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0258, 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.

Gaetano A. Sciortino,

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

[FR Doc. 2022–15136 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0346; Airspace Docket No. 22–ASW–8]

RIN 2120–AA66

Amendment of Class E Airspace; Mexia, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Mexia, TX. The FAA is taking this action due to an airspace review conducted as part of the decommissioning of the Mexia non-directional beacon (NDB). The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, November 3, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 21065; April 11, 2022) for Docket No. FAA–2022–0346 to amend the Class E airspace at Mexia, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

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 amendment to 14 CFR 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile (increased from a 6.4-mile) radius at Mexia-Limestone County Airport, Mexia, TX; removes the Mexia RBN and the associated extension from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review conducted as part of the decommissioning of the Mexia NDB which provided navigation information for the instrument procedures at this airport.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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 has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Mexia, TX [Amended]

Mexia-Limestone Country Airport, TX
(Lat. 31°38′28″ N, long. 96°30′52″ W)

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport.

Issued in Fort Worth, Texas, on July 12, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–15169 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0537]

Special Local Regulations; Seattle Seafair Unlimited Hydroplane Race, Lake Washington, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Seattle Seafair Unlimited Hydroplane Race on Thursday August 4, 2022, from 10 a.m. to 4 p.m. and Friday and Saturday, August 5 and 6, 2022, from 8 a.m. to 5 p.m. to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event on Lake Washington, WA. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 100.1301 will be enforced Thursday, August 4, 2022, from 10 a.m. to 4 p.m., and Friday and Saturday, August 5 and 6, 2022, from 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Peter J. McAndrew, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206–217–6051, email *SectorPugetSound@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.1301 for the Seattle Seafair Unlimited Hydroplane Race on Thursday August 4, 2022, from 10 a.m. to 4 p.m., and Friday and Saturday, August 5 and 6, 2022, from 8 a.m. to 5 p.m. This action is being taken to provide for the safety of life on navigable waterways during this three-day event. Our regulation for marine events within the Thirteenth Coast Guard District, § 100.1301(b), specifies the location of the regulated area for the Seattle Seafair Unlimited Hydroplane Race which encompasses portions of Lake Washington. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

The regulated area has been divided into two zones. The zones are separated by a line perpendicular from the I–90 Bridge to the northwest corner of the East log boom and a line extending from the southeast corner of the East log boom to the southeast corner of the hydroplane race course and then to the northerly tip of Ohlers Island in Andrews Bay. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA Chart 18447).

The Coast Guard will maintain a patrol consisting of Coast Guard vessels, assisted by Coast Guard Auxiliary vessels, in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the ''Patrol Commander''). The Patrol Commander is empowered to control the movement of vessels on the race course and in the adjoining waters during the periods this regulation is subject to enforcement. The Patrol Commander may be assisted by other federal, state and local law enforcement agencies.

Only vessels authorized by the Patrol Commander may be allowed to enter Zone I during the hours this regulation is subject to enforcement. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

During the times stated, the Coast Guard will enforce § 100.1301(f) through (m) as follows:

(1) Swimming, wading, or otherwise entering the water in Zone I by any person is prohibited while hydroplane boats are on the race course. At other times in Zone I, any person entering the water from the shoreline shall remain west of the swim line, denoted by buoys, and any person entering the water from the log boom shall remain within 10 feet of the log boom.

(2) Any person swimming or otherwise entering the water in Zone II shall remain within 10 feet of a vessel.

(3) Rafting to a log boom will be limited to groups of three vessels.

(4) Up to six vessels may raft together in Zone II if none of the vessels are secured to a log boom.

(5) Only vessels authorized by the Patrol Commander, other law enforcement agencies or event sponsors shall be permitted to tow other watercraft or inflatable devices.

(6) Vessels proceeding in either Zone I or Zone II during the hours this regulation is subject to enforcement shall do so only at speeds, which will create minimum wake, seven miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(7) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven miles per hour or less. The maximum speed may be reduced at the discretion of the Patrol Commander.

(8) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The Captain of the Port may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

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

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

Dated: July 7, 2022.

P.M. Hilbert,

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

[FR Doc. 2022–14964 Filed 7–14–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0603]

RIN 1625–AA00

Safety Zone; Black River Bay, Sackets Harbor, NY

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 140-yard radius of the Eastern tip of Navy Point Road. The safety zone is necessary to restrict usage by persons and vessels to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

DATES: This rule is effective from 9:30 p.m. through 10:30 p.m. on July, 16, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0603 in the ''SEARCH'' box and click ''SEARCH.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LTJG William Kelley, Chief of Waterways Management Sector Buffalo, U.S. Coast Guard; telephone 716–843–9322, email *D09-DMB-SECBuffalo-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. This safety zone must be established by July 16, 2022, in order to protect the public and vessels from the hazards associated with a fireworks display with an expected fall-out area over the water.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the rule's objectives of protecting the public and vessels on the navigable waters in the vicinity of the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Buffalo has determined that potential hazards associated with the fireworks display occurring on July 16, 2022, will be a safety concern for anyone within a 140-yard radius of the launch site. This rule is necessary to protect personnel, vessels, and the marine environment in the navigable waters within a 140-yard radius of the fireworks launch site before, during, and immediately after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 p.m. through 10:30 p.m. on July 16, 2022. The safety zone will cover all navigable waters within 140 yards of Navy Point, Sackets Harbor, NY. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP Buffalo or his designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Black River Bay for approximately 1 hour during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone, and the rule would allow vessels to seek permission to enter the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 1 hour that will prohibit entry within 140 yards of Navy Point Road. 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.T09–0603 to read as follows:

§ 165.T09–0603 Safety Zone; Black River Bay, Sackets Harbor, NY.

(a) *Location.* The following area is a safety zone: All waters of the Eastern edge of Navy Point Road, from surface to bottom, encompassing a 140-yard radius of position 43°57′01.5″ N, 076°07′16.9″ W. These coordinates are based on World Geodetic System of 1984 (WGS 84).

(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 (COTP) Buffalo in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or his representative by telephone at 716–843–9322. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or his designated representative.

(d) *Enforcement period.* This safety zone will be enforced from 9:30 p.m. through 10:30 p.m. on July 16, 2022.

Dated: July 11, 2022.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2022–15230 Filed 7–14–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0748; FRL–9217–02–R9]

Air Plan Approval; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOC). We are approving rescissions of local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective August 15, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0748. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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: La Kenya Evans, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3245 or by email at *evans.lakenya@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Proposed Action

On February 10, 2022 (87 FR 7784), the EPA proposed to approve the following rule rescissions into the Arizona SIP.

Rule No.	Title	Local adopted date	SIP approved date	FR citation
27	Performance Tests	June 23, 1980	April 12, 1982	47 FR 15579
32 A	Odors and Gaseous Emissions (General prohibitions).	August 12, 1971	July 27, 1972	37 FR 15080
32 B	Odors and Gaseous Emissions (Treatment or processing of animal or vegetable matter).	August 12, 1971	July 27, 1972	37 FR 15080
32 C	Odors and Gaseous Emissions (Storage requirements).	August 12, 1971	July 27, 1972	37 FR 15080
32 D	Odors and Gaseous Emissions (Stack, vent, or other outlet).	August 12, 1971	July 27, 1972	37 FR 15080
32 E	Odors and Gaseous Emissions (Hydrogen sulfide).	August 12, 1971	July 27, 1972	37 FR 15080
32 F	Odors and Gaseous Emissions (Relating to sulfur oxide and sulfuric acid).	August 12, 1971	July 27, 1972	37 FR 15080
34 A	Organic Solvents-Volatile Organic Compounds (VOC).	June 23, 1980	May 5, 1982	47 FR 19326
34 D.1	Dry Cleaning	June 23, 1980	May 5, 1982	47 FR 19326
34 E.1	Spray Paint and Other Surface Coating Operations (General Requirements).	June 23, 1980	May 5, 1982	47 FR 19326
34 E.3	Spray Paint and Other Surface Coating Operations (Architectural Coating).	June 23, 1980	May 5, 1982	47 FR 19326
34 L	Cutback Asphalt	June 23, 1980	May 5, 1982	47 FR 19326
81	Operation	August 12, 1971	July 27, 1972	37 FR 15080
340	Cutback and Emulsified Asphalt	September 13, 1988	February 1, 1996	61 FR 3578

We proposed to approve the rescission of these rules because we determined that the rescissions comply with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from the City of Phoenix in support of the EPA's February 10, 2022 proposed action to rescind the proposed rules from the Arizona's SIP. We acknowledge the comment, and we are approving the rescissions of these rules from the SIP. We also received one anonymous comment which we respond to below.

Comment: The commenter's primary concern with the EPA's proposed action is that it appears to ''remov[e] longstanding local rules regarding air quality, due to the fact that those same standards are covered nationally,'' which would be problematic if ''this rule change was requested with the intention of ultimately undoing national standards.'' The commenter notes that if a potential change in the national standards took place, ''[rolling back air quality standards] would be far smoother than if the local rules were still in the way of those whose aim is government deregulation at the expense of the environment.'' They recommend that these rules remain in place as ''a backup option to keeping important public health rules.'' The commenter also raises environmental justice concerns with respect to the proposed SIP modification and stresses the need to maintain the National Ambient Air Quality Standard (NAAQS) to protect marginalized communities within the Phoenix and South Phoenix area.

EPA's Response: As we noted in our February 10, 2022 proposed rule,

modifications to a SIP must comply with all requirements of the CAA. The CAA contains several anti-backsliding provisions, which preclude a state from altering or removing provisions from an approved implementation plan if the revision would reduce air quality protection.[1] For example, under CAA section 110(l), a SIP revision cannot be approved if it will interfere with attainment or other applicable CAA requirements. In addition, CAA section 193 prohibits any control measure in effect in a nonattainment area prior to the enactment of the CAA Amendments of 1990 to be modified after enactment, unless such modification yields equivalent or greater emission reductions. Consistent with these anti-backsliding provisions, there are circumstances in which it may be reasonable to relieve states of requirements that are no longer necessary, or that can be replaced by other forms of protection that might better meet the local needs and circumstances of an area.

As we stated in the Technical Support Document (TSD) to our proposal,[2] the State of Arizona submitted Maricopa County's Air Quality Regulations for approval into the Arizona SIP on January 28, 1972. The MCAQD revised various rules in the 1980s to reflect CAA requirements to implement reasonably available control technology (RACT) for various source categories and to generally modernize their local rule book. The revised rules were renumbered from the existing two-digit system to a three-digit system with the unamended two-digit rules remaining in the SIP. Some of the locally revised rules were not submitted to the EPA for inclusion into the SIP at the time. As a result, there is a difference in requirements between some of the SIP approved two-digit rules and the locally adopted three-digit rules which can be a problem when the EPA, MCAQD, the regulated community, or the public is trying to determine the applicable rule. This is known as a SIP gap. In April 2016, the EPA analyzed this SIP gap to determine if the older two-digit rules could potentially be replaced by newer provisions that are currently only locally applicable. This analysis had several recommendations for updating the SIP, including the recission of obsolete two- and three-digit rules without replacement.

The SIP recissions from our February 10, 2022 proposed rule fall into four categories: (1) nine provisions that do not establish emission limits, enforce the NAAQS, or improve or impact the stringency of other measures in the SIP; (2) two provisions related to a source category subject to a control techniques guideline (CTG) document, for which the State submitted and the EPA approved a negative declaration stating that there are no sources in the nonattainment area covered by that CTG; (3) two provisions that have been superseded by newer SIP-approved rules; and (4) one provision that is not enforceable. Further explanation on the EPA's rationale for the proposed approval is provided below.

For the first category, Rule 27, Rule 32 sections A, C, D, and Rule 34 section E do not contain specific emissions limits or other elements necessary for enforcement. For example, Rule 32 section C states:

> Materials including, but not limited to, solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizer and manure shall be processed, stored, used and transported in such a manner and by such means that they will not unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution; and where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices or equipment shall be mandatory.

This provision contains no specific work practice, emission limitation, or enforcement mechanism that would result in the reduction of emissions. Therefore, the EPA has concluded, based on a CAA section 110(l) analysis, that removal of this provision would not interfere with Maricopa County's progress toward attainment, reasonable further progress (RFP), or any other applicable CAA requirement.

Additionally, Rule 32 sections B and E, Rule 34 section D.1, and Rule 81 do not regulate categories of emissions related to any NAAQS, and thus do not contribute to Maricopa County's attainment of the NAAQS. For example, Rule 34 section D.1 regulates the emission of perchloroethylene. In 1996, the EPA deleted perchloroethylene from the definition of VOC on the basis that the chemical has negligible photochemical reactivity.[3] Because these emissions are no longer considered VOC emissions under the CAA, Maricopa County can no longer consider their reduction as progress towards attaining the NAAQS.[4] Thus, the EPA has concluded, based on a 110(l) analysis, that removal of the provision will not interfere with the area's progress towards attainment or any other applicable CAA requirement. Additional analysis for each provision in this category can be found in the TSD in the docket for the proposal.

For the second category, Rule 34 section L and Rule 340 contain similar requirements for the regulation of cutback asphalt, which is a source category subject to the CTG EPA–450/2–77–037 ''Cutback Asphalt.'' When there are no existing sources in a nonattainment area covered by a particular CTG document, or no major non-CTG sources of NOx or VOC, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. The State submitted, and the EPA approved, a negative declaration in Maricopa County on January 7, 2021, (86 FR 971) for cutback asphalt. This negative declaration applies to both Rule 34 section L and Rule 340. Therefore, the EPA has concluded, based on a 110(l) analysis, that because there are no sources of emissions being regulated by Rule 34 section L and Rule 340 in the nonattainment area, removal of these provisions will not interfere with Maricopa County's progress towards attainment or any other applicable CAA requirement.

For the third category, Rule 32 section F and Rule 34 section A were both superseded by subsequent SIP submissions from Maricopa County. Rule 32 section F was superseded by SIP Rule 510, ''Air Quality Standards'' (86 FR 54628, October 04, 2021), and Rule 34 section A was superseded by an updated definition for VOC in the SIP, Maricopa Rule 100, ''General Provisions and Definitions'' (84 FR 13543, April 5, 2019). We conclude that the actions approving Rule 100 and Rule 510 into the SIP are adequate to ensure the removal of Rule 32 section F and Rule 34 section A would not interfere with Maricopa County's progress towards attainment, RFP, or any other applicable CAA requirement.

For the fourth category, there are no test methods that apply to the regulation in Rule 34 section E.1, which requires surface coating operations to utilize an ''enclosed area designed to contain not less than ninety-six percent (96%) by weight of the overspray.'' Without a test method that can determine if a spray enclosure can capture 96% of the overspray, the provision is unenforceable and has no impact on the air quality in Maricopa County. The EPA finds that the provision's removal would therefore not interfere with

[1] See 78 FR 34178, 34211 (June 6, 2013).

[2] See TSD, Docket ID: EPA–R09–OAR–2021–0748.

[3] 61 FR 5688 (February 7, 1996).

[4] See id. at 5689.

attainment, RFP, or any other applicable CAA requirement.

The provisions proposed to be rescinded from the Arizona SIP generally do not achieve emission reductions or are already codified elsewhere in the SIP. The removal of these rules would not impact the overall stringency of the Arizona SIP, and as a result, the approval of this rule action will allow Maricopa to maintain rules in the SIP that implement, maintain, and enforce the NAAQS.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations.[5] Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. As described in our proposed rule and reiterated here, approval of these recissions complies with CAA sections 110(l) and 193 because these SIP revisions would not interfere with any applicable CAA requirements, including requirements concerning RFP and attainment of the NAAQS.

III. EPA Action

No comments were submitted that change our assessment of the rule recissions as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rule recissions into the Arizona SIP. The rule recissions will remove the previously approved Rule 27, Rule 32 sections A (all subsections), B, C, D, E, and F; Rule 34 sections A, D.1, E.1, E.3 and L (all subsections); Rule 81; and Rule 340 from the SIP.[6]

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. The EPA is also finalizing deletion of rules that were previously incorporated by reference from the applicable Arizona SIP. In accordance with requirements of 1 CFR 51.5, as discussed in Sections I, II and III of this preamble, the EPA is finalizing the incorporation by reference for the rescission of the Arizona rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for removal from the SIP and will be incorporated by reference in the next update to the SIP compilation.[7] The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and 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 Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

[5] 42 U.S.C. 7410(k); 40 CFR 52.02(a).

[6] The provisions of Rule 34 were inadvertently omitted from our original action converting the Arizona SIP to the tabular notebook format on November 23, 2016 (81 FR 85038). We will recodify the remaining paragraphs of Rule 34 (consistent with this action's rescissions) in a separate rulemaking, and as such, our regulatory text will not address any conflicting provisions.

[7] 62 FR 27968 (May 22, 1997).

Dated: July 7, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, EPA amends part 52, chapter I, Title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

§ 52.120 [Amended]

■ 2. In § 52.120 in paragraph (c) amend ''Table 4 to Paragraph (c)—EPA-Approved Maricopa County Air Pollution Control Regulations'' by removing the entries for ''Rule 27'', ''Rule 32 (Paragraphs A through F only)'', ''Rule 81'', and ''Rule 340''.

[FR Doc. 2022–15026 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0185; FRL–9925–01–OCSPP]

Benoxacor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends tolerances for residues of benoxacor in or on field corn, popcorn, and sweet corn commodities when used as an inert ingredient (herbicide safener) in pesticide formulations. Management Contract Service, Inc., on behalf of Landis International, submitted a petition requesting this tolerance amendment under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 15, 2022. Objections and requests for hearings must be received on or before September 13, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0185, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0185 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 13, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0185, by one of the following methods.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned for Tolerance

In the **Federal Register** of June 1, 2021 (86 FR 29229), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11407) filed by Management Contract Services, Inc. on behalf of Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603. The petition requested that EPA amend the tolerance in 40 CFR 180.460 for residues of benoxacor (4-(dichloroacetyl)-3,4-dihydro-3-methyl-2*H*-1,4-benzoxazine) (CAS Reg. No. 98730–04–2) as an inert safener in or on the raw agricultural commodity for which tolerances have been established for metolachlor or S-metolachlor at 0.01 ppm for all pesticide formulations. The published petition summary requested to amend benoxacor tolerances when used as a pesticide inert ingredient (safener) in pesticide formulations to include any herbicide in or on raw agricultural commodities for which tolerances have been established at 0.01 parts per million (ppm). That document referenced a summary of the petition prepared by the petitioner,

which is in the docket, and solicited comments on the petitioner's request. The Agency did not receive any significant public comments.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure to benoxacor, including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with benoxacor follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Benoxacor has low acute toxicity via the oral, dermal, and inhalation routes. It is not a skin irritant, but it is a moderate eye irritant and a skin sensitizer. In repeated-dose toxicity studies, the kidneys, liver, and stomach are the major target organs. There is no evidence of susceptibility in the available developmental and reproduction toxicity studies. No adverse maternal or developmental effects were found in the developmental toxicity study in rabbits and the offspring effects observed in the developmental and reproduction toxicity studies in rats occurred at the same doses at which maternal toxicity was observed. Negative results were observed in mutagenicity and genotoxicity studies with benoxacor. Although stomach tumors were observed in mice and rats, these results were considered equivocal and to be of little or no relevance to humans. Consequently, EPA described the carcinogenic potential of benoxacor as ''cannot be determined but suggestive'', based on the 1996 Proposed Guidelines for Carcinogenic Risk Assessment, which can be found here *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=55868.* Based on the cancer classification, the chronic reference dose is considered protective of the potential for cancer effects.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies points of departure (PODs) and levels of concern (LOCs) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for benoxacor used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR BENOXACOR FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute Dietary (General Population including infants and Children).	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 1.0 mg/kg/day. aPAD = 1.0 mg/kg/day	Developmental (Rat): LOAEL = 400 mg/kg/day based on early resorptions.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR BENOXACOR FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Chronic Dietary (All Populations).	NOAEL= 0.4 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.004 mg/kg/day. cPAD = 0.004 mg/kg/day	Combined Chronic/Carcinogenicity (Rat): LOAEL = 2 mg/kg/day based on increased incidence of centro-lobular hepatic enlargement with or without hepatocyte vacuolation in the males.
Incidental Oral Short-Term (1–30 days) and Intermediate-Term (1–6 months).	NOAEL = 50 ppm (4.6 mg/kg/day). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE < 100	Reproduction toxicity study in rats MRID 42888703 LOAEL = 500 ppm (64 mg/kg/day for the F1 generation and 72.3 mg/kg/day for the F2 generation), based on decreased pup body weight on lactation day 21.
Dermal Short-Term (1–30 days) and Intermediate-Term (1–6 months).	No dermal endpoint selected because no systemic effects were observed in the dermal study up to the limit dose and there is no evidence of increased susceptibility in the young.		
Inhalation Short-Term (1–30 days) and Intermediate-Term (1–6 months).	NOAEL = 50 ppm (4.6 mg/kg/day). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE < 100	Reproduction toxicity study in rats MRID 42888703 LOAEL = 500 ppm (64 mg/kg/day for the F1 generation and 72.3 mg/kg/day for the F2 generation), based on decreased pup body weight on lactation day 21 and decreased parental weight.
Cancer (Oral, Dermal, Inhalation).	The carcinogenic potential of benoxacor was described as ''cannot be determined but suggestive''. The use of the RfD approach is protective of any potential carcinogenicity.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest observed adverse effect level. NOAEL = no observed adverse effect level. PAD = population-adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to benoxacor, EPA considered exposure under the existing and petitioned-for tolerances. EPA assessed dietary exposures from benoxacor in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for benoxacor. Acute dietary (food only) exposure and risk assessments were conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 4.02. This software uses 2005–2010 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The current assessment includes every commodity available in DEEM.

EPA conducted an unrefined acute dietary (food only) exposure assessment for the proposed uses of benoxacor. Food residues for all commodities were assumed to be at the tolerance level for 100% of crops treated; that is, a value of 0.01 ppm was assumed for all commodities upon which a tolerance has been established for metolachlor or S-metolachlor. Results of the acute dietary assessment indicate that the general U.S. population and all other population subgroups have exposure and risk estimates below EPA's level of concern (LOC).

ii. *Chronic exposure.* In conducting the chronic dietary (food only) exposure assessment, EPA used DEEM–FCID Version 4.02 with 2005–10 food consumption data from the USDA's NHANES/WWEIA. The current assessment includes every commodity available in DEEM.

EPA conducted an unrefined chronic dietary (food only) exposure assessment for the proposed uses of benoxacor. Food residues for all commodities were assumed to be at the tolerance level for 100% of crops treated; that is, a value of 0.01 ppm was assumed for all commodities upon which a tolerance has been established for metolachlor or S-metolachlor.

iii. *Cancer.* Based on the data summarized in Unit IV.A., EPA has concluded that the chronic reference dose will be protective of the potential for cancer effects in humans. Therefore, a separate dietary exposure assessment for the purpose of assessing cancer risk was not performed.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for benoxacor. Tolerance level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* A drinking water concentration of 0.025 ppm (24.8 ppb) was used for both acute and chronic exposure scenarios based on modeling using the US EPA Pesticide Water Calculator

(PWC) Version 1.52. Water modeling assumptions included 5% benoxacor in formulation and application rate of 0.5 lb/acre of benoxacor.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and fleas and tick control on pets). The proposed use of benoxacor in corn crops is not anticipated to result in residential exposure. Residential exposure (post-application only) to benoxacor may occur from existing pesticide uses in formulations with s-metolachlor (*e.g.,* uses on warm-season turf grasses, and other non-crop land including golf courses, sports fields, parks, lawns, and ornamental gardens that would result in residential post-application exposures). There are no current or proposed residential handler uses for benoxacor; therefore, a residential handler assessment was not conducted. For residential post-application exposure scenarios (short- and intermediate-term child hand to mouth) and dietary exposure were used for the aggregate exposure assessments.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found benoxacor to share a common mechanism of toxicity with any other substances, and benoxacor does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that benoxacor does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional ten-fold (10x) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety factor (SF). in applying this provision, the EPA either retains the default value of 10x, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of susceptibility in the available developmental and reproduction toxicity studies. No adverse maternal or developmental effects were found in the developmental toxicity study in rabbits and the offspring effects observed in the developmental and reproduction toxicity studies in rats occurred at the same doses at which maternal toxicity was observed. There are no residual uncertainties identified in the exposure databases. An unrefined dietary exposure assessment was completed, and tolerance level residues and 100% CT were assumed. EPA used similarly conservative assumptions to assess post-application exposures of children. Thus, these assessments will not underestimate the exposure and risks posed by benoxacor.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children is adequately protected when reducing the FQPA SF from 10x to 1x. The FQPA safety factor has been reduced to 1x because: (1) the toxicity database is adequate to characterize potential pre- and postnatal risk for infants and children; (2) no reproductive effects were observed in rats; (3) although there were slight developmental/offspring effects in the reproductive and developmental studies in rats, these were seen in the presence of comparable parental toxicity, thus, there is no evidence of increase susceptibility in the young; (4) the endpoints selected are protective of any potential neurotoxic effects; (5) the PODs selected for risk assessment purposes are protective of the offspring effects seen in the database; and (6) the exposure assumptions are unlikely to underestimate risk.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption from food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to benoxacor will occupy 0.17% of the aPAD for the general U.S. population, and 0.50% of the aPAD for the highest exposed population subgroup, non-nursing infants.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to benoxacor from food and water will utilize 18.0% of the cPAD for the general U.S. population, and 75.5% of the cPAD for the highest exposed population subgroup, non-nursing infants. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of benoxacor is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The short-term aggregate MOE is 550 for adults and 125 for children. As the level of concern is for MOEs that are lower than 100, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The intermediate-term aggregate MOE is 550 for adults and 127 for children. As the level of concern is for MOEs that are lower than 100, there are no concerns for intermediate-term aggregate risk.

5. *Aggregate cancer risk for U.S. population.* The RfD methodology is considered protective of any potential carcinogenicity. Because the aggregate chronic risk is not of concern, EPA concludes that there is not a cancer risk from aggregate exposure to benoxacor.

6. *Determination of safety.* Based on its risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general U.S. population, or to infants and children from aggregate exposure to benoxacor residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography with nitrogen phosphorous detection (GC/NPD)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for benoxacor.

C. Revisions to Petitioned-For Tolerances

After submitting its original petition seeking tolerances of 0.01 ppm on all commodities on which any herbicidal formulations may be used, the petitioner revised its request to tolerances for residues of benoxacor on only field corn, popcorn, and sweet corn commodities when benoxacor is used in any herbicidal formulation. The available residue data was limited to corn commodities, and because residues may differ between commodities, there was not sufficient data to support extending the benoxacor tolerances beyond corn commodities.

VI. Conclusion

Taking into consideration all available information on benoxacor, EPA has determined that there is a reasonable certainty that no harm to the general population or any population subgroup, including infants and children, will result from aggregate exposure to benoxacor residues. Therefore, tolerances are established for residues of benoxacor, including its metabolites and degradates, in or on corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover at 0.01 ppm. Compliance with the tolerances is to be determined by measuring only benoxacor (4-(dichloroacetyl)-3,4-dihydro-3-methyl-2*H*-1,4-benzoxazine).

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 8, 2022.

Marietta Echeverria

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.460, paragraph (a) is revised to read as follows:

§ 180.460 Benoxacor; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the inert ingredient (safener) benoxacor (4-(dichloroacetyl)-3,4-dihydro-3-methyl-2H–1, 4-benzoxazine) at 0.01 parts per million (ppm) when used in pesticide formulations containing metolachlor or S-metolachlor in or on raw agricultural commodities for which tolerances have

been established for metolachlor or S-metolachlor.

(2) Tolerances are established for residues of benoxacor, including its metabolites and degradates, in or on the commodities in the following table, when used as an inert ingredient (herbicide safener) in pesticide formulations. Compliance with the tolerance levels specified in the following table is to be determined by measuring only benoxacor (4-(dichloroacetyl)-3,4-dihydro-3-methyl-2*H*-1,4-benzoxazine).

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Corn, field forage	0.01
Corn, field, grain	0.01
Corn, field, stover	0.01
Corn, pop, grain	0.01
Corn, pop, stover	0.01
Corn, sweet, forage	0.01
Corn, sweet, kernel plus cob with husks removed	0.01
Corn, sweet, stover	0.01

* * * * *

[FR Doc. 2022–15018 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0388; FRL–9952–01–OCSPP]

Tribenuron Methyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tribenuron methyl in or on multiple commodities that are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food Drug and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 15, 2022. Objections and request for hearings must be received on or before September 13, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0388, is available online at *https://www.regulations.gov* or in-person at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0388 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 13, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0388, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 21, 2021 (86 FR 58239) (FRL–8792–04), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petition (PP 1E8898) by Interregional Research Project No. 4 (IR–4), North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested EPA to establish tolerances in 40 CRF part 180 for residues of tribenuron methyl (methyl-2-[[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) methylamino] carbonyl] amino] sulfonyl] benzoate) and its metabolites and degradates in or on 242 separate commodities and to revise the tolerance for residues of tribenuron methyl in or on oat, hay. Due to the length of the list of commodities, please refer to the Notice of Filing referenced above for a complete list of commodities with tolerances to be established. The petition requested to remove the established tolerances for residues of tribenuron methyl and its metabolites

and degradates, in or on the following raw agricultural commodities: Canola, seed at 0.02 ppm; Cotton, gin byproducts at 0.02 ppm; Cotton, undelinted seed at 0.02 ppm; and Flax, seed at 0.02 ppm. That document referenced a summary of the petition prepared by FMC, the registrant, which is available in the docket, *https://www.regulations.gov.* No relevant comments were received in response to the Notice of Filing.

Based upon review of the data supporting the petition, EPA is modifying many of the commodity definitions to be consistent with Agency nomenclature. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for tribenuron methyl including exposure resulting from the tolerances established by this action. EPA's assessment of exposure and risk associated with tribenuron methyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Changes in body weights and organ weights were the most commonly observed effects in toxicity studies with tribenuron methyl. A particular target organ was not identified. Effects in subchronic oral studies were limited to body weight and organ weight changes, while chronic exposure resulted in more severe effects on the pancreas, spleen, kidneys, and reproductive organs. In developmental and reproduction toxicity studies, developmental/reproductive effects were observed in the presence of comparable maternal/parental toxicity; therefore, there is no concern for pre- and/or postnatal susceptibility.

Tribenuron methyl is classified as a Group C ''Possible Human Carcinogen'' due to the observation of mammary gland adenocarcinomas in females in the chronic rat study. The point of departure (POD) for establishing the chronic reference dose (RfD) (0.8 mg/kg/day) is 95-fold lower than the lowest dose at which tumors were observed (76 mg/kg/day) and is therefore considered protective of any potential carcinogenicity. Based on the Agency's current practices, a quantitative cancer assessment was not conducted.

Specific information on the studies received and the nature of the adverse effects caused by tribenuron methyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *https://www.regulations.gov* in the document titled ''Tribenuron methyl. Human Health Risk Assessment for New Uses on the Individual Commodities in Proposed Subgroup 6–XXE, Dried Shelled Bean, Proposed Subgroup 6–XXF, Dried Shelled Pea as well as the Crop Group Expansions for Rapeseed Subgroup 20A, Cottonseed Subgroup 20C and the Individual Commodities in Proposed Wheat Subgroup 15–20A, Proposed Barley Subgroup 15–20B, Proposed Field Corn Subgroup 15–20C, Proposed Grain Sorghum and Millet Subgroup 15–20E, and Proposed Rice Subgroup 15–20F.'' (hereinafter ''Tribenuron Human Health Risk Assessment'') on pages 40–44 in docket ID number EPA–HQ–OPP–2021–0388.

B. Toxicological Points of Departure/Levels of Concern.

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints and PODs for tribenuron methyl used for human risk assessment can be found in the Tribenuron Methyl Human Health Risk Assessment on pages 24–26.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to tribenuron methyl, EPA considered exposure under the petitioned-for tolerances as well as all existing tolerances for tribenuron methyl in 40 CFR 180.451. EPA assessed dietary exposures from tribenuron methyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for tribenuron methyl.

In conducting the acute dietary exposure assessment, EPA used the 2005–2010 food consumption data from the U.S. Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The acute dietary exposure assessment assumes tolerance-level residues and 100% crop treated (100 PCT) for all commodities and incorporates default processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure

assessment, EPA used the 2005–2010 food consumption data from the USDA NHANES/WWEIA. The chronic dietary exposure assessment assumes tolerance-level residues and 100 PCT for all commodities and incorporates default processing factors.

iii. *Cancer.* Tribenuron methyl is classified as a Group C ''Possible Human Carcinogen.'' EPA determined that the reference dose approach used for chronic dietary exposure assessment is adequately protective of all chronic toxicity, including carcinogenicity, that could result from exposure to tribenuron methyl. Therefore, a separate cancer dietary risk assessment was not required.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for tribenuron methyl. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for tribenuron methyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of tribenuron methyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *https://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide Root Zone Model for Groundwater (PRZM–GW; v.1.07), the estimated drinking water concentrations (EDWCs) of tribenuron methyl are 35 ppb for acute dietary exposures and 23 ppb for chronic dietary exposures. These modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tribenuron methyl is not registered for any specific use patterns that would result in residential exposure, and the new uses would not result in residential exposure.

4. *Cumulative exposure.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA conducted a screening-level assessment to evaluate the sulfonylureas (SUs), of which tribenuron methyl is a member. Although the SUs share some chemical and toxicological characteristics, the toxicological database does not support a testable hypothesis for a common mechanism of action. No further mechanistic data are required, and no further cumulative evaluation is necessary for tribenuron methyl.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines, based on reliable data, that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative susceptibility of the young was seen in developmental or reproduction studies with tribenuron methyl. In the rat developmental study, decreased fetal weights were observed at the mid dose while increased resorptions, mortality, and incomplete ossification were seen in the maternal animals at the high dose. In the rabbit developmental study, decreased fetal weights and abortions were observed at the same dose. In both developmental studies, fetal effects were observed in the presence of comparable maternal toxicity. In the rat reproduction study, offspring effects were limited to decreased body weights and spleen weights in pups observed in the presence of comparable parental toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF of 10X were reduced to 1X for all exposure scenarios. This decision is based on the following findings:

i. The toxicology database for tribenuron methyl is complete and adequate for FQPA evaluation. Studies available to inform the FQPA SF include developmental studies in rats and rabbits, a two-generation reproduction study in rats, and acute and subchronic neurotoxicity studies in rats.

ii. There is no concern for neurotoxicity. The only effects suggestive of neurotoxicity were transient changes in motor activity and rearing behavior observed at the limit dose in the acute neurotoxicity study; however, these effects are considered secondary to systemic effects observed in the study and are therefore not of concern. A developmental neurotoxicity study is not required.

iii. No evidence of increased quantitative or qualitative susceptibility was seen in rat and rabbit developmental toxicity and rat reproduction studies; fetal/offspring effects were observed in the presence of comparable maternal/parental toxicity, and the PODs selected for risk assessment are protective of these effects.

iv. Exposure to tribenuron methyl will not be underestimated due to the conservative nature of the dietary exposure assessments (tolerance-level residues, high end drinking water estimates, and 100% crop treated assumptions). There are no residential uses.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tribenuron methyl will occupy less than 1% of the aPAD for all infants less than 1-year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to tribenuron methyl from food and water will utilize 24% of the cPAD for infants less than

1-year old, the population subgroup receiving the greatest exposure.

3. *Short-term/Intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term and an intermediate-term adverse effect were identified; however, tribenuron methyl is not registered for any use patterns that would result in short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for tribenuron methyl.

4. *Aggregate cancer risk for U.S. population.* As explained in Unit III.A., risk assessments based on the endpoint selected for chronic risk assessment are considered to be protective of any potential carcinogenic risk from exposure to tribenuron methyl. Based on the results of the chronic risk assessment discussed above in Unit III.E.2., EPA concludes that tribenuron methyl is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to tribenuron methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography with photo-conductivity detection (HPLC/PC) method, Method AMR 337–85 (Revision A)), is available to enforce the tolerances for residues of tribenuron methyl in forage, grain and straw commodities. To enforce tolerances for residues of tribenuron methyl in canola, corn grain, cotton, flax, sorghum grain, and soybean seed commodities, a liquid chromatography with mass-spectrometric detection (LC/MS) method, DuPont Method 1381 is available to enforce the tolerance expression. The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). There are no Codex MRLs for residues of tribenuron methyl.

C. Revisions to Petitioned-For Tolerances

Commodity definitions were revised to be consistent with EPA's commodity vocabulary. Revisions were made for many of the individual commodities in the proposed subgroups 6–XXE: Dried shelled bean, except soybean subgroup and 6–XXF: Dried shelled pea subgroup, respectively. Additionally, commodity definitions were revised for the cram-cram and princess-feather commodities.

V. Conclusion

Therefore, tolerances are established for residues of tribenuron methyl in or on the following commodities: Amaranth, grain, forage at 0.3 ppm; Amaranth, grain, grain at 0.05 ppm; Amaranth, grain, hay at 0.5 ppm; Amaranth, grain, straw at 0.1 ppm; Amaranth, purple, forage at 0.3 ppm; Amaranth, purple, grain at 0.05 ppm; Amaranth, purple, hay at 0.5 ppm; Amaranth, purple, straw at 0.1 ppm; Bean, adzuki, dry seed at 0.01 ppm; Bean, American potato, dry seed at 0.01 ppm; Bean, asparagus, dry seed at 0.01 ppm; Bean, black, dry seed at 0.01 ppm; Bean, broad, dry seed at 0.01 ppm; Bean, catjang, dry seed at 0.01 ppm; Bean, cranberry, dry seed at 0.01 ppm; Bean, dry, dry seed at 0.01 ppm; Bean, field, dry seed at 0.01 ppm; Bean, French, dry seed at 0.01 ppm; Bean, garden, dry seed at 0.01 ppm; Bean, goa, dry seed at 0.01 ppm; Bean, great northern, dry seed at 0.01 ppm; Bean, green, dry seed at 0.01 ppm; Bean, guar, dry seed at 0.01 ppm; Bean, kidney, dry seed at 0.01 ppm; Bean, lablab, dry seed at 0.01 ppm; Bean, lima, dry seed at 0.01 ppm; Bean, morama, dry seed at 0.01 ppm; Bean, moth, dry seed at 0.01 ppm; Bean, mung, dry seed at 0.01 ppm; Bean, navy, dry seed at 0.01 ppm; Bean, pink, dry seed at 0.01 ppm; Bean, pinto, dry seed at 0.01 ppm; Bean, red, dry seed at 0.01 ppm; Bean, rice, dry seed at 0.01 ppm; Bean, scarlet runner, dry seed at 0.01 ppm; Bean, sword, dry seed at 0.01 ppm; Bean, tepary, dry seed at 0.01 ppm; Bean, urd, dry seed at 0.01 ppm; Bean, yardlong, dry seed at 0.01 ppm; Bean, yellow, dry seed at 0.01 ppm; Buckwheat, grain at 0.05 ppm; Buckwheat, hay at 0.4 ppm; Buckwheat, straw at 0.1 ppm; Buckwheat, tartary, grain at 0.05 ppm; Buckwheat, tartary, hay at 0.4 ppm; Buckwheat, tartary, straw at 0.1 ppm; Canarygrass, annual, grain at 0.05 ppm; Canarygrass, annual, hay at 0.4 ppm; Canarygrass, annual, straw at 0.1 ppm; Cañihua, forage at 0.3 ppm; Cañihua, grain at 0.05 ppm; Cañihua, hay at 0.5 ppm; Cañihua, straw at 0.1 ppm; Chia, forage at 0.3 ppm; Chia, grain at 0.05 ppm; Chia, hay at 0.5 ppm; Chia, straw at 0.1 ppm; Chickpea, dry seed at 0.01 ppm; Cottonseed subgroup 20C at 0.02 ppm; Cowpea, dry seed at 0.01 ppm; Cram-cram, forage at 0.3 ppm; Cram-cram, grain at 0.05 ppm; Cram-cram, hay at 0.5 ppm; Cram-cram, straw at 0.1 ppm; Fonio, black, forage at 0.05 ppm; Fonio, black, grain at 0.05 ppm; Fonio, black, stover at 0.05 ppm; Fonio, white, forage at 0.05 ppm; Fonio, white, grain at 0.05 ppm; Fonio, white, stover at 0.05 ppm; Gram, horse, dry seed at 0.01 ppm; Huauzontle, grain, forage at 0.3 ppm; Huauzontle, grain, grain at 0.05 ppm; Huauzontle, grain, hay at 0.5 ppm; Huauzontle, grain, straw at 0.1 ppm; Inca wheat, forage at 0.3 ppm; Inca wheat, grain at 0.05 ppm; Inca wheat, hay at 0.5 ppm; Inca wheat, straw at 0.1 ppm; Jackbean, dry seed at 0.01 ppm; Job's tears, forage at 0.05 ppm; Job's tears, grain at 0.05 ppm; Job's tears, stover at 0.05 ppm; Lentil, dry seed at 0.01 ppm; Longbean, Chinese, dry seed at 0.01 ppm; Lupin, Andean, dry seed at 0.01 ppm; Lupin, blue, dry seed at 0.01 ppm; Lupin, grain, dry seed at 0.01 ppm; Lupin, sweet, dry seed at 0.01 ppm; Lupin, white, dry seed at 0.01 ppm; Lupin, white sweet, dry seed at 0.01 ppm; Lupin, yellow, dry seed at 0.01 ppm; Millet, barnyard, forage at 0.05 ppm; Millet, barnyard, grain at 0.05 ppm; Millet, barnyard, stover at 0.05 ppm; Millet, finger, forage at 0.05 ppm; Millet, finger, grain at 0.05 ppm; Millet, finger, stover at 0.05 ppm; Millet, foxtail, forage at 0.05 ppm; Millet, foxtail, grain at 0.05 ppm; Millet, foxtail, stover at 0.05 ppm; Millet, little, forage at 0.05 ppm; Millet, little, grain at 0.05 ppm; Millet, little, stover at 0.05 ppm; Millet, pearl, forage at 0.05 ppm; Millet, pearl, grain at 0.05 ppm; Millet, pearl, stover at 0.05 ppm; Millet, proso, forage at 0.05 ppm; Millet, proso, grain at 0.05 ppm; Millet, proso, stover at 0.05 ppm;

Oat, Abyssinian, grain at 0.05 ppm; Oat, Abyssinian, hay at 0.4 ppm; Oat, Abyssinian, straw at 0.1 ppm; Oat, common, grain at 0.05 ppm; Oat, common, hay at 0.4 ppm; Oat, common, straw at 0.1 ppm; Oat, naked, grain at 0.05 ppm; Oat, naked, hay at 0.4 ppm; Oat, naked, straw at 0.1 ppm; Oat, sand, grain at 0.05 ppm; Oat, sand, hay at 0.4 ppm; Oat, sand, straw at 0.1 ppm; Pea, blackeyed, dry seed at 0.01 ppm; Pea, crowder, dry seed at 0.01 ppm; Pea, dry, dry seed at 0.01 ppm; Pea, field, dry seed at 0.01 ppm; Pea, field, hay at 0.01 ppm; Pea, field, vines at 0.01 ppm; Pea, garden, dry seed at 0.01 ppm; Pea, grass, dry seed at 0.01 ppm; Pea, green, dry seed at 0.01 ppm; Pea, pigeon, dry seed at 0.01 ppm; Pea, southern, dry seed at 0.01 ppm; Pea, winged, dry seed at 0.01 ppm; Popcorn, forage at 0.15 ppm; Popcorn, grain at 0.01 ppm; Popcorn, stover at 1.1 ppm; Princess-feather, forage at 0.3 ppm; Princess-feather, grain at 0.05 ppm; Princess-feather, hay at 0.5 ppm; Princess-feather, straw at 0.1 ppm; Psyllium, forage at 0.3 ppm; Psyllium, grain at 0.05 ppm; Psyllium, hay at 0.5 ppm; Psyllium, straw at 0.1 ppm; Psyllium, blond, forage at 0.3 ppm; Psyllium, blond, grain at 0.05 ppm; Psyllium, blond, hay at 0.5 ppm; Psyllium, blond, straw at 0.1 ppm; Quinoa, forage at 0.3 ppm; Quinoa, grain at 0.05 ppm; Quinoa, hay at 0.5 ppm; Quinoa, straw at 0.1 ppm; Rapeseed subgroup 20A at 0.02 ppm; Rice, African, grain at 0.05 ppm; Rye, forage at 0.3 ppm; Rye, grain at 0.05 ppm; Rye, hay at 0.5 ppm; Rye, straw at 0.1 ppm; Soybean, vegetable, dry seed at 0.01 ppm; Teff, forage at 0.05 ppm; Teff, grain at 0.05 ppm; Teff, stover at 0.05 ppm; Teosinte, forage at 0.15 ppm; Teosinte, grain at 0.01 ppm; Teosinte, stover at 1.1 ppm; Triticale, forage at 0.3 ppm; Triticale, grain at 0.05 ppm; Triticale, hay at 0.5 ppm; Triticale, straw at 0.1 ppm; Velvetbean, dry seed at 0.01 ppm; Wheat, club, forage at 0.3 ppm; Wheat, club, grain at 0.05 ppm; Wheat, club, hay at 0.5 ppm; Wheat, club, straw at 0.1 ppm; Wheat, common, forage at 0.3 ppm; Wheat, common, grain at 0.05 ppm; Wheat, common, hay at 0.5 ppm; Wheat, common, straw at 0.1 ppm; Wheat, durum, forage at 0.3 ppm; Wheat, durum, grain at 0.05 ppm; Wheat, durum, hay at 0.5 ppm; Wheat, durum, straw at 0.1 ppm; Wheat, einkorn, forage at 0.3 ppm; Wheat, einkorn, grain at 0.05 ppm; Wheat, einkorn, hay at 0.5 ppm; Wheat, einkorn, straw at 0.1 ppm; Wheat, emmer, forage at 0.3 ppm; Wheat, emmer, grain at 0.05 ppm; Wheat, emmer, hay at 0.5 ppm; Wheat, emmer, straw at 0.1 ppm; Wheat, macha, forage at 0.3 ppm; Wheat, macha, grain at 0.05 ppm; Wheat, macha, hay at 0.5 ppm; Wheat, macha, straw at 0.1 ppm; Wheat, oriental, forage at 0.3 ppm; Wheat, oriental, grain at 0.05 ppm; Wheat, oriental, hay at 0.5 ppm; Wheat, oriental, straw at 0.1 ppm; Wheat, Persian, forage at 0.3 ppm; Wheat, Persian, grain at 0.05 ppm; Wheat, Persian, hay at 0.5 ppm; Wheat, Persian, straw at 0.1 ppm; Wheat, Polish, forage at 0.3 ppm; Wheat, Polish, grain at 0.05 ppm; Wheat, Polish, hay at 0.5 ppm; Wheat, Polish, straw at 0.1 ppm; Wheat, poulard, forage at 0.3 ppm; Wheat, poulard, grain at 0.05 ppm; Wheat, poulard, hay at 0.5 ppm; Wheat, poulard, straw at 0.1 ppm; Wheat, shot, forage at 0.3 ppm; Wheat, shot, grain at 0.05 ppm; Wheat, shot, hay at 0.5 ppm; Wheat, shot, straw at 0.1 ppm; Wheat, spelt, forage at 0.3 ppm; Wheat, spelt, grain at 0.05 ppm; Wheat, spelt, hay at 0.5 ppm; Wheat, spelt, straw at 0.1 ppm; Wheat, timopheevi, forage at 0.3 ppm; Wheat, timopheevi, grain at 0.05 ppm; Wheat, timopheevi, hay at 0.5 ppm; Wheat, timopheevi, straw at 0.1 ppm; Wheat, vavilovi, forage at 0.3 ppm; Wheat, vavilovi, grain at 0.05 ppm; Wheat, vavilovi, hay at 0.5 ppm; Wheat, vavilovi, straw at 0.1 ppm; Wheat, wild einkorn, forage at 0.3 ppm; Wheat, wild einkorn, grain at 0.05 ppm; Wheat, wild einkorn, hay at 0.5 ppm; Wheat, wild einkorn, straw at 0.1 ppm; Wheat, wild emmer, forage at 0.3 ppm; Wheat, wild emmer, grain at 0.05 ppm; Wheat, wild emmer, hay at 0.5 ppm; Wheat, wild emmer, straw at 0.1 ppm; Wheatgrass, intermediate, forage at 0.3 ppm; Wheatgrass, intermediate, grain at 0.05 ppm; Wheatgrass, intermediate, hay at 0.5 ppm; Wheatgrass, intermediate, straw at 0.1 ppm; Wild rice, grain at 0.05 ppm; Wild rice, eastern, grain at 0.05 ppm; and Yam bean, African, dry seed at 0.01 ppm.

In addition, EPA is revising the tolerance for oat, hay from 0.05 ppm to 0.4 ppm to align with the hay tolerances for other cereal grain commodities established under 40 CFR 180.451 as requested by IR–4.

Finally, EPA is removing the established tolerances for residues of tribenuron methyl in or on the following individual raw agricultural commodities as they are redundant with the established crop subgroup tolerances being established in this rulemaking: Canola, seed at 0.02 ppm, Cotton, gin byproducts at 0.02 ppm, Cotton, undelinted seed at 0.02 ppm and Flax, seed at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any

unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 8, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.451, amend paragraph (a) by revising the table to read as follows:

§ 180.451 Tribenuron methyl; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Amaranth, grain, forage	0.3
Amaranth, grain, grain	0.05
Amaranth, grain, hay	0.5
Amaranth, grain, straw	0.1
Amaranth, purple, forage	0.3
Amaranth, purple, grain	0.05
Amaranth, purple, hay	0.5
Amaranth, purple, straw	0.1
Barley, grain	0.05
Barley, hay	0.4
Barley, straw	0.10
Bean, adzuki, dry seed	0.01
Bean, American potato, dry seed	0.01
Bean, asparagus, dry seed	0.01
Bean, black, dry seed	0.01
Bean, broad, dry seed	0.01
Bean, catjang, dry seed	0.01
Bean, cranberry, dry seed	0.01
Bean, dry, dry seed	0.01
Bean, field, dry seed	0.01
Bean, French, dry seed	0.01
Bean, garden, dry seed	0.01
Bean, goa, dry seed	0.01
Bean, great northern, dry seed	0.01
Bean, green, dry seed	0.01
Bean, guar, dry seed	0.01
Bean, kidney, dry seed	0.01
Bean, lablab, dry seed	0.01
Bean, lima, dry seed	0.01
Bean, morama, dry seed	0.01
Bean, moth, dry seed	0.01
Bean, mung, dry seed	0.01
Bean, navy, dry seed	0.01
Bean, pink, dry seed	0.01
Bean, pinto, dry seed	0.01
Bean, red, dry seed	0.01
Bean, rice, dry seed	0.01
Bean, scarlet runner, dry seed	0.01
Bean, sword, dry seed	0.01
Bean, tepary, dry seed	0.01
Bean, urd, dry seed	0.01
Bean, yardlong, dry seed	0.01
Bean, yellow, dry seed	0.01
Buckwheat, grain	0.05
Buckwheat, hay	0.4
Buckwheat, straw	0.1
Buckwheat, tartary, grain	0.05
Buckwheat, tartary, hay	0.4
Buckwheat, tartary, straw	0.1
Canarygrass, annual, grain	0.05
Canarygrass, annual, hay	0.4
Canarygrass, annual, straw	0.1
Cañihua, forage	0.3
Cañihua, grain	0.05
Cañihua, hay	0.5
Cañihua, straw	0.1
Chia, forage	0.3
Chia, grain	0.05
Chia, hay	0.5
Chia, straw	0.1
Chickpea, dry seed	0.01
Corn, field, forage	0.15
Corn, field, grain	0.01
Corn, field, stover	1.1
Cottonseed subgroup 20C	0.02
Cowpea, dry seed	0.01
Cram-cram, forage	0.3
Cram-cram, grain	0.05
Cram-cram, hay	0.5
Cram-cram, straw	0.1
Fonio, black, forage	0.05
Fonio, black, grain	0.05
Fonio, black, stover	0.05
Fonio, white, forage	0.05
Fonio, white, grain	0.05
Fonio, white, stover	0.05
Grain, aspirated fractions	1.5
Gram, horse, dry seed	0.01
Huauzontle, grain, forage	0.3
Huauzontle, grain, grain	0.05
Huauzontle, grain, hay	0.5
Huauzontle, grain, straw	0.1
Inca wheat, forage	0.3
Inca wheat, grain	0.05
Inca wheat, hay	0.5
Inca wheat, straw	0.1
Jackbean, dry seed	0.01
Job's tears, forage	0.05
Job's tears, grain	0.05
Job's tears, stover	0.05
Lentil, dry seed	0.01
Longbean, Chinese, dry seed	0.01
Lupin, Andean, dry seed	0.01
Lupin, blue, dry seed	0.01
Lupin, grain, dry seed	0.01
Lupin, sweet, dry seed	0.01
Lupin, white, dry seed	0.01
Lupin, white sweet, dry seed	0.01
Lupin, yellow, dry seed	0.01
Millet, barnyard, forage	0.05
Millet, barnyard, grain	0.05
Millet, barnyard, stover	0.05
Millet, finger, forage	0.05
Millet, finger, grain	0.05
Millet, finger, stover	0.05
Millet, foxtail, forage	0.05
Millet, foxtail, grain	0.05
Millet, foxtail, stover	0.05
Millet, little, forage	0.05
Millet, little, grain	0.05
Millet, little, stover	0.05
Millet, pearl, forage	0.05
Millet, pearl, grain	0.05
Millet, pearl, stover	0.05
Millet, proso, forage	0.05
Millet, proso, grain	0.05
Millet, proso, stover	0.05
Oat, Abyssinian, grain	0.05
Oat, Abyssinian, hay	0.4
Oat, Abyssinian, straw	0.1
Oat, common, grain	0.05
Oat, common, hay	0.4
Oat, common, straw	0.1
Oat, forage	0.05
Oat, grain	0.05
Oat, hay	0.4
Oat, naked, grain	0.05
Oat, naked, hay	0.4
Oat, naked, straw	0.1
Oat, sand, grain	0.05
Oat, sand, hay	0.4
Oat, sand, straw	0.1
Oat, straw	0.10
Pea, blackeyed, dry seed	0.01
Pea, crowder, dry seed	0.01
Pea, dry, dry seed	0.01
Pea, field, dry seed	0.01
Pea, field, hay	0.01
Pea, field, vines	0.01
Pea, garden, dry seed	0.01
Pea, grass, dry seed	0.01
Pea, green, dry seed	0.01
Pea, pigeon, dry seed	0.01
Pea, southern, dry seed	0.01
Pea, winged, dry seed	0.01
Popcorn, forage	0.15
Popcorn, grain	0.01
Popcorn, stover	1.1

TABLE 1 TO PARAGRAPH (a)—Continued

Commodity	Parts per million
Princess-feather, forage	0.3
Princess-feather, grain	0.05
Princess-feather, hay	0.5
Princess-feather, straw	0.1
Psyllium, forage	0.3
Psyllium, grain	0.05
Psyllium, hay	0.5
Psyllium, straw	0.1
Psyllium, blond, forage	0.3
Psyllium, blond, grain	0.05
Psyllium, blond, hay	0.5
Psyllium, blond, straw	0.1
Quinoa, forage	0.3
Quinoa, grain	0.05
Quinoa, hay	0.5
Quinoa, straw	0.1
Rapeseed subgroup 20A	0.02
Rice, grain	0.05
Rice, African, grain	0.05
Rye, forage	0.3
Rye, grain	0.05
Rye, hay	0.5
Rye, straw	0.1
Sorghum, grain, forage	0.05
Sorghum, grain, grain	0.05
Sorghum, grain, stover	0.05
Soybean, forage	0.07
Soybean, hay	0.35
Soybean, hulls	0.04
Soybean, seed	0.01
Soybean, vegetable, dry seed	0.01
Sunflower, seed	0.05
Teff, forage	0.05
Teff, grain	0.05
Teff, stover	0.05
Teosinte, forage	0.15
Teosinte, grain	0.01
Teosinte, stover	1.1
Triticale, forage	0.3
Triticale, grain	0.05
Triticale, hay	0.5
Triticale, straw	0.1
Velvetbean, dry seed	0.01
Wheat, forage	0.3
Wheat, grain	0.05
Wheat, hay	0.5
Wheat, straw	0.10
Wheat, club, forage	0.3
Wheat, club, grain	0.05
Wheat, club, hay	0.5
Wheat, club, straw	0.1
Wheat, common, forage	0.3
Wheat, common, grain	0.05
Wheat, common, hay	0.5
Wheat, common, straw	0.1
Wheat, durum, forage	0.3
Wheat, durum, grain	0.05
Wheat, durum, hay	0.5
Wheat, durum, straw	0.1
Wheat, einkorn, forage	0.3
Wheat, einkorn, grain	0.05
Wheat, einkorn, hay	0.5
Wheat, einkorn, straw	0.1
Wheat, emmer, forage	0.3
Wheat, emmer, grain	0.05
Wheat, emmer, hay	0.5
Wheat, emmer, straw	0.1
Wheat, macha, forage	0.3
Wheat, macha, grain	0.05

TABLE 1 TO PARAGRAPH (a)—Continued

Commodity	Parts per million
Wheat, macha, hay	0.5
Wheat, macha, straw	0.1
Wheat, oriental, forage	0.3
Wheat, oriental, grain	0.05
Wheat, oriental, hay	0.5
Wheat, oriental, straw	0.1
Wheat, Persian, forage	0.3
Wheat, Persian, grain	0.05
Wheat, Persian, hay	0.5
Wheat, Persian, straw	0.1
Wheat, Polish, forage	0.3
Wheat, Polish, grain	0.05
Wheat, Polish, hay	0.5
Wheat, Polish, straw	0.1
Wheat, poulard, forage	0.3
Wheat, poulard, grain	0.05
Wheat, poulard, hay	0.5
Wheat, poulard, straw	0.1
Wheat, shot, forage	0.3
Wheat, shot, grain	0.05
Wheat, shot, hay	0.5
Wheat, shot, straw	0.1
Wheat, spelt, forage	0.3
Wheat, spelt, grain	0.05
Wheat, spelt, hay	0.5
Wheat, spelt, straw	0.1
Wheat, timopheevi, forage	0.3
Wheat, timopheevi, grain	0.05
Wheat, timopheevi, hay	0.5
Wheat, timopheevi, straw	0.1
Wheat, vavilovi, forage	0.3
Wheat, vavilovi, grain	0.05
Wheat, vavilovi, hay	0.5
Wheat, vavilovi, straw	0.1
Wheat, wild einkorn, forage	0.3
Wheat, wild einkorn, grain	0.05
Wheat, wild einkorn, hay	0.5
Wheat, wild einkorn, straw	0.1
Wheat, wild emmer, forage	0.3
Wheat, wild emmer, grain	0.05
Wheat, wild emmer, hay	0.5
Wheat, wild emmer, straw	0.1
Wheatgrass, intermediate, forage	0.3
Wheatgrass, intermediate, grain	0.05
Wheatgrass, intermediate, hay	0.5
Wheatgrass, intermediate, straw	0.1
Wild rice, grain	0.05
Wild rice, eastern, grain	0.05
Yam bean, African, dry seed	0.01

* * * * *

[FR Doc. 2022–15019 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1356

Title IV–E Program; Correction

AGENCY: Children's Bureau, Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Correcting amendment.

SUMMARY: The Department of Health and Human Services published an interim final rule in the **Federal Register** on January 6, 2012, that revised regulations for the title IV–E program. The interim final rule inadvertently included incorrect numbering of one paragraph. This document corrects the numbering of that paragraph.

DATES: Effective on July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Kathleen McHugh, Director, Policy Division, Children's Bureau, *cbcomments@acf.hhs.gov,* 202–401–5789.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services published an interim final rule in the **Federal Register** on January 6, 2012 (77 FR 950), effective on February 6, 2012, that revised regulations for the title IV–E program to implement statutory provisions related to the tribal title IV–E program (see section 479B of the Social Security Act (the Act) that authorizes direct federal funding of Indian tribes, tribal organizations, and tribal consortia that choose to operate a foster care, adoption assistance and, at tribal option, a kinship guardianship assistance program under title IV–E of the Act). The interim final rule inadvertently included incorrect numbering of one paragraph in 45 CFR 1356.60(a) regarding requirements for Federal matching funds for title IV–E foster care maintenance and adoption assistance payments. This document corrects the regulations by revising this section.

(Catalog of Federal Domestic Assistance Program Number 93.658, Foster Care Maintenance; 93.659, Adoption Assistance; 93.645, Child Welfare Services—State Grants)

List of Subjects in 45 CFR Part 1356

Adoption and foster care, Child welfare, Grant programs—social programs.

Wilma M. Robinson,

Deputy Executive Secretary, Department of Health and Human Services.

Accordingly, 45 CFR part 1356 is corrected by making the following correcting amendments:

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

■ 1. The authority citation for part 1356 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302.

■ 2. Amend § 1356.60 by revising paragraph (a) to read as follows:

§ 1356.60 Fiscal requirements (title IV–E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments.* (1) Federal financial participation (FFP) is available to title IV–E agencies under an approved title IV–E plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with §§ 1356.20 through 1356.30, section 472 of the Act, and, for a Tribal title IV–E agency, section 479B of the Act; and

(ii) Adoption assistance payments made in accordance with §§ 1356.20 and 1356.40, applicable provisions of section 473, section 475(3), and, for a Tribal title IV–E agency, section 479B of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b), 474(a)(1) and (2), and 479B(d) of the Act as applicable, definitions, and pertinent regulations as promulgated by the Secretary, or the designee.

* * * * *

[FR Doc. 2022–15076 Filed 7–14–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2022–0053]

RIN 2127–AL58

Federal Motor Vehicle Safety Standards; Rear Impact Guards, Rear Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule upgrades NHTSA's safety standards addressing rear underride protection in crashes of passenger vehicles into trailers and semitrailers by adopting similar requirements to Transport Canada's standard for rear impact guards. Adopting these standards will require rear impact guards to provide sufficient strength and energy absorption to protect occupants of compact and subcompact passenger cars impacting the rear of trailers at 56 kilometers per hour (km/h) (35 miles per hour (mph)). Upgraded protection will be provided in crashes in which the passenger motor vehicle hits: the center of the rear of the trailer or semitrailer; and, in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer. This rulemaking commenced in response to petitions for rulemaking from the Insurance Institute for Highway Safety (IIHS) and from Ms. Marianne Karth and the Truck Safety Coalition (TSC). This final rule responds to and fulfills the rulemaking mandate of the November 2021 Bipartisan Infrastructure Law (BIL) that directs the Secretary to upgrade current Federal safety standards for rear impact guards. NHTSA is also issuing this final rule pursuant to DOT's January 2022 National Roadway Safety Strategy, which describes the five key objectives of the Department's Safe System Approach: safer people, safer roads, safer vehicles, safer speeds, and post-crash care. One of the key Departmental actions to enable safer vehicles is to issue a final rule to upgrade existing requirements for rear impact guards on newly manufactured trailers and semitrailers.

DATES:

Effective date: This final rule is effective on January 11, 2023.

Compliance date: July 15, 2024. Optional early compliance is permitted.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received no later than August 29, 2022.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590. All petitions received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: DOT will post any petition for reconsideration, and any other submission, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* Anyone is able to search the electronic form of all submissions to any of our dockets by the name of the individual submitting the submission (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: *For technical issues:* Ms. Lina Valivullah, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590 (telephone) 202–366–8786, (email) *Lina.Valivullah@dot.gov.*

For legal issues: Ms. Deirdre Fujita, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590, (telephone) 202–366–2992, (email) *Dee.Fujita@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

a. Overview

NHTSA is issuing this final rule to upgrade Federal Motor Vehicle Safety Standard (FMVSS) No. 223, ''Rear impact guards,'' and FMVSS No. 224, ''Rear impact protection,'' which together provide protection for occupants of passenger vehicles in crashes into the rear of trailers and semitrailers. FMVSS No. 223, an equipment standard, specifies strength and energy absorption requirements in quasi-static force tests of rear impact guards sold for installation on new trailers and semitrailers. FMVSS No. 224, a vehicle standard, requires new trailers and semitrailers with a gross vehicle weight rating (GVWR) of 4,536 kilogram (kg) (10,000 pounds (lb)) or more to be equipped with a rear impact guard meeting FMVSS No. 223.[1] The notice of proposed rulemaking (NPRM) preceding this final rule was published on December 16, 2015.[2]

Rear underride crashes occur when a passenger vehicle crashes into the rear end of a generally larger vehicle, and the front end of the passenger vehicle slides under (*i.e.,* underrides) the rear end of the larger vehicle. Underride may occur in collisions between a passenger vehicle and the rear end of a large trailer or semitrailer (referred to in this rule collectively as ''trailers'') because the bed and chassis of the trailer is often higher than the front of the passenger vehicle. In extreme underride crashes, ''passenger compartment intrusion'' (PCI) may occur when the passenger vehicle underrides the rear end of the trailer to such an extent that the rear end of the trailer strikes and enters the passenger compartment of the colliding passenger vehicle. PCI can result in severe injuries and fatalities to the occupants of the passenger vehicle.

Rear impact guards are mounted on the rear of trailers to prevent underride and PCI. In a collision between a passenger vehicle and the rear of a trailer equipped with a rear impact guard, the rear impact guard engages the striking passenger vehicle and prevents it from sliding too far under the struck vehicle's bed and chassis. FMVSS Nos. 223 and 224 ensure a rear impact guard is configured low and wide to impede a striking passenger vehicle, is strong enough to withstand a 48 km/h (30 mph) impact of the colliding vehicle, and has energy-absorbing capability to further mitigate harm to occupants in the striking vehicle.

NHTSA designed FMVSS No. 223 and 224 to work in conjunction with FMVSS No. 208, ''Occupant crash protection,'' so that occupants are protected with seat belts and air bags in the underride crash—thus maximizing the likelihood of avoiding serious or fatal injury in the impact into the guard. When FMVSS Nos. 223 and 224 were issued in 1996, FMVSS No. 208 required passenger cars to provide crash protection in a 48 km/h (30 mph) rigid barrier crash test. The agency designed the underride protection standards so that occupants would be reasonably protected in underride crashes up to 48 km/h (30 mph). Since then, FMVSS No. 208's test speed has been increased to provide high levels of occupant protection in a 56 km/h (35 mph) frontal crash.

With FMVSS No. 208 now providing crash protection up to 56 km/h (35 mph), NHTSA is amending FMVSS Nos. 223 and 224 to mandate the guards withstand crash velocities up to that speed. This final rule adopts requirements of Canada Motor Vehicle Safety Standard (CMVSS) No. 223, ''Rear impact guards.'' [3] CMVSS No. 223 requires rear impact guards with sufficient strength and energy absorption capability to protect occupants of compact and subcompact passenger cars impacting the rear of trailers at 56 km/h (35 mph). Under this final rule, the impacting vehicle's FMVSS No. 208 occupant protection technologies could absorb enough of the crash forces from the impact to reduce significantly the risk of fatality and serious injury to occupants of the colliding vehicle. As the current requirements in FMVSS Nos. 223 and 224 were developed with the intent of providing underride crash protection to occupants of passenger vehicles in impacts up to 48 km/h (30 mph), increasing the robustness of the trailer/guard design such that it will be able to withstand crash velocities up to 56 km/h (35 mph) represents a substantial increase in the stringency of our standards. There is a 36 percent increase in crash energy in a 56 km/h (35 mph) impact of a vehicle compared to a 48 km/h (30 mph) impact of the same vehicle.

This final rule is based on the best available science. The underlying field data used in the December 16, 2015 NPRM and this final rule are from a 2013 NHTSA-funded study conducted by the University of Michigan Transportation Research Institute (UMTRI) to supplement UMTRI's Trucks Involved in Fatal Accidents (TIFA) survey data for years 2008 and 2009. (The 2013 NHTSA-funded study is referred to in this preamble as the 2013 UMTRI Study.) [4] [5] The TIFA database had analyzed FARS data to obtain more detailed information on fatal large truck crashes, and had provided more detailed information than in FARS on the involved large trucks, motor carriers, and sequence of events leading to the crash.[6] The 2013 UMTRI Study supplemented these TIFA data by collecting specific data pertaining to trailer rear extremity crashes. In the 2013 UMTRI Study, UMTRI also determined whether a rear impact guard was required, and if not required, the criterion that had excluded the vehicle. The 2013 UMTRI Study collected detailed information on fatal vehicle crashes into the rear of trailers, the relative impact velocity, and the extent of underride in these crashes. The data from the 2013 UMTRI Study

[1] NHTSA established the two-standard approach to address compliance burdens on small trailer manufacturers, of which there is a significant number. Under FMVSS No. 223, the guard may be tested for compliance while mounted to a test fixture or to a complete trailer, at the manufacturer's option. FMVSS No. 224 requires the guard to be mounted on the trailer or semitrailer in accordance with the instructions provided with the guard by the guard manufacturer. Under this two-standard approach, a small manufacturer that produces relatively few trailers can certify its trailers to FMVSS No. 224 with assurance without having to undertake destructive testing of what could be a substantial portion of its production. The two-standard approach was designed to provide small trailer manufacturers a practicable and reasonable means of certifying to FMVSS No. 224.

[2] 80 FR 78417.

[3] This final rule also adopts Transport Canada's definition of ''rear extremity'' to define where aerodynamic fairings are to be located on a trailer to avoid posing a safety hazard in rear underride crashes.

[4] NHTSA discussed the results of this study in detail in Appendix A of the NPRM. *See* 80 FR 78447–78452.

[5] Heavy-Vehicle Crash Data Collection and Analysis to Characterize Rear and Side Underride and Front Override in Fatal Truck Crashes, DOT HS 811 725, March 2013, *https://www.nhtsa.gov/sites/nhtsa.gov/files/811725.pdf.*

[6] The TIFA survey data contain data for all trucks with a GVWR greater than 4,536 kg (10,000 lb) that were involved in fatal traffic crashes in the 50 U.S. States and the District of Columbia.

enabled NHTSA to establish national estimates of rear impact crashes into heavy vehicles that resulted in PCI. Because of the detailed analysis and the supplemental information collected for each crash, the 2013 UMTRI Study forms the most comprehensive and valid data set available to inform NHTSA about crashes involving trucks and trailers and the incidence and extent of underride.

b. NHTSA's Statutory Authority and Response to BIL

1. National Traffic and Motor Vehicle Safety Act

This final rule is issued under the National Traffic and Motor Vehicle Safety Act (Safety Act) (49 U.S.C. 30101 *et seq.*). Under the Safety Act, the Secretary of Transportation (NHTSA by delegation) [7] is responsible for prescribing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms.[8] ''Motor vehicle safety'' is defined in the Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.'' [9] ''Motor vehicle safety standard'' means a minimum performance standard for motor vehicles or motor vehicle equipment.[10] When prescribing such standards, the agency must consider all relevant, available motor vehicle safety information, and consider whether a standard is reasonable, practicable, and appropriate for the types of motor vehicles or motor vehicle equipment for which it is prescribed.[11] The agency must also consider the extent to which the standard will further the statutory purpose of reducing traffic crashes and associated deaths.[12]

2. Bipartisan Infrastructure Law

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA),[13] commonly referred to as the Bipartisan Infrastructure Law (BIL). Section 23011 of BIL specifies provisions for underride protection measures for trailers and semitrailers. As discussed in detail below, the provisions direct the Secretary to upgrade current Federal safety standards for rear impact guards and conduct additional research, report to Congress on the effectiveness, feasibility, costs, and benefits of side guards, establish an advisory committee on underride protection, and implement the recommendations issued by the Government Accountability Office (GAO) on improved data collection, inspection and research of truck underride guards.

Section 23011(b)(1)(A) of BIL states that, not later than 1 year after the date of enactment of the Act, the Secretary shall promulgate regulations that revise FMVSS No. 223 and FMVSS No. 224 to require new trailers and semitrailers to be equipped with rear impact guards that are designed to prevent PCI from a trailer or semitrailer when a passenger vehicle traveling at 56 km/h (35 mph) makes an impact: (a) ''in which the passenger motor vehicle impacts the center of the rear of the trailer or semitrailer'' (full overlap with the rear of the trailer or semitrailer); (b) ''in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer''; and (c) ''in which 30 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer, if the Secretary determines that a revision of [FMVSS Nos. 223 and 224] to address such an impact would meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code'' (*i.e.,* the Safety Act). Section 23011(b)(1)(B) states that the regulations promulgated under Section 23011(b)(1)(A) shall require full compliance not later than two years after the date on which those regulations are promulgated.

Section 23011(b)(2) of BIL directs the Secretary to conduct additional research on the design and development of rear impact guards that can: prevent PCI in cases in which the passenger motor vehicle is traveling at speeds of up to 65 mph; and that can protect occupants against severe injury in crashes of passenger vehicles into the rear of trailers and semitrailers at speeds up to 104.5 km/h (65 mph). Section 23011(b)(3) directs that, not later than 5 years after the date the regulations under Section 23011(b)(1)(A) are promulgated, the Secretary shall review and evaluate the need for changes to FMVSS No. 223 and FMVSS No. 224 in response to advancements in technology and update the standards accordingly.[14]

Section 23011(c)(1)(A) of BIL directs the Secretary to complete, not later than 1 year after enactment of the Act, additional research on side underride guards to better understand the overall effectiveness of the guards. Section 23011(c)(1)(B) requires the Secretary to assess, among other matters, the feasibility, benefits, and costs of, and any impacts on intermodal equipment, freight mobility (including port operations), and freight capacity associated with, installing side underride guards on new trailers and semitrailers within one year of enactment of BIL, and if warranted, develop performance standards for side underride guards. Section 23011(c)(3) also directs the Secretary to publish the results of the side underride guard assessment specified in Section 23011(c)(1)(B) within 90 days of completion of the assessment and provide an opportunity for public comment. It also directs that, within 90 days from the date the comment period closes, the Secretary shall submit a report to Congress on the assessment results, a summary of comments received, and a determination whether the Secretary intends to develop performance requirements for side underride guards, including any analysis that led to that determination.

Section 23011(d) of BIL directs the Secretary to establish an advisory committee on underride protection to provide advice and recommendations to the Secretary on safety regulations to reduce underride crashes and fatalities relating to underride crashes. This section also provides details on the membership of the advisory committee, frequency of meetings of the advisory committee, the Secretary's support to the advisory committee, and details of a biennial report to Congress that the advisory committee is required to submit.

Section 23011(e) of BIL directs the Secretary to implement the recommendations on truck underride guard data collection issued by the Government Accountability Office

[7] 49 CFR 1.95. The Secretary also delegated to NHTSA the authority set out for Section 101(f) of Public Law 106–159 to carry out, in coordination with the Federal Motor Carrier Safety Administrator, the authority vested in the Secretary by subchapter 311 and section 31502 of title 49, U.S.C., to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture when the standards are based upon and similar to a Federal Motor Vehicle Safety Standard promulgated, either simultaneously or previously, under chapter 301 of title 49, U.S.C.

[8] 49 U.S.C. 30111(a).

[9] 49 U.S.C. 30102(a)(8).

[10] 49 U.S.C. 30102(a)(9).

[11] 49 U.S.C. 30111(b).

[12] Id.

[13] Public Law 117–58.

[14] There are also provisions relating to the Federal Motor Carrier Safety Regulations.

(GAO) on March 14, 2019,[15] within 1 year after the date of enactment of the Act.

3. Implementation of BIL

This final rule fulfills the BIL rulemaking mandate to NHTSA set forth in Section 23011(b). As directed by Sections 23011(b)(1)(A)(i) and (ii), this final rule revises FMVSS Nos. 223 and 224 to require trailers and semitrailers to be equipped with rear impact guards that prevent passenger compartment intrusion from a trailer or semitrailer when a passenger motor vehicle traveling at 35 miles per hour makes: (a) an impact in which the passenger motor vehicle impacts the center of the rear of the trailer or semitrailer; and (b) an impact in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer.

This final rule fulfills these BIL rulemaking mandates of Sections 23011(b)(1)(A)(i) and (ii) and achieves, effectively and expeditiously, the Congressional goal that focuses on improving rear impact guard performance. The 2015 NPRM proposed to adopt the Canadian quasi-static test requirements for rear impact guards, which ensure rear impact guards provide sufficient strength and energy absorption to protect occupants of compact and subcompact passenger cars impacting the rear of trailers at 56 km/h (35 mph).[16] The NPRM reported on crash tests conducted by IIHS that showed that rear impact guards installed on trailers that were designed to the proposed requirements were able to prevent PCI in 35 mph crashes of a passenger vehicle into the rear of the trailer where: (a) the front end of the passenger vehicle fully overlapped the rear of the trailer (full overlap crash); and (b) 50 percent of the width of the front end of the passenger vehicle overlapped the rear of the trailer (50 percent overlap crash). These data show that trailers and semitrailers equipped with rear impact guards meeting the requirements of this final rule will have guards that are designed to prevent PCI when a passenger motor vehicle traveling at 35 mph impacts the center of the rear of the trailer or semitrailer, or makes impact in which 50 percent of the width of the passenger vehicle overlaps the rear of the trailer or semitrailer, in accordance with BIL.

NHTSA's work on this final rule also meets the BIL mandate in Section 23011(b)(1)(A)(iii). In developing this rule, the agency considered a requirement that rear impact guards withstand a 56 km/h (35 mph) crash of a passenger vehicle into the rear of a trailer in which only 30 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer (30 percent overlap crash). After analyzing the issue, we determined such a standard would not meet the requirements and considerations of Sections 30111(a) and (b) of the Safety Act. Our consideration of this matter is discussed below.

Sections 30111(a) and 30111(b)

The provision at 49 U.S.C. 30111(a) of the Safety Act authorizes the Secretary (NHTSA, by delegation) to prescribe Federal motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. ''Motor vehicle safety'' is defined in the Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.'' [17]

The provision at 49 U.S.C. 30111(b) specifies that, when prescribing such standards, the Secretary must, among other things, consider all relevant, available motor vehicle safety information, consider whether a standard is reasonable, practicable, and appropriate for the types of motor vehicles or motor vehicle equipment for which it is prescribed, and consider the extent to which the standard will further the statutory purpose of reducing traffic crashes and associated deaths and injuries. NHTSA has considered the factors in Section 30111(b) and concludes that available data do not show that a standard for a 30 percent overlap crash at 35 mph would be reasonable, practicable, or appropriate for *all* the vehicles subject to FMVSS No. 223 and FMVSS No. 224. Accordingly, NHTSA cannot conclude that a Federal mandate for such a requirement for all trailers is warranted at this time.

Rear impact guards are designed to absorb energy and prevent PCI by attaching to substantial structural elements of a trailer or semitrailer, such as the chassis longitudinal frame rails, by way of vertical support members. The vertical members of the rear impact guard usually attach to the longitudinal frame rails so that impact loads are directly transmitted to the frame rails with minimal or no damage to the overall trailer structure. The test results from the initial testing at IIHS reported in the NPRM show that in the 30 percent overlap crashes, only a small lateral portion of the rear impact guard (about 22 percent of the guard width) engaged with the front end of the passenger vehicle. This small lateral portion did not include a vertical support member of the guard, so when a Chevy Malibu test vehicle struck this small lateral portion of the guard, the guard deformed locally and did not prevent PCI. In these initial IIHS crash tests, only the Manac rear impact guard was able to prevent PCI in the Chevy Malibu in the 56 km/h (35 mph) full overlap, 50 percent overlap, and 30 percent overlap crash test conditions. NHTSA believes the Manac performed this way because, unlike most trailer designs where the vertical members of the rear impact guard attach directly to the longitudinal frame rails of the trailer, the vertical members of the Manac rear impact guard were located further outboard from the location of the trailer longitudinal frame rails and were attached to a reinforced floor section of the trailer.

While the more outboard vertical supports of the Manac guard could withstand the force from the 30 percent low overlap crash of the Malibu, data suggest the further outboard vertical supports may reduce guard strength near the center of the horizontal member of the rear impact guard. In the 56 km/h (35 mph) full overlap crash tests of the Malibu, the greatest amount of underride (1,350 mm) was in the test with the Manac trailer. (In contrast, the extent of the underride was 990 mm in the test with the Wabash trailer.) NHTSA found this observation critical because it indicated that trailers that have the main vertical supports for the guard more outboard may not perform as well in full overlap crashes as trailers that have the vertical supports more inboard. This finding was of key concern because full and 50 percent overlap crashes are more frequent than low overlap (30 percent or less) crashes. NHTSA seeks not to amend FMVSS No. 223 in a manner that could reduce safety in the more frequent crash conditions.

[15] GAO Report to Congressional Requestors, ''Truck Underride Guards—Improved Data Collection, Inspections, and Research Needed,'' March 14, 2019, (GAO–19–264), *https://www.gao.gov/assets/gao-19-264.pdf.*

[16] At the time of enactment of BIL, the agency's December 16, 2015 NPRM upgrading FMVSS No. 223 and FMVSS No. 224 had been published and DOT's work was close to completion on the final rule. BIL provides a very short timeframe (1 year) for issuance of a final rule. The short timeframe is indicative of Congress's intent that a final rule based on the 2015 NPRM will complete the rulemaking proceedings specified in Section 23011(b)(1)(A) of the Act.

[17] 49 U.S.C. 30102(a)(8).

Further, data indicate that most fatal light vehicle crashes into the rear of trailers are at speeds much higher than 56 km/h (35 mph). The agency is concerned that adopting requirements to mitigate PCI in 30 percent low overlap crashes could result in rear impact guard designs that may reduce protection against PCI in higher speed crashes. NHTSA remains concerned about potential negative safety consequences if a final rule were to adopt requirements that result in moving the vertical members of rear impact guards more outward laterally to prevent underride in a 56 km/h (35 mph) 30 percent low overlap crash, at the expense of protection against higher speed crashes. The agency believes this issue should be more fully explored before possibly adopting a 30 percent low overlap requirement.

NHTSA has estimated the benefits and costs of adopting performance requirements to mitigate underride in low overlap (30 percent or lower overlap) crashes based on available information. We estimate 0.75 to 1.5 fatalities would be prevented annually if this rule included requirements to mitigate PCI in 30 percent overlap crashes at 56 km/h (35 mph) impact speed. (This estimate does not account for the possible dis-benefits in full and 50 percent offset crashes resulting from a low overlap requirement, discussed in the paragraph above.) The 0.75 to 1.5 fatalities prevented is based on an estimated 5.8—11.5 annual fatalities in low overlap crashes into the rear of trailers (crashes where 30 percent or less of the front end of the impacting vehicle overlaps the rear of the trailer) and a 13 percent effectiveness of rear impact guards with 30 percent overlap crash protection in mitigating fatalities.

To prevent PCI in 30 percent overlap crashes, designs would have to either: (a) add additional vertical members at the lateral edge of the rear impact guard that connect to the trailer's transverse floor beam and strengthen the transverse floor beam of the trailer to withstand the loads transmitted from these vertical members at the edge of the guard; or (b) considerably strengthen the rear impact guard member so it would not deform locally in the 30 percent overlap crash. Both these approaches would add significant weight to the vehicles because they involve adding more vertical members, strengthening the floor beams, or strengthening the guard itself. Additionally, some guard designs may have restrictions in intermodal operations at loading docks and may not be practicable for all types of trailers covered by FMVSS No. 224.

NHTSA is required by Section 1 of Executive Order 12866 to conduct a benefit-cost analysis of any intended regulation.[18] NHTSA estimates that the annual minimum and average incremental fleet cost of equipping all new applicable trailers [19] with rear impact guards that mitigate PCI in 30 percent overlap crashes would be $9.9 million and $30.3 million, respectively. The total minimum to average undiscounted incremental lifetime fuel cost due to increase in weight is estimated to be $93 million to $130 million. The overall undiscounted cost increase (material cost and lifetime fuel cost) is a minimum of $103 million to on average $161 million.

Using the estimate of 0.75 to 1.5 fatalities that would be prevented annually, the undiscounted cost per life saved using the minimum cost estimate ranges from $69 million to $151 million. The undiscounted cost per life saved using the average cost estimate ranges from $183 million to $215 million. The Department of Transportation has recently updated the value of a statistical life, consistent with Office of Management and Budget (OMB) Circular A–4, to $11.6 million.[20] Therefore, a requirement for equipping all new applicable trailers with rear impact guards that mitigate PCI in 30 percent overlap crashes is not cost-effective.[21] This indicates that total costs of such a requirement exceed overall benefits.

For the above reasons, NHTSA has determined that requirements to mitigate PCI in a 30 percent overlap crash at 56 km/h (35 mph) would not meet the requirements of Section 30111(a) of the Safety Act. We have decided that an FMVSS that requires *all* covered vehicles (trailers and semitrailers) to provide rear impact protection in full-frontal, 50 percent overlap, and 30 percent overlap crashes at 56 km/h (35 mph) impact speed would not be reasonable or practicable for this FMVSS and would not meet the requirements of Sections 30111(a) and (b) of the Safety Act for issuance of Federal motor vehicle safety standards. Accordingly, based on all available data, we have decided that a Federal mandate for a 30 percent overlap crash for all vehicles subject to FMVSS Nos. 223 and 224 is not reasonable at this time.

However, while NHTSA cannot conclude that the data and science currently available for agency decision-making support mandating installation of a rear impact guard that prevents PCI in all three overlap conditions (full, 50 percent, and 30 percent overlap) on *all* vehicles, the Federal standards act as a floor, not a ceiling, to establish the minimum level of performance that meet the safety needs presented by the data. FMVSS are written in terms of minimum performance requirements for motor vehicles or motor vehicle equipment to protect the public against unreasonable risk of injury and death in crashes. Manufacturers have flexibility in design as long as their products comply with applicable FMVSS. There are rear impact guard designs in the current trailer and semitrailer market that prevent PCI in all three crash conditions described in Section 23011(b)(1)(A) of BIL: (1) full overlap crash, (2) 50 percent overlap crash, and (3) 30 percent overlap crash at 56 km/h impact speed. This final rule does not preclude these designs from the trailer and semitrailer market, as long as they meet all requirements of the FMVSS to ensure adequate protection in (1) and (2), above.

In response to the research mandate in Section 23011(b)(2) of BIL, NHTSA is conducting additional research on the design and development of rear impact guards that can prevent underride and protect passengers in crashes into the rear of trailers at crash speeds up to 104.5 km/h (65 mph). As part of this research effort, NHTSA will also evaluate potential cost-effective rear impact guard designs that could improve protection in the less-frequent 30 percent low overlap crashes while

[18] ''Significant'' actions are also subject to Section 6's requirements for a benefit-cost analysis.

[19] There were 211,807 new trailers sold in 2020, among which 65 percent (137,675 = 211,807 × 0.65) are required to be equipped with rear impact guards. Among applicable trailers, 28 percent are already equipped with guards that mitigate PCI in 30 percent overlap crashes.

[20] For more information on the value of a statistical life, see a 2021 Office of the Secretary memorandum on the ''Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses—2021 Update.'' *https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis.* Circular A–4 provides OMB's guidance to Federal agencies on the development of a regulatory analysis required under Section 6 of E.O. 12866.

[21] Cost-effectiveness represents a measure of the average monetary cost per unit of change (benefit). In regulatory analyses for safety policies, cost-effectiveness generally measures the average estimated change in total costs per unit improvement in safety (*e.g.,* cost per life saved). A policy alternative can be considered cost-effective if the estimated cost per unit increase is less than an appropriate benchmark. For example, a proposed safety standard could be considered cost-effective if the average cost per life saved equivalent (*i.e.,* combining lives saved and injuries avoided, weighted by the relative values of injuries to fatalities) under the proposed standard were less than the comprehensive economic cost of a fatality ($11.6 million in 2020 dollars). That is, the proposed standard would yield safety benefits at a lower cost than the benchmark value for those benefits.

enhancing protection in full and 50 percent overlap crashes at higher speeds.

NHTSA is also working on implementing the other provisions of Section 23011 of BIL.

c. DOT National Roadway Safety Strategy

This final rule accords with DOT's January 2022 National Roadway Safety Strategy to address the rising numbers of transportation deaths occurring on the country's streets, roads, and highways.[22] At the core of this strategy is the Department-wide adoption of the Safe System Approach, which focuses on five key objectives: safer people, safer roads, safer vehicles, safer speeds, and post-crash care. DOT announced it will launch new programs, coordinate and improve existing programs, and adopt a foundational set of principles to guide this strategy. The National Roadway Safety Strategy includes issuing a final rule to upgrade existing requirements for rear impact guards on newly manufactured trailers and semitrailers as a key Departmental action to enable safer vehicles.[23]

d. NTSB Recommendation

This final rule accords with an April 3, 2014 recommendation from the National Transportation Safety Board (NTSB) regarding tractor-trailer safety (H–14–004). NTSB recommended that NHTSA revise FMVSS Nos. 223 and 224 to ensure that newly manufactured trailers over 4,536 kg (10,000 lb) GVWR provide adequate protection of passenger vehicle occupants from fatalities and serious injuries resulting from full-width and offset trailer rear impacts. In its recommendation, NTSB made favorable reference to IIHS's petition for rulemaking (the petition is discussed below).

e. Impacts of This Rulemaking

NHTSA has issued a Final Regulatory Evaluation (FRE) that analyzes the potential impacts of this final rule. The FRE is available in the docket for this rule.[24]

NHTSA estimates that 94 percent of new trailers sold in the U.S. subject to FMVSS Nos. 223 and 224 are already designed to comply with CMVSS No. 223. The agency estimates that about 0.56 lives and 3.5 serious injuries would be saved annually by requiring all trailers covered by Standard No. 224 to be equipped with CMVSS No. 223 compliant guards. The undiscounted equivalent lives saved are 1.4 per year.

Considering that 94 percent of applicable trailers already have CMVSS compliant guards, the annual average incremental fleet cost of equipping all applicable trailers with CMVSS No. 223 rear impact guards is estimated to be $2.10 million in 2020 dollars. In addition, the added weight of 48.9 pounds per vehicle would result in an estimated annual fleet fuel cost of approximately $4.43 million and $5.59 million discounted at 7% and 3%, respectively. As such, the total incremental cost would range from $6.54 million to $7.69 million discounted at 7% and 3%, respectively, as shown in Table 1.

TABLE 1—COST OF THE FINAL RULE WITH AVERAGE INCREASE IN WEIGHT

[In millions of 2020 dollars]

Discount rate	Undiscounted	3%	7%
Material *	$2.10	$2.10	$2.10
Fuel	6.90	5.59	4.43
Total	9.00	7.69	6.54

* Material costs are not discounted since they occur at the time of purchase

The estimated equivalent lives saved (ELS) ranges from 0.90 lives to 1.14 lives discounted at 7% and 3%, respectively. The cost of the final rule is the regulatory cost and ranges from $6.54 million to $7.69 million discounted at 7% and 3%, respectively. The cost per ELS ranges from $6.77 million to $7.25 million discounted at 3% and 7%, respectively, as shown in Table 2 below.

TABLE 2—COST PER EQUIVALENT LIVES SAVED

[In millions of 2020 dollars]

Discount rate	Undiscounted	3%	7%
Total cost	$9.00	$7.69	$6.54
Equivalent lives saved	1.40	1.14	0.90
Cost per ELS	$6.42	$6.77	$7.25

The net benefit of the final rule is the difference between the comprehensive benefit and the total cost. The estimated net benefit ranges from $4.36 million to $6.04 million discounted at 7% and 3%, respectively, as shown in Table 3 below.

TABLE 3—NET BENEFITS

[In millions of 2020 dollars]

Discounted rate	Undiscounted	3%	7%
Comprehensive benefit	$16.96	$13.73	$10.90

[22] *https://www.transportation.gov/sites/dot.gov/files/2022-01/USDOT_National_Roadway_Safety_Strategy_0.pdf.*

[23] *Id.,* p. 31.

[24] The FRE may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document.

TABLE 3—NET BENEFITS—Continued

[In millions of 2020 dollars]

Discounted rate	Undiscounted	3%	7%
Total cost	9.00	7.69	6.54
Net benefit	7.96	6.04	4.36

Table 4 summarizes the total costs, comprehensive benefits, and net benefits for both 3 and 7 percent discount rates.

TABLE 4—COSTS AND BENEFITS

[In millions of 2020 dollars]

Discount rate	Material cost	Fuel cost	Total costs	Comprehensive benefits	Net benefits
3%	$2.10	$5.59	$7.69	$13.73	$6.04
7%	2.10	4.43	6.54	10.90	4.36

f. No Significant Changes to the NPRM

After carefully reviewing the comments, NHTSA is adopting most of the proposed rule, while clarifying the wording that attachment hardware remain intact during quasi-static load tests in FMVSS No. 223. NHTSA is also making a technical correction to the citation referenced in the definition of ''temporary living quarters'' in FMVSS No. 224.

II. Background

a. Current Requirements

FMVSS No. 223 requires rear impact guards to meet the strength requirements and energy absorption requirements of the standard at certain specified test locations. Test locations P1, P2, and P3 are depicted in Figure 1. Test location P1 is 3/8th of the width of the horizontal member from the centerline on either side of the horizontal member. Test location P2 is at the centerline of the horizontal member. Test location P3 is 355 millimeters (mm) (14 inches) to 635 mm (25 inches) from the horizontal member centerline. The strength tests are conducted separately from the energy absorption test.

The strength requirements (S5.2.1) specify that the guard must resist the following force levels without deflecting by more than 125 mm (4.9 inches):

- 50,000 Newtons (N) (or 50 kiloNewtons (kN)) at P1 on either the left or the right side of the guard;
- 50,000 N at P2; and,
- 100,000 N at P3 on either the left or the right side of the guard.

In the strength test, the force is applied by a force application device (rectangular rigid steel solid face of 203 mm x 203 mm and thickness of 25 mm) until the force level is exceeded or until the displacement device is displaced at least 125 mm, whichever occurs first.

The energy absorption requirements (S5.2.2) specify that a guard (other than a hydraulic guard) must absorb, by plastic deformation, within the first 125 mm of deflection at least 5,650 Joules (J) of energy at each test location P3. In the test procedure, force is applied to the guard using the force application device until displacement of the device has reached 125 mm, recording the value of force at least 10 times per 25 mm of displacement. The force is then reduced until the guard no longer offers resistance to the force application device. A force versus deflection diagram is plotted with deflection (measured displacement of the force application device) along the abscissa (x-axis) and the measured force along the ordinate (y-axis), as shown in Figure 2, and the energy absorbed by the guard is determined by calculating the shaded area bounded by the curve in the diagram.

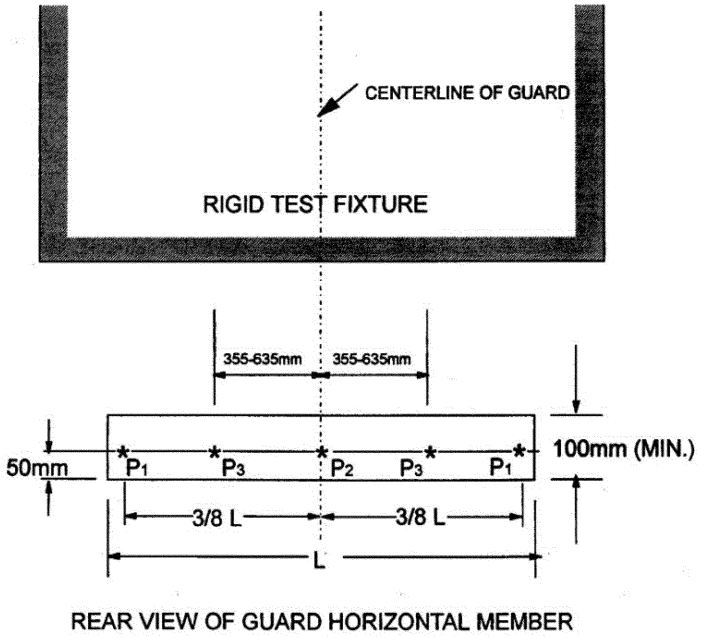

Figure 1: FMVSS No. 223 quasi-static test loading locations

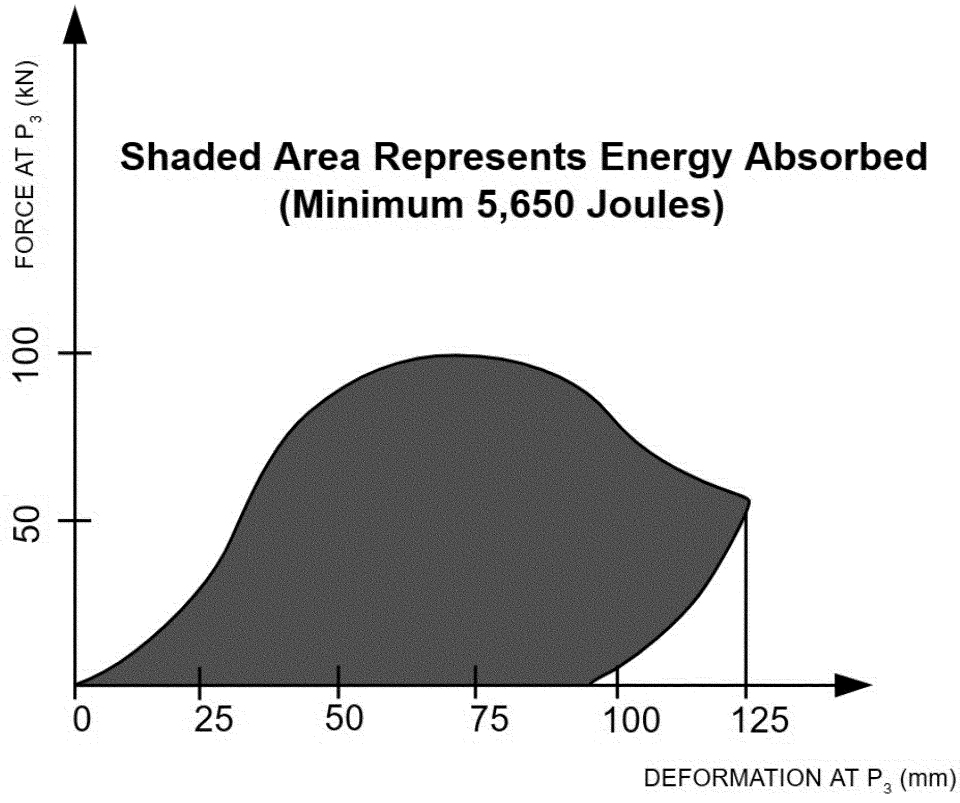

Figure 2: FMVSS No. 223 guard energy absorption (typical force-deflection curve at P3)

FMVSS No. 224 requires each vehicle to be equipped with a rear impact guard certified to FMVSS No. 223 and attached to the vehicle's chassis in accordance with installation instructions that the guard manufacturer provided pursuant to FMVSS No. 223. Standard No. 224 specifies that the ground clearance (vertical distance of the bottom of the horizontal member from ground) of the rear impact guard be no more than 560 mm (22 inches) and

located not more than 305 mm (12 inches) forward of the rear extremity of the trailer and extend laterally to within 100 mm (4 inches) of each side of the vehicle as shown in Figure 3.

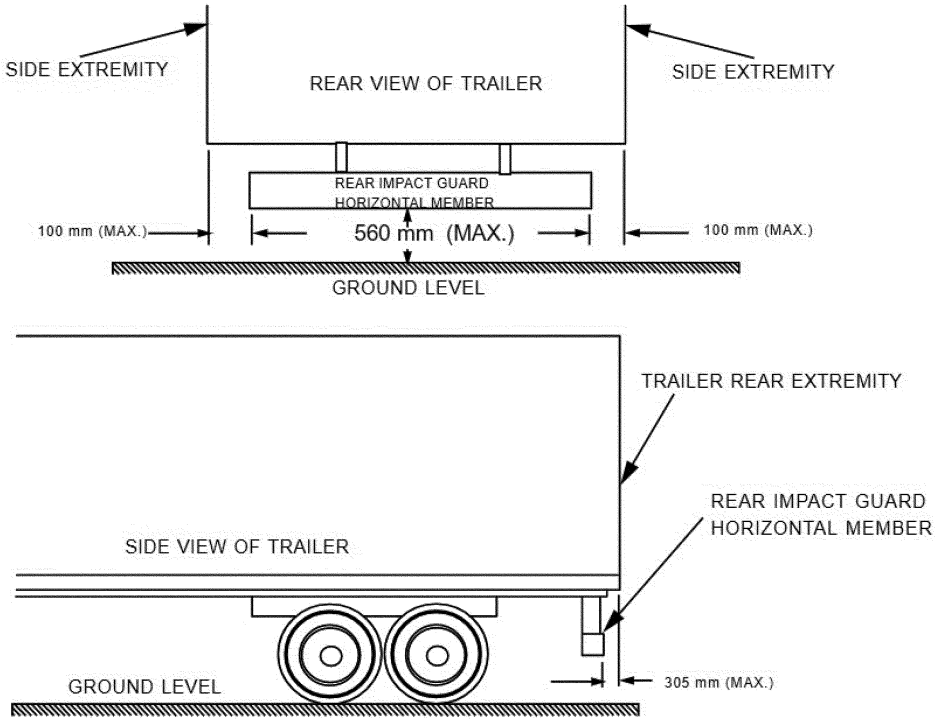

Figure 3: FMVSS No. 224 configuration requirements

b. Petitions

IIHS requested, among other things, that NHTSA upgrade rear impact guard strength requirements, reduce the number of exempted vehicles to provide occupant protection in higher speed crashes and move the P1 test location farther outboard to improve crash protection in low overlap conditions. IIHS requested that NHTSA require attachment hardware to remain intact for the duration of the quasi-static test or until reaching a force threshold ''much higher than that required for the guard itself.'' [25] The Karth/TSC petition asked that NHTSA improve the safety of rear impact guards. In later correspondence with NHTSA, these petitioners state that if FMVSS No. 223 were amended to be equivalent to CMVSS No. 223, injuries and fatalities could be avoided.[26] We provided a detailed discussion of the petitions, and our response to them, in the NPRM preceding this final rule.

c. Summary of Proposed Changes

NHTSA proposed to adopt requirements of Transport Canada's standard for rear impact guards, which require rear impact guards to provide sufficient strength and energy absorption to protect occupants of compact and subcompact passenger cars impacting the rear of trailers at 56 km/h (35 mph). The NPRM proposed the following specific changes to FMVSS Nos. 223 and 224.[27]

Performance Requirements

NHTSA proposed that the loading and performance requirements of FMVSS No. 223 adopt the specifications in CMVSS No. 223. Specifically:

- The NPRM proposed to amend FMVSS No. 223 to require rear impact guards (except as noted below) to resist a uniform distributed load of 350,000 N without deflecting more than 125 mm, while absorbing at least 20,000 J of

[25] After submitting its petition in 2011, IIHS conducted additional crash tests of a 2010 Chevrolet Malibu at 56 km/h (35 mph) into eight guard/trailers: A 2011 Wabash, 2012 Manac, 2012 Stoughton, 2013 Great Dane, 2012–2013 Hyundai, 2013 Strick, 2013 Utility, and 2013 Vanguard, all of which were certified as complying with CMVSS No. 223. NHTSA included a summary of the IIHS tests in the December 16, 2015 NPRM. 80 FR 78452–78460. All eight trailers were able to prevent PCI with 100 percent overlap. In the tests with 50 percent overlap, apart from the 2013 Vanguard trailer, the remaining seven guard/trailers were able to prevent PCI. The rear impact guard on the 2013 Vanguard failed at the attachments where the bolts sheared off during the crash resulting in PCI.

[26] NHTSA responded to the Karth/TSC petition by issuing two separate notices, one of which was the NPRM preceding this final rule (July 10, 2014; 79 FR 39362). The other was an advanced notice of proposed rulemaking (ANPRM) published on July 23, 2015 (80 FR 43663) pertaining to the agency's estimated benefits and costs of rear impact guards for single unit trucks (SUTs) and of an alternative of increasing the conspicuity of SUTs through conspicuity tape. FMVSS No. 108, ''Lamps, reflective devices, and associated equipment,'' requires retroreflective material on the rear and sides of trailers to improve the conspicuity of the vehicles to other motorists as a means of preventing underride crashes. The ANPRM analyzed estimated benefits and costs of requiring similar tape for SUTs. NHTSA will follow up on the ANPRM in a document separate from this final rule.

[27] In addition, we proposed a few housekeeping amendments. We proposed to add back ''low chassis vehicles'' into the list of vehicles excluded from FMVSS No. 224 in the applicability section (S3). The vehicles were excluded from the standard in the January 24, 1996 final rule establishing FMVSS No. 224 (61 FR 2035) but were inadvertently omitted from S3 when S3 was amended by a final rule responding to petitions for reconsideration (63 FR 3654, January 26, 1998). We also proposed to correct typographical errors in the standards. We make these changes in this final rule.

energy by plastic deformation within the first 125 mm of deflection;

- Alternatively, guards may resist a minimum uniform distributed load of 700,000 N without deflecting 125 mm.
- In accordance with CMVSS No. 223, we proposed to require that rear impact guards be required to maintain a ground clearance after the energy absorption test not exceeding 560 mm. For rear impact guards with strength exceeding 700,000 N in the uniform distributed load test, the post-test ground clearance is measured after the uniform distributed load test. A definition of ''ground clearance'' would be added to FMVSS No. 223.
- We proposed that FMVSS No. 223 require that any portion of the rear impact guard and attachments not separate from their mounting structure after completion of FMVSS No. 223's uniform distributed loading test and the energy absorption test.

Definition of ''Rear Extremity'' [28]

We proposed to replace the current definition of ''rear extremity'' in FMVSS No. 224 with that specified in CMVSS No. 223. The change was intended to ensure that aerodynamic fairings are located within a certain safe zone at the rear of the trailer. Aerodynamic fairings on the rear of trailers, also known as ''boat tails,'' are rear-mounted panels on trailers that reduce aerodynamic drag and fuel consumption. The safety concern about boat tails is that they generally extend beyond the rear extremity of trailers and thus can negate the crash protection provided by rear impact guards. That is, there is a possibility that a boat tail can protrude so far rearward that it can intrude into the passenger compartment in a crash and cause injury, notwithstanding the presence of an upgraded rear impact guard.

III. Summary of Comments

NHTSA received fifty (50) comments on the NPRM.[29] Ten comments were received from the three petitioners (IIHS, Ms. Marianne Karth (with her husband Mr. Jerry Karth), and the TSC), one comment was received from the National Transportation Safety Board (NTSB), six comments were received from industry associations (the Recreation Vehicle Industry Association (RVIA), the Truck Trailer Manufacturers Association (TTMA), the American Trucking Association, Inc. (ATA), the National Truck Equipment Association (NTEA), and the National Propane Gas Association (NPGA)), two comments were received from trailer manufacturers (Strick Trailers, LLC (Strick) and the Wabash National Corporation (Wabash)), seven comments were received from engineers (the Mechanical Engineering Underride Design Group at Virginia Tech (VT Group), Seven Hills Engineering, LLC (Seven Hills), Batzer Engineering, Inc. (Batzer), and Mr. Aaron Kiefer), two comments were received from attorneys (Mr. D.J. Young, III and Mr. Andy Young), ten comments were received from advocacy groups (*e.g.,* Underride Network, Road Safe America (RSA), and Advocates for Highway and Auto Safety (AHAS)), and twelve comments were received from individual members of the general public.

Comments were generally in favor of upgrading rear impact guard performance. The petitioners, NTSB, engineers, attorneys, advocacy groups, and individuals from the general public argued, however, for increasing the stringency of FMVSS Nos. 223 and 224 beyond what was proposed in the NPRM. These groups also suggested that NHTSA take other actions suggested in the initial IIHS and Karth/TSC petitions that NHTSA had not proposed in the NPRM. The industry associations and trailer manufacturers were generally in favor of the proposed rule and opposed further changes to it. Comments also covered issues such as alternative guard designs, NHTSA's benefit-cost analysis, the proposed lead time, retrofitting issues, and side and front guards.

IV. Response to Comments on the Proposed Amendments

a. General Strength and Energy Absorption Requirements

In the NPRM, NHTSA proposed to harmonize FMVSS No. 223's test and performance requirements to those specified in CMVSS No. 223 by replacing the current quasi-static point load test at the P3 location with a uniform distributed load test of 350,000 N. Under this test, NHTSA proposed that the rear impact guard must resist the 350,000 N load without deflecting more than 125 mm, absorb at least 20,000 J of energy within 125 mm of guard deflection, and have a ground clearance not exceeding 560 mm after completion of the test.

Comments Received

Commenters supported upgrading FMVSS No. 223's requirements as proposed, but most also suggested that NHTSA issue requirements more stringent than those proposed. Multiple commenters argued that, because 93 percent of trailers already comply with CMVSS No. 223 according to the NPRM, the proposed requirements would make little tangible difference and not prevent the underride injuries that are still occurring. The Underride Network (Network) stated that NHTSA's proposal would only ''upgrade the standard as basically existed in 1996,'' without going further to include technological improvements made for rear impact guards. Wabash, on the other hand, suggested that even though most new trailers currently adhere to CMVSS No. 223, there is still a benefit to the proposed requirements. Wabash argued that adopting the proposed requirements would both mandate that the remaining portion of the new trailer fleet adopt upgraded rear impact guards and allow NHTSA to take enforcement action against any company that fails to install upgraded rear impact guards.

Some commenters also urged NHTSA not to adopt a proposal that only provides protection against underride at impact speeds up to 56 km/h (35 mph), stating that these crashes only represent a fraction of all rear underride crashes. These commenters remarked that NHTSA should do more to provide protections for underride crashes that occur at greater speeds. Some commenters suggested specific requirements that they believed NHTSA should adopt instead of those proposed in the NPRM. Network requested that the quasi-static loading tests use a force of 200 (kN) at the P1 and P2 test locations and 100 kN at the P3 test location. Mr. Kiefer suggested that rear impact guards should be quasi-statically tested to ''at least 80% of reasonable crash pulse loadings.'' Mr. Karth referenced what he called a ''new Australian/New Zealand proposed rule'' and asked NHTSA to use that as a basis for its standards. According to Mr. Karth, the Australian/New Zealand proposed rule states that current vehicle crashworthiness technology can protect passengers in collisions with a deformable barrier at impact speeds around 64 km/h (40 mph) and that energy absorbing rear impact guards could reduce injury at higher speeds. Ms. Karth echoed this point, stating that adopting the Australian/New Zealand proposed rule would save more lives than adopting standards based on CMVSS No. 223. These and all other relevant comments are address below.

Agency Response

After reviewing the comments, NHTSA is adopting the strength and energy absorption standards as proposed in the NPRM. NHTSA recognizes that many commenters have asked NHTSA to require rear impact

[28] We sought to further harmonize FMVSS No. 224 with CMVSS No. 223.

guards to provide protection against underride at impact speeds beyond 56 km/h (35 mph). As discussed below, NHTSA is researching this area. However, based on available data, the agency does not believe that such increased requirements are reasonable or practicable at this time. Rear impact guards are meant to work with passenger vehicle safety features to protect occupants of the vehicle during a collision. For these passenger vehicle safety features to activate, the passenger vehicle must collide with the rear impact guard, and this collision itself poses risks to passenger safety. Currently, FMVSS No. 208 requires passenger vehicles to provide protection in front collisions at speeds up to 56 km/h (35 mph). Even if a rear impact guard were to prevent PCI at impact speeds above 56 km/h (35 mph), a passenger vehicle in compliance with FMVSS No. 208 may not be able to protect the vehicle's occupants at speeds above 56 km/h (35 mph) in a collision with a rear impact guard. Commenters did not provide data showing current passenger vehicle safety features would prevent injuries in underride collisions above 56 km/h (35 mph). Accordingly, NHTSA concludes it is appropriate for this final rule to align the requirements in FMVSS Nos. 223 and 224 with those in FMVSS No. 208 and CMVSS No. 223, as proposed in the NPRM. This final rule adopts those proposed requirements.

Further, the 56 km/h (35 mph) crash speed accords with Section 23011(b)(1)(A) of BIL. BIL states that, not later than 1 year after the date of enactment of the Act, the Secretary shall promulgate regulations that revise FMVSS No. 223 and FMVSS No. 224 to require new trailers and semitrailers to be equipped with rear impact guards that are designed to prevent PCI from a trailer or semitrailer when a passenger vehicle traveling at 56 km/h (35 mph) makes an impact into the center of the rear of the trailer or semitrailer and in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer. This final rule's adoption of the NPRM's proposed test speed meets the BIL statutory mandate within the timeframe directed by the Act, and meets the requirements for FMVSSs required by the Safety Act.

In response to the research mandate in Section 23011(b)(2) of BIL, NHTSA is conducting additional research on the design and development of rear impact guards that can prevent underride and protect passengers in crashes into the rear of trailers at crash speeds up to 104.5 km/h (65 mph). After the completion of this research, NHTSA will evaluate potential requirements for rear impact guards for preventing underride and protecting occupants at impact speeds greater than 35 mph.

Commenters also referred to guard designs and recommendations developed by third parties that claim to offer greater protection at higher impact speeds than guards currently in use. There is no evidence that any have been finalized, implemented, and proven feasible for commercial use. The Intelliguard/Impact Project, a design source cited by Mr. Karth, explicitly stated, ''The guard needs, however, further optimization to become commercially feasible.''

Network asked NHTSA to test rear impact guards ''at real world speeds,'' arguing that the Federal Highway Administration (FHWA) tests crash attenuators at 100 km/h (62.2 mph) and that NHTSA should crash test rear impact guards at similar speeds. In response, NHTSA notes, first, that it did not propose to test at highway speeds in the NPRM and believes this request may be outside the scope of this rulemaking. Further, NHTSA does not believe that Network's comparison of rear impact guards and FHWA roadside crash attenuators is appropriate. Roadside crash attenuators are stationary barriers placed alongside roads that are designed to absorb a colliding vehicle's energy and safely redirect the vehicle or bring it to a stop. A typical crash attenuator system is 50 feet long. In contrast, rear impact guards are structures attached to the rear of mobile trailers to mitigate underride of the impacting vehicle. Roadside crash attenuators, therefore, are designed for a different environment than a rear impact guard, have different performance requirements,[30] and have fewer operational and practical restrictions on their size and weight versus rear impact guards. Similar performance for truck rear impact guards at highway speeds has not been shown to be technically feasible.

In terms of specific standards suggested by commenters, these commenters unfortunately did not provide sufficient information to warrant modifying the proposed requirements. Commenters did not provide data showing the extent to which guards compliant with these various standards are superior to the Canadian guards. NHTSA notes that the ''Australian/New Zealand proposed rule'' referenced by Mr. and Ms. Karth is not a regulatory requirement, but rather is an industry design guideline created by Standards Australia and Standards New Zealand. These guidelines do not provide information to warrant modifying NHTSA's proposal. In terms of rear impact guards performing at impact speeds above 56 km/h (35 mph), the guidelines only conjecture that guards *could* be developed that reduce serious injury to vehicle occupants at speeds above 70 km/h; they do not provide instructions on how to design such guards or data regarding practicability, effectiveness or performance. Not enough is known about these standards to assess the need for them or whether adopting them would meet the requirements of the Safety Act.

b. Alternative Guard Designs

Based on tests conducted by Transport Canada showing that a CMVSS No. 223 compliant guard was able to prevent PCI in 56 km/h (35 mph) vehicle impacts into the rear of trailers with 100 percent and 50 percent overlap, NHTSA proposed to adopt CMVSS No. 223's strength and energy absorption requirements.

Comments Received

NHTSA received many comments arguing that the proposed standards were inadequate because rear impact guards generally meet them already. Advocates and IIHS referred to a 2011 Wabash guard, involved in the tests conducted by IIHS, to argue that the guard exceeded the CMVSS force requirements by more than 70 percent in quasi-static tests. Other commenters also mentioned that they believed it possible to design a rear impact guard that could provide protection for rear underride crashes at speeds greater than 56 km/h (35 mph), several pointing to testing conducted by third parties to support these claims. Network and Mr. Karth stated that the Monash University Accident Research Centre (MUARC) tested energy-absorbing guards to 75 km/h (47 mph) in the early 1990s. They also claimed that the Impact Project had

[30] Roadside crash barriers, guardrails and other roadside safety features installed along U.S. highways undergo crashworthiness testing in accordance with the American Association of State Highway and Transportation Officials (AASHTO) Manual for Assessing Safety Hardware (MASH). The AASHTO MASH was updated in 2016 and includes vehicle crash testing at 6 different test levels (TL–1 to TL–6) based on the type of crash attenuator, type of road, and traffic patterns.

- TL–1: Cars and trucks—31 mph
- TL–2: Cars and trucks—44 mph
- TL–3: Cars and trucks—62 mph
- TL–4: Cars, trucks, and single unit trucks—62 mph and 56 mph respectively
- TL–5: Cars, trucks, and tractor trailers—62 and 50 mph respectively
- TL–6: Cars, trucks, and tractor tank trailers—62 and 50 mph respectively

tested energy-absorbing guards to 40 mph with computer modeling showing that the guards might be able to perform at 50 mph or more. Mr. Young noted that the VC-Compat project is ''currently proposing and recommending stronger rear impact guards to meet higher speeds.''

Other commenters stated that they personally were either developing or had seen rear impact guards that were improvements over guards meeting the current and proposed standards. Mr. Karth pointed to a design developed by the VT Group which, he claimed, ''shows promise of greatly improving the current standard at a reasonable cost.'' Mr. Kiefer stated that he had developed a rear guard system that will exceed the proposed standards. Mr. Karth stated that he was told by a Mr. Sicking that he ''can design a system which will prevent underride guard failures'' that occur ''at much higher speeds.''

Agency Response

NHTSA has evaluated the data from IIHS and other research groups provided by the commenters and cannot agree that the information forms a technical basis for modifying the proposed requirements. Advocates and IIHS argued that rear impact guards could provide protection at speeds higher than 56 km/h (35 mph) because the Wabash guard exceeded CMVSS No. 223 force requirements by ''more than 70 percent'' in tests conducted by IIHS. Our analysis of the comment, however, determined that IIHS's tests were different than, and not comparable to, the CMVSS No. 223 tests. IIHS conducted a point load test at P3, which is very different than the uniform distributed load specified in CMVSS No. 223 and this final rule.[31] As the tests are not comparable, it cannot be concluded that the Wabash guard exceeded the CMVSS No. 223 force requirement by more than 70 percent. Additionally, the data do not show that the guard would provide better crash protection in dynamic impacts above 56 km/h (35 mph). I.e., the data did not link IIHS's quasi-static test values to evidence of actual dynamic crash performance at higher impact speeds.

Section 1 of E.O. 12866 requires agencies to base their decisions on the best reasonably available scientific, technical, economic, and other information on the need for, and consequences of, the intended regulation. In accordance with the E.O., this final rule will complete the upgrade of Standard No. 223 to the Canadian standard as proposed, as it is based on the best information reasonably available at this time. However, while the commenters' information does not form a comprehensive or complete basis for modifying the rear impact guard requirements above that which was proposed, NHTSA is continuing to research this area in response to BIL. Pursuant to the research mandate in BIL Section 23011(b)(2), NHTSA is conducting additional research on the design and development of rear impact guards that prevent underride and protect passengers in crashes into the rear of trailers at crash speeds up to 104.5 km/h (65 mph). The results of this research and other information will provide more data and other information that can guide decisions about updating the rear impact guard standards at a future date.

In response to commenters, NHTSA also reviewed guard designs and recommendations developed by third parties (MUARC, VT group, Aaron Kiefer, Sickling) that several commenters believed could offer greater protection at higher impact speeds than rear impact guards currently in use.[32] As these guards have not been finalized, implemented, proven effective or shown feasible for commercial use in the industry, the agency could not reasonably include requirements for these guards in FMVSS Nos. 223 and 224 at this time.[33] Also, not enough is known about the rationale for various specifications of the experimental guards. For instance, MUARC, an organization favorably cited by many commenters, stated [34] that it had designed a guard which prevented PCI in a 75 km/h (46 mph) centered impact test and recommended that guards be able to absorb 50 kiloJoules (kJ) and quasi-static forces of 200 kN at the P1 location, 100 kN at the P2 location, and 200 kN at the P3 location. It is unclear how MUARC developed these quasi-static test recommendations and how these recommendations relate to dynamic crash test performance. Further, MUARC's 50 kJ and the 100 kJ energy absorption recommendation does not specify the degree of deflection at which the guard must meet this energy absorption requirement, and the experimental guard designed by MUARC never advanced beyond the proof-of-concept phase.[35] There is no information on the long term durability and costs of a MUARC guard since it is not available for purchase and installation, nor can NHTSA know if such a guard can be feasibly and effectively used for different types of trailers, such as those with unique geometry.

NHTSA has the same concerns with the experimental guards described by the Impact Project, the VC-Compat project, the VT Group, Mr. Kiefer, and Mr. Sicking. Commenters did not provide information that the guards are effective at providing protection at impact speeds beyond 56 km/h (35 mph) and failed to provide a verifiable relationship between the results of the dynamic crash tests and quasi-static specifications that NHTSA relies on in FMVSS No. 223. In the absence of such data, there is insufficient information supporting using these experimental guards to form the requirements for FMVSS Nos. 223 and 224. As discussed above, however, NHTSA will continue researching guard performance in higher speed crashes in response to BIL and anticipates obtaining more comprehensive information about the performance and other features of potential guards designed for higher speed impacts.

c. 700 kN Energy Absorption Test Option

The NPRM proposed to include an option from CMVSS No. 223 permitting a rear impact guard not to meet the energy absorption requirements of the uniform distributed load test detailed above if it is able to resist 700,000 N (700 kN) of force without deflecting more than 125 mm and maintain a ground clearance of 560 mm after completion of the test. NHTSA noted in the NPRM that it did not believe that guards will likely be manufactured to this test but sought comment on

[31] A point load test applies a concentrated load to a focused point. The uniform distributed load tests specified in CMVSS No. 223 and this final rule apply the test load over a wider area.

[32] The petitioners, the attorney commenters, UN, AHAS, Seven Hills, Aaron Kiefer, and Andy Young cited design testing conducted by the Intelliguard/Impact Project, the VT Group, VC-Compat, MUARC, and Aaron Kiefer to support claims that guards with greater crash protection at higher impact velocities are feasible.

[33] Section 23011 (b)(1) of BIL requires a regulation revising FMVSS No. 223 and No. 224 not later than 1 (one) year after the November 15, 2021, date of enactment of the Act.

[34] MUARC discussed its research in a 2001 submission to the International Technical Conference on the Enhanced Safety of Vehicles. Rechnitzer, G., Powell, C., and Seyer, K., ''Performance Criteria, Design, and Crash Tests of Rear Underride Barriers for Heavy Vehicles,'' Proceedings of the Seventeenth International Technical Conference on the Enhanced Safety of Vehicles, Paper No. 218, *https://www-esv.nhtsa.dot.gov/Proceedings/17/00189.pdf.*

[35] Federal regulations in Australia for rear impact guards are similar to those in Europe and Australia. The MUARC recommendations are not used as performance requirements in Australian Federal standards and there are no manufacturers in Australia voluntarily designing their guards to meet the MUARC recommendations.

whether this alternative testing option should be included in FMVSS No. 223.

Comments Received

Commenters were divided in their support of the 700 kN test option. TTMA stated in support that keeping this as an option would allow TTMA members to retain needed flexibility. Batzer asserted in support that, since passenger vehicles have improved their energy absorbing characteristics since the 1996 final rule, NHTSA does not need to require that rear impact guards meet an energy absorption requirement as long as the guards can provide a certain level of resistance force. Network stated that this option ''might make sense,'' but also stated that rear impact guards must be able to absorb a minimum of 50 kJ, and preferred that guards be able to absorb 100 kJ. Ms. Wood agreed that rear impact guards must be able to absorb at least 50 kJ. The VT Group disagreed with including the 700 kN test, stating that doing so would afford manufacturers the ability to omit a horizontal member from a rear impact guard. The VT Group claimed that without a horizontally distributing structure, ''a minor impact more closely resembles a pole strike.''

Agency Response

NHTSA agrees with TTMA and Batzer and believes it appropriate to adopt the 700 kN test option. Network and the VT Group expressed reservations about the option, but they did not provide data or other evidence demonstrating that this option would be detrimental to safety. They did not provide any further information supporting the request for a 50 kJ or 100 kJ energy absorption requirement, nor did they explain how the 700 kN test option would allow manufacturers to omit a horizontal member. FMVSS No. 223 S5.1 specifies that the vertical height of the horizontal member must be at least 100 mm and FMVSS No. 224 S5.1 specifies geometric requirements for the rear impact guard that remain unchanged by this test option.

Transport Canada developed the 700 kN test option based on rigid barrier crash test results suggesting that a resistance to a uniform load of at least 700 kN would help ensure that the rear impact guard will stay in place and prevent underride in an impact with a passenger car at impact speeds of 56 km/h (35 mph).[36] NHTSA concludes that the data from Transport Canada, cited in the NPRM, demonstrate the effectiveness and feasibility of this option in preventing underride at 35 mph.[37]

d. Ground Clearance

NHTSA proposed maintaining the current ground clearance requirement of 560 mm (22 inches) (S5.1.2, FMVSS No. 224) but also proposed updating FMVSS No. 223 to require rear impact guards to maintain a ground clearance of 560 mm (22 inches) after completion of the load application during the energy absorption test. Due to deformation that may occur upon loading, NHTSA noted that this requirement may correspond to an initial ground clearance on the trailer that is actually less than 560 mm (22 inches).

Comments Received

Many commenters suggested lowering the ground clearance requirement. These commenters generally argued that rear impact guards must align with the height of car bumpers and since NHTSA mandates that passenger car bumpers be 16 to 20 inches (406.4 to 508 mm) off the ground, NHTSA must lower the ground clearance requirement to this level. The VT Group stated that NHTSA's bumper standards in ''49 CFR 581 requires a light vehicle bumper height of 16 to 20'' inches and that lowering ground clearance to this level ''could ensure proper initial engagement with light vehicle safety systems.'' Batzer similarly stated that the most effectively designed rear impact guard ''would engage the bumper of the striking passenger vehicle.'' Commenters also suggested that, because the average guard height for trailers currently is 18 inches (457.2 mm), there is no need for NHTSA to allow for a higher ground clearance. Mr. D.J. Young, III and Mr. Andy Young stated that technology exists that can raise or lower rear impact guards, and therefore NHTSA should not be concerned that a lower ground clearance requirement could result in a rear impact guard scrapping or snagging along the ground.

Agency Response

NHTSA proposed amending FMVSS No. 223 to require that, after the energy absorption test where the guard is displaced 125 mm, the rear impact guard has to maintain a ground clearance not exceeding 560 mm (22 inches) but did not propose to alter the 560 mm (22 inches) ground clearance requirement in FMVSS No. 224. The NPRM explicitly stated that NHTSA was denying the request made by petitioners to lower the ground clearance requirement and NHTSA did not propose such a change in the NPRM. The suggestions to lower the ground clearance requirement are thus not within the scope of this rulemaking. Further, NHTSA included in the NPRM its rationale for denying the request to lower the ground clearance requirement, and, after reviewing the comments and other information, NHTSA has not changed its position on these points. In the interest of discussion, NHTSA will briefly repeat its reasoning here.[38]

Comments stating that NHTSA should modify the ground clearance requirement to align with NHTSA's bumper standard (49 CFR part 581) misunderstood the purpose of the bumper standard and repeat a concern to which NHTSA responded in the 1996 final rule establishing FMVSS Nos. 223 and 224.[39] The bumper standard under 49 CFR part 581 is designed to prevent damage to a car body and its safety related equipment in impacts of 3.2 km/h (2 mph) across the full width of the bumper and 1.6 km/h (1 mph) on the corners. The bumper standard is not, in other words, intended to provide occupant protection from crashes at injury-causing impact speeds. That function is instead performed by the vehicle's chassis energy-management design and its energy-absorbing frame rails, which rely on the engagement of the vehicle's major structural components with the rear impact guard.

Nor is it the case that the major structural components of vehicles have been so lowered as to necessitate lowering the ground clearance requirement. To the contrary, the height of the top of the engine block appears to have *increased* since NHTSA promulgated the 1996 final rule that required the 560 mm (22 inches) ground clearance. Using engine block height as a suitable metric to represent a major structural element of the striking vehicle that would engage the rear impact guard, when NHTSA issued the 1996 final rule, NHTSA determined the typical height of the top of the engine block as between 660 and 790 mm (26 and 31 inches). 61 FR 2017. In contrast, as discussed in the 2015 NPRM for this final rule, data show that the current height of the top of the engine block is between 739 mm (29.1 inches) and 1300 mm (51.2 inches), with an average height of 889 mm (35 inches) (80 FR

[36] Canada Gazette Part II, Vol. 138, No. 20, 2004–10–06, p. 1349.

[37] Boucher, D., ''Heavy Trailer rear underride crash tests performed with passenger vehicles,'' Technical Memorandum No. TMVS–0001, Transport Canada, Road Safety and Motor Vehicle Regulation Directorate, July 2000.

[38] NHTSA's entire rationale is detailed in the NPRM for this final rule. *See* 80 FR 78424–78426.

[39] *See* final rule, 61 FR 2004, 2017; January 24, 1996.

78425). Thus, passenger vehicle designs have changed in years since the establishment of the 560 mm (22 inches) ground clearance specification such that there is a greater likelihood of engagement of their major structural components with the rear impact guard.

Further, NHTSA is concerned that some trailers may face operational issues if NHTSA lowered the ground clearance requirement. Trailers may snag and scrape at loading docks and steep railroad crossings, resulting in damage to the guard, if guards were required to be lower to the ground. The commenters advocating for a lower ground clearance requirement provided no data to show that this possible risk can be overcome or is offset by any potential benefits. Similarly, NHTSA does not believe it is appropriate to lower the ground clearance requirement and then force operators involved in intermodal operations to possess trailers with rear impact guards that can be raised and lowered. Doing so would unnecessarily burden the industry and raise costs, and commenters have not identified any associated benefits that would justify this decision.

e. Requiring Attachment Hardware To Remain Intact

The NPRM focused on ensuring the attachment hardware of the rear impact guard remained intact in the quasi-static loading tests. It proposed to prohibit the complete separation of any portion of the guard and the guard attachments from its mounting structure after completion of the quasi-static uniform distributed load test (proposed S5.2.1). NHTSA stated in the NPRM (80 FR at 48429) that it was interpreting '''any portion of the guard and the guard attachment completely separating from its mounting structure' to mean the condition where any member of the guard becomes detached from any other member of the guard or from the trailer such that the joint is no longer mechanically bound together.'' The agency further stated that it would not consider a partial separation of the members at a joint where there is still some degree of mechanical connection between the members as a ''complete separation.'' *Id.* NHTSA sought comment on this proposed performance criterion and whether its objectivity could be improved by, *e.g.,* specifying the percentage of fasteners or welds that remain intact during the test.

Comments Received

Commenters had different views regarding the proposed requirement that attachment hardware remain attached throughout the quasi-static test. Notably, commenters in favor of such a requirement still asked NHTSA to refine the language used in the regulatory text. The NTSB stated that it supported developing performance criteria to determine objectively the degree of separation that may significantly reduce rear impact guard performance, but the commenter did not provide information on what the criteria should be. IIHS stated that the standard should require rear impact guards to withstand the quasi-static load tests without any separation between the guard and guard attachments rather than adopt the criterion of complete separation that NHTSA proposed. IIHS believed that NHTSA's language in the preamble, stating that the agency would consider partial separation acceptable as long as there was still some degree of mechanical connection between the guard's members, was vague. Due to this perceived ambiguity, IIHS questioned whether NHTSA would consider a joint where 3 of 4 bolts were sheared to constitute a partial separation.

The TTMA, on the other hand, expressed concerns with making the standard overly complicated in trying to make it more objective, stating that setting specific requirements for numbers of welds or fasteners to remain intact ''would unnecessarily complicate the standard compared to the Canadian equivalent, and could preclude the use of designs with components that may be designed to shear or tear as part of an energy mitigation strategy.'' Seven Hills remarked that TTMA's concerns could be alleviated by modifying the design of rear impact guards.

Agency Response

NHTSA agrees with the comments that FMVSS No. 223 should require attachment hardware to remain attached during the quasi-static load test. However, NHTSA does not agree with IIHS's specific suggestion of a requirement that there be no separation at any point. Guards may be designed to have attachment hardware shear away from the guard during impact to absorb the impact energy. The agency does not find it necessary to prohibit these kinds of guards if they meet the criterion discussed below.

While NHTSA requested comments on an objective criterion that would keep guards from separating from their attachment hardware (other than by prohibiting a ''complete separation''), the agency did not receive any data or bases to aid NHTSA on this issue. NHTSA agrees with commenters, though, that the language the agency used in describing the requirement in the NPRM could be clearer. NHTSA proposed in S5.2.1 that a tested guard must resist the force levels specified in S5.2.1(a) through (c) without deflecting by more than 125 mm and ''without complete separation of any portion of the guard and guard attachments from its mounting structure.'' This final rule replaces the phrase ''without complete separation of any portion of the guard and guard attachments from its mounting structure'' in proposed S5.2.1 and S5.2.2(a)(1) with the phrase ''without eliminating any load path that existed before the test was initiated.'' ''Load path'' is a standard engineering term. The agency is defining ''load path'' to mean a route of force transmission from the horizontal member of the guard to the chassis.[40]

Load paths represent how forces applied to the guard will transmit through the guard to the chassis based on the geometry of the guard. For the purposes of FMVSS No. 223, NHTSA will determine load paths by visual inspection prior to conducting the quasi-static load tests. NHTSA will assess whether any load paths are eliminated after any force applied during the test using the force application device is removed. ''Eliminating a load path'' means that a load path designed to transmit force from the horizontal member of the rear impact guard to the chassis, can no longer transmit the force.

If two or more members in the load path are joined using multiple bolts, NHTSA will not consider each bolt to be an individual load path. For instance, if the vertical member of a rear impact guard was attached to the horizontal member by four bolts, NHTSA would not consider the load path to have been eliminated if one, two, or three of the bolts sheared off or otherwise became disconnected during testing. On the other hand, if all four bolts sheared off, or otherwise became disconnected, the agency would consider this to constitute an eliminated load path, even if the guard's members remained in contact due to friction or the structural integrity of another portion of the guard. To use another example, if two members in a load path are connected by a single weld and if the weld developed one or more discontinuous cracks during testing, NHTSA would not consider this to constitute an eliminated load path. If, however, a continuous crack developed during testing along the entire length of the weld holding the two members together, this would constitute an eliminated load path as a route of force

[40] ''Chassis'' is defined in FMVSS No. 223, S4, as the load supporting frame structure of a motor vehicle.

transmission would have been eliminated even if the members remained in contact through friction or the structural integrity of another portion of the guard. When all mechanical connection along a route of force transmission from the horizontal member of the guard to the chassis is lost, we would consider this to be an eliminated load path. If the two members in a load path were connected by two welds and a continuous crack developed along the entire length of only one of the welds, this would not constitute an eliminated load path.

f. Definition of Rear Extremity

The NPRM proposed replacing the current definition of ''rear extremity'' in FMVSS No. 224 with the definition from CMVSS No. 223. NHTSA proposed this change to account for aerodynamic fairings, also known as ''boat tails,'' which are rear-mounted panels that reduce aerodynamic drag and fuel consumption. The proposed change to the definition of ''rear extremity'' was meant to ensure that aerodynamic fairings would be placed where, in a collision, they would not jeopardize the safety of occupants in vehicles striking the rear of the trailer.

Comments Received

Network, TTMA, and NTSB all supported NHTSA's proposed change. The VT Group and Batzer raised concerns that aerodynamic fairings could pierce windshields in instances of partial underride and pose an impalement hazard. Batzer further suggested that NHTSA require every trailer manufacturer and/or user with a non-standard end profile to do a formal engineering analysis of their equipment to document that they have considered the safety implications of their design.

Agency Response

After reviewing the comments on this issue, NHTSA agrees with commenters supporting the proposal. The proposed definition for ''rear extremity'' is based on the Canadian definition, which Transport Canada arrived at after extensive research into aerodynamic fairings. While commenters raised concerns over impalement risks, aerodynamic fairings are typically lightweight structures and no commenter provided evidence showing a risk of vehicle occupant impalement by such fairings. NHTSA will continue to monitor rear impact collisions and revisit the definition if necessary. Requiring trailer manufacturers to do a formal engineering analysis on aerodynamic fairings, as Batzer suggested, is beyond the scope of the proposal.

g. Low Chassis Vehicle Correction

FMVSS No. 224 excludes several types of trailers from application of the standard (S3). As noted in the NPRM, low chassis vehicles [41] were originally excluded from FMVSS No. 224 in a 1996 final rule establishing the standard (61 FR 2035) but NHTSA inadvertently did not list the vehicles in S3 in a 1998 amendment that responded to petitions for reconsideration (63 FR 3654). The agency proposed to correct the omission and list low chassis vehicles back in S3.

Although the NPRM did not propose to expand the applicability of FMVSS No. 224, NHTSA received many comments urging NHTSA to apply the standard to vehicles now excluded from it. We discuss these comments in Section V below. As to correcting S3 to add low chassis vehicles back into S3, NHTSA did not receive any comments opposed to the correction. Accordingly, this final rule corrects S3 as proposed.

h. Technical Correction

The NPRM's proposed regulatory text for FMVSS No. 224 included restated current text in S3 that excluded vehicles with temporary living quarters ''as defined in 49 CFR 529.2.'' RVIA commented on this proposed wording, stating that the NPRM's reference to ''temporary living quarters as defined in 49 CFR 529.2'' was an incorrect reference. RVIA suggested that the definition of temporary living quarters should point to 49 CFR 523.2.

RVIA is correct that the NPRM's reference to 49 CFR 529.2 as providing a definition for temporary living quarters was erroneous. The regulations at 49 CFR 529.2 do not include any definition for temporary living quarters. The preamble for the 1996 final rule properly referred to 49 CFR 523.2 (61 FR 2022), but the regulatory text for the 1996 final rule mistakenly referenced 49 CFR 529.2 (61 FR 2035). NHTSA is taking this opportunity to make a technical correction to FMVSS No. 224 and make clear that the definition of temporary living quarters is defined in 49 CFR 523.2.

V. Response to Comments on Issues Not Proposed in the NPRM

NHTSA received a number of comments on aspects of FMVSS No. 223 and 224 that the agency did not propose to change. Although these comments were beyond the scope of the rulemaking, we discuss them here to further our dialogue in this area.

a. Vehicles Excluded From FMVSS No. 224

FMVSS No. 224 (S3) excludes pole trailers, pulpwood trailers, road construction controlled horizontal discharge trailers, special purpose vehicles, wheels back vehicles, or temporary living quarters (S3). NHTSA did not propose to remove any of these exclusions. We evaluated the exclusions when we were drafting the NPRM and decided not to change them (80 FR 78426–78428). The decision was based on our analysis of data provided by the 2013 UMTRI Study.[42]

Comments Received

A number of commenters disagreed with NHTSA's continued exclusion of various vehicles. Commenters raised the most concerns about the exclusions for single unit trucks (SUTs) [43] and wheels back trailers.

SUTs. VT Group believed that regulating SUTs was necessary, citing data NHTSA included in the NPRM that, of the 121 light vehicle fatal crashes annually that result in PCI, 19 percent occur in impacts with SUTs without guards. NTSB argued that the adverse effects of SUT crashes have been underestimated in the past ''because these trucks are frequently misclassified and thus undercounted.'' Based on previous research findings portraying underride as underreported in FARS,[44] [45] Ms. Karth stated that NHTSA's analysis for SUTs was skewed by what she believed to be inaccurate, underreported information about PCI from underride. Mr. Young commented that further consideration of ways to engineer guards for SUTs ''is warranted

[41] A ''low chassis vehicle'' is defined in FMVSS No. 224 as a trailer or semitrailer having a chassis that extends behind the rearmost point of the rearmost tires and a lower rear surface that meets the configuration requirements of S5.1.1 through 5.1.3 of Standard No. 224.

[42] As discussed earlier in this preamble, the 2013 UMTRI Study collected supplemental data to that collected in TIFA for the years 2008 and 2009. The supplemental survey data included details of the truck rear extremity, whether a rear impact guard was required, relative impact speed of the crash, and the extent of underride.

[43] SUTs are trucks with a GVWR greater than 4,536 kg (10,000 lb) with no trailer. They are primarily straight trucks, in which the engine, cab, drive train, and cargo area are mounted on one chassis. As SUTs are not trailers, they are not subject to FMVSS Nos. 223 and 224.

[44] Braver, E.R.; Mitter, E.L.; Lund, A.K.; Cammisa, M.X.; Powell, M.R.; and Early, N. 1998. A photograph-based study of the incidence of fatal truck underride crashes in Indiana. Accident Analysis and Prevention, vol. 30, no. 2, pp. 235–243.

[45] Blower D and Campbell K. 1999. Underride in Rear-End Fatal Truck Crashes, The University of Michigan Transportation Research Institute, 1999.

despite the difficulties associated with those vehicles.''

Agency Response. Because of prior research findings raising the possibility of underreporting of underride in FARS, NHTSA initiated research in 2010 with UMTRI that formed the basis of the 2013 UMTRI Study. The purpose of this research was to gather accurate data on the rear geometry of SUTs and trailers, the configuration of rear impact guards on SUTs and trailers, and the incidence and extent of underride and fatalities in rear impacts with SUTs and trailers. UMTRI collected the supplemental information as part of the TIFA survey for the years 2008 and 2009.[46] [47] These data enabled NHTSA to obtain national estimates of rear impact crashes into heavy vehicles that resulted in PCI. Using information derived by reviewing police crash reports,[48] UMTRI estimated the relative speed of fatal light vehicle crashes into the rear of SUTs and trailers. Because of the detailed analysis and the supplemental information collected for each crash, the 2013 UMTRI Study forms the most comprehensive and valid data set available to inform the agency regarding crashes involving SUTs and trailers and the incidence and extent of underride.

Regarding NTSB assertions that SUT crashes are underestimated in FARS because trucks are frequently misclassified, and with respect to Ms. Karth's comment that underride and PCI are underreported in FARS, NHTSA did not use FARS data in developing this rulemaking and instead used TIFA data for the years 2008 and 2009 with supplemental information reported in the 2013 UMTRI Study.[49] As explained earlier in this preamble, the TIFA database is supplemental to FARS, and has improved the accuracy of FARS data on fatal large truck crashes. It provides more detailed information than in FARS on the involved large trucks, motor carriers, and sequence of events.[50] The TIFA and 2013 UMTRI Study comprise the best scientific data on underride crashes. Thus, this rulemaking used the most accurate estimate of SUT crashes, as determined by the best available scientific data in the area, and we do not believe SUT crashes were underestimated.

With further regard to whether NHTSA's data underreported underride, we believe that the data appear to include some crashes that did not actually result in underride. In the 2013 UMTRI Study, the extent of underride was estimated in terms of the amount of the striking vehicle that went under the rear of the struck vehicle and/or the extent of deformation or intrusion of the striking vehicle. The categories were ''no underride,'' ''less than halfway up the hood,'' ''more than halfway but short of the base of the windshield,'' and ''at or beyond the base of the windshield.'' NHTSA believes it is most relevant for this rulemaking to consider the relevant crashes to be as an underride that resulted in PCI beyond the base of the windshield. However, since the 2013 UMTRI Study determined the extent of underride by the extent of deformation and intrusion of the vehicle, there were a number of TIFA cases involving large vans and large pickups that did not actually underride the truck or trailer, but that had sustained PCI because of the high speed of the crash and/or because of the very short front end of the vehicle. Because these large striking vehicles did not underride the struck vehicle, NHTSA's interpretation in the NPRM of PCI from the 2013 UMTRI Study potentially overestimated the occurrence of PCI due to underride. We believe, in other words, that NHTSA's analysis using data in the 2013 UMTRI Study potentially overestimated PCI due to underride.

NHTSA responded to the Karth/TSC petition by publishing two separate notices.[51] NHTSA first published an advance notice of proposed rulemaking (ANPRM) on July 23, 2015, pertaining to issues concerning rear impact guards for single unit trucks (SUTs), including whether to apply FMVSS No. 224 to the vehicle type and whether to apply FMVSS No. 108's requirements for conspicuity tape.[52] Second, NHTSA published the NPRM preceding this final rule upgrading rear impact guards on December 16, 2015. Comments relating to the application of FMVSS No. 224 to SUTs will be addressed in a follow up document to the 2015 ANPRM and will not be addressed in this final rule.

Wheels Back Vehicles. TSC opposed FMVSS No. 224's exclusion of wheels back trailers. Similarly, Advocates suggested that the NPRM's discussion of the involvement of wheels back vehicles in fatal crashes did not support the agency's conclusion that excluding wheels back trailers ''may not have significant safety consequences.'' [53] The commenter criticized the 2013 UMTRI Study that NHTSA relied on, stating that the sort of speed estimates used in the study are notoriously inaccurate and that data generated in the TIFA database frequently depend on unreliable telephone interviews and post-crash interviews. IIHS similarly objected to NHTSA's use of the supplemented TIFA data, stating that UMTRI had previously cautioned against defining degrees of underride, and that NHTSA's use of estimated crash speeds was speculative. IIHS also noted that the 2008–2009 TIFA survey found that one-half of wheels back trailers involved in fatal crashes were equipped with rear impact guards, which IIHS believed raised concerns ''about the validity of the comparisons of underride severity by trailer type.'' Network stated that, as modern cars require flat surfaces to interact with vehicle safety systems, the safety systems will not engage when a vehicle impacts the rear of wheels back trailers, as tires on a wheels back trailer present an uneven surface hazard. Network also stated that agricultural trucks in North Dakota have shown a net benefit from adding rear impact guards.

Agency Response. NHTSA has considered the comments but does not believe available data support applying FMVSS No. 224 to wheels back trailers.[54] In the UMTRI study, crashes into the rear of wheels back trailers accounted for 6 percent of all fatal light vehicle crashes into the rear of trucks and trailers that resulted in PCI. Detailed analysis of the fatal light vehicle impacts into the rear of wheels back trailers that resulted in PCI in 2009 indicated that the crashes were generally at very high impact speeds that are considered unsurvivable. In all these crashes, it is unlikely that a rear impact guard designed to CMVSS No. 223 would have prevented PCI into these vehicles. A rear impact guard

[46] Analysis of Rear Underride in Fatal Truck Crashes, 2008, DOT HS 811 652, August 2012, *infra.*

[47] Heavy-Vehicle Crash Data Collection and Analysis to Characterize Rear and Side Underride and Front Override in Fatal Truck Crashes, DOT HS 811 725, March 2013, *infra.*

[48] Information included police estimates of travel speed, crash narrative, crash diagram, and witness statements. The impact speed was estimated from the travel speed, skid distance, and an estimate of the coefficient of friction.

[49] Heavy-Vehicle Crash Data Collection and Analysis to Characterize Rear and Side Underride and Front Override in Fatal Truck Crashes, DOT HS 811 725, March 2013.

[50] NTSB stated in a 2013 safety study, ''The TIFA database provides more accurate classifications of large truck vehicle body types by using information from the vehicle identification number (VIN) and by collecting additional data for all fatal large truck crashes.'' Crashes involving single-unit trucks that resulted in fatalities and injuries, National Transportation Safety Board Safety Study, NTSB/SS–13/01, PB2013–106637, June 2013.

[51] 79 FR 39362.

[52] 80 FR 43663.

[53] The NPRM provided data that wheels back vehicles account for 20 percent of fatal light vehicle impacts into the rear of trailers, and that 16 percent of fatal light vehicle impacts into wheels back trailers resulted in PCI.

[54] 80 FR 78427–78428.

would not have prevented these fatalities.[55]

NHTSA has also analyzed comments criticizing the 2013 UMTRI Study as applied to wheels back trailers and believes that the data in the study are sound. The UMTRI data were enhanced specifically for trailer rear impact analysis and the study contains enriched data specific to impact performance. The 2013 UMTRI Study [56] was based on enhanced Trucks in Fatal Accidents (TIFA) data for the years 2008 and 2009. The enhanced data included supplemental information, collected as part of the NHTSA funded study, on the rear-end configuration of SUTs and trailers and the incidence and nature of underride and associated fatalities in crashes into the rear of SUTs and trailers, and an estimate of the relative velocity of the light vehicle crash.[57] The data from the 2013 UMTRI Study comprise the most accurate and complete dataset available for evaluating the incidence of underride and are appropriate for use for evaluating underride incidences in light vehicle crashes into the rear of wheels back trailers. While commenters made general statements that the variables used in this data set are unreliable, none presented alternative data that they considered more accurate.

NHTSA also does not agree with IIHS that the presence of wheels back trailers with rear impact guards in the 2013 UMTRI Study raises doubts about NHTSA's conclusion there is an absence of a safety need for the guards. First, while IIHS references data from the TIFA data sets for 2008–2009 to claim that half of wheels back trailers involved in a fatal crash were equipped with rear impact guards, the data do not provide information on the guards equipped or the need for a guard. The data sets do not record if any of the guards were original equipment or were even compliant to a standard such as FMVSS No. 223. The presence of a rear impact guard that lacks sufficient strength and energy absorption characteristics specified in FMVSS No. 223 would not mitigate PCI in light vehicles at impact speeds 30 mph or lower.

Further, IIHS implies that the guards prevented underride rather than the wheels of wheels back trailers, but does not provide information to substantiate the claim that the guards had prevented underride rather than the wheels of the trailer. IIHS provided no data to suggest this interaction with the guard versus the wheels is occurring. In the 1996 final rule that established FMVSS No. 224, NHTSA determined that ''a fixed rear axle with the tires mounted within 305 mm [12 inches] . . . of the vehicle's rear extremity constitutes an adequate substitute for a rear impact protection guard from the standpoint of preventing PCI.'' [58] This is a straightforward conclusion and no information has been provided to change our conclusion on this issue. We similarly do not find Network's statement that vehicle crashworthiness safety systems will not engage during impacts with the rear of wheels back trailers to be supported by any evidence. Network did not support its assertion, and it is contradicted by the results of past dynamic crash tests of light vehicles into the rear of wheels back trailers.[59]

Horizontal discharge trailers: NHTSA disagrees with TTMA and NTEA's views that there should be a blanket exclusion of end-dump trailers from FMVSS No. 224. When we modified FMVSS No. 224 to exclude road construction controlled horizontal discharge trailers (S4), we received comments similar to those sent by TTMA and NTEA that requested us to exclude gravity feed end-dump trailers.[60] In response, NHTSA noted that end-dump trailers are versatile vehicles that may not necessarily interact with equipment in a way that necessitates an exception, as many fall under the exception for wheels back trailers and many may also be able to accommodate a rear impact guard. For these reasons, we explained that we preferred to review the necessity of exempting end-dump trailers on a case-by-case basis in the context of temporary exemptions under 49 CFR part 555. NHTSA continues to believe this is the most appropriate approach to these vehicles.

Trailers with lift gates: In response to Mr. Young's comment that trailers with lift gates should not be excluded from the standard, trailers with lift gates are not currently excluded from FMVSS No. 224, and NHTSA did not propose any changes in this regard.[61] Trailers with certain kinds of lift gates may fall under the definition of ''special purpose vehicle,'' but the comment did not refer to such vehicles.

b. Testing on a Trailer Rather Than a Fixture

FMVSS No. 223 currently provides that NHTSA may test a rear impact guard when attached, per manufacturer's instructions, to either a rigid test fixture or to a complete trailer, at the guard manufacturer's option. As discussed in the NPRM, NHTSA denied the request from the petitioners to remove the option of testing on a rigid test fixture. The agency determined that the two tests are essentially equivalent and that requiring that guards be tested when attached to the trailer could be a significant cost burden to small trailer manufacturers.

Comments Received

Many commenters expressed a preference to NHTSA's testing guards only when attached to a complete trailer. Ms. Karth and Network stated that rear impact guards and the trailers to which they are attached are a system and that compliance testing should be conducted with the guard attached to the trailers and/or a portion of the trailer that includes all structures to which the guard attaches. Batzer believed that testing rear impact guards on the trailer on which they will be mounted ''would produce more confidence in the design.'' IIHS and Advocates stated that testing on rigid test fixtures disregarded the fact that crash tests with rear impact guards attached to trailers resulted in deformation to the trailer. IIHS stated that allowing rear impact guards to be tested when attached to a rigid fixture rather than to an actual trailer is ''insufficient to guarantee underride prevention'' because a guard certified to meet the standards of CMVSS No. 223 may be attached to a trailer structure that does not have the demonstrated capability to resist the same force level. IIHS claimed that the relatively weaker structure of the trailer may deform during a crash, leaving ''open the possibility that guards will be attached

[55] 80 FR 78428.

[56] Heavy-Vehicle Crash Data Collection and Analysis to Characterize Rear and Side Underride and Front Override in Fatal Truck Crashes, DOT HS 811 725, March 2013, *supra.* Also available at *https://www.nhtsa.gov/sites/nhtsa.gov/files/811725.pdf.*

[57] UMTRI estimated the relative speed of fatal light vehicle crashes into the rear of SUTs and trailers using all available information, including police estimates of travel speed, crash narrative, crash diagram, and witness statements. The impact speed was estimated from the travel speed, skid distance, and an estimate of the coefficient of friction. Relative velocity was computed as the resultant of the difference in the trailer (truck) velocity and the striking vehicle velocity and could only be estimated for about 30 percent of light vehicle fatal crashes into the rear of trailers and SUTs.

[58] 61 FR 2024.

[59] *Id.* Two crash tests involving wheels back trailers were conducted in support of the 1996 final rule. For these wheels back trailers, the rear tires were located about 100 to 205 mm (4 to 8 in) forward of the rear extremity of the trailer. In each test, in an offset crash in which a Chevrolet Impala struck the tires and in a centric crash in which a VW Rabbit struck the axle and other components between the tires, PCI was prevented at about 56 kph (35 mph).

[60] *See* 69 FR 67663, 67666.

[61] *See* 69 FR 64495, 64497.

to trailer structures that are too weak to withstand the forces of a crash, in which case the strength of the guard itself is irrelevant.'' Advocates also believed that ''significant issues with the performance of the guard and the attachment system would not be detected'' if the guard was tested on a rigid test fixture. Some commenters also argued that the higher burdens to small manufacturers ''is an insufficient justification.'' TSC stated that NHTSA should require testing on a trailer as it reflects a real-world scenario ''even if the process is more costly.''

Agency Response

We considered the suggestion to remove the option for fixture testing when we evaluated the petitions and ultimately concluded not to include it in the proposed rule. Many of the commenters raise points NHTSA discussed in the NPRM and points NHTSA had discussed in the original 1996 final rule. In the 1996 final rule, NHTSA explained that, even though testing on a trailer is desirable ''because there is nothing more 'appropriately configured' for guard mounting on the actual trailer'' and because such testing also tests the structural integrity of the trailer chassis, the agency's data demonstrated that rear impact guards tested on rigid test fixtures performed similarly to their performance on an actual trailer.[62] NHTSA reiterated this point in the NPRM for this final rule, and commenters did not provide any new information to suggest that testing on a rigid test fixture is no longer acceptable. NHTSA concludes that a guard shown to be compliant when tested on a rigid test fixture will perform to the same benchmark when attached to a trailer.

NHTSA stated its view that a rear impact guard attached to a rigid test fixture would not have a trailer to absorb a portion of the load so the severity of the fixture test might be higher than a trailer test. IIHS and Advocates seemed to argue the opposite, stating that testing on rigid test fixtures disregarded the fact that crash tests with rear impact guards attached to trailers resulted in deformation to the trailer. NHTSA cannot conclude that trailer deformation itself indicates that the total resistance of a guard-attachment-trailer system is lower than that of the guard alone on a rigid test fixture. The trailer structure may have deformed because it offered resistance to the dynamic loads. As stated in the NPRM, testing on a rigid test fixture has an advantage over trailer testing in its potential to show that the guard is capable of resisting all loads and absorbing all the energy.

The commenters did not provide information showing that requiring each rear impact guard be tested on a trailer would offset the significant costs of doing so, especially for small trailer manufacturers with low sales volumes. As noted in the NPRM, if small manufacturers were to test the rear impact guard on the trailer, this testing could involve sacrificing what could constitute a substantial part of their overall trailer production. NHTSA does not believe there is a safety basis justifying these impacts on these manufacturers.

Finally, NHTSA emphasizes the test specifications in the FMVSS reflect how NHTSA will perform tests to evaluate compliance; they do not limit how manufacturers certify compliance. Inserting a requirement into FMVSS No. 223 specifying how manufacturers can certify their own compliance, as suggested by Batzer and VT Group, is not in accordance with the purpose and structure of the FMVSS.

c. Low Overlap Crash Performance

Both petitioners IIHS and TSC/Karth requested that NHTSA take steps to prevent underride in low overlap crashes (crashes with 30 percent overlap or less of the impacting vehicle with the trailer rear).[63] IIHS's petition asked NHTSA to evaluate relocating the quasi-static point load test at the P1 location further outboard toward the end of the guard horizontal member so that guards are tested for strength further outboard. IIHS suggested that, based on its interpretation of the crash tests of the 2010 Chevrolet Malibu into the rear of the 2011 Wabash trailer, doing so would provide underride protection to full, 50 percent, and 30 percent overlap crashes.[64]

NHTSA reviewed the requests in the petitions but did not propose to move the P1 location further outboard as a part of this rulemaking. The requests were not supported by sufficient information, as the petitioners did not explain why moving the P1 location further outboard would improve guard performance in low overlap crashes.

NHTSA determined that the performance of rear impact guards in crashes other than low overlap should be enhanced before turning to performance specific to low overlap crashes. We analyzed the data collected in the 2013 UMTRI Study and found that underride crashes of 30 percent overlap or less represented a smaller portion of the rear underride fatality problem than non-low overlap crashes. We decided to focus the NPRM on crashes other than low overlap because those were the more prevalent fatal crashes.

The data do not show that improving low overlap crash performance would improve non-offset crash performance. In fact, data indicate a potential negative consequence. NHTSA expressed a concern in the NPRM about a potential risk that bolstering performance in a 30 percent overlap crash might degrade protection in 50 and 100 percent overlap crashes. The Manac rear impact guard features vertical supports towards the lateral edge of the trailer. While this guard was able to prevent PCI in the 56 km/h (35 mph) 30 percent overlap condition during IIHS's crash tests, in IIHS's 56 km/h (35 mph) full overlap crash test, the Manac guard had the greatest amount of deformation (1,350 mm) of any guard. NHTSA was concerned that these data indicated that rear impact guards designed like the Manac, with the main vertical supports for the guard more outboard, may not perform as well compared to other guards in full overlap crashes at crash speeds at or greater than 56 km/h (35 mph).

To summarize, data indicated that: (a) full and 50 percent overlap crashes are more frequent than 30 percent overlap crashes; (b) most fatal light vehicle impacts into the rear of trailers are at speeds greater than 56 km/h (35 mph); and, (c) improving performance against low overlap crashes could reduce performance of the guard in full and 50 percent overlap crashes. Given those factors, we decided not to take an approach in this rulemaking that would improve guard performance in a 30 percent overlap crash but that could lessen protection in 50 and 100 percent overlap crashes at higher speeds (speeds higher than the 35 mph speed on which the amended FMVSS No. 223 would be based).

[62] *See* 61 FR 2008, 2014. NHTSA's testing showed that the maximum force measured in quasi-static tests of rear impact guards attached to a fixture is similar to the maximum force generated in dynamic crash tests with the rear impact guard installed on a trailer. Additionally, rear impact guards that were only ten percent stronger than the minimum level of strength necessary to pass quasistatic test requirements performed adequately in dynamic tests with the guard installed on a trailer.

[63] Overlap is the percentage of the light vehicle width that interacts with the rear of the trailer in a collision. Offset means the centerline of the light vehicle is not aligned with the centerline of the trailer. Other organizations may use low overlap or offset to refer to different specified amounts of overlap.

[64] In IIHS's 30 percent overlap crash test with the Chevrolet Malibu, the front end of the Malibu only contacted the portion of the rear impact guard lateral of the vertical support member.

Comments and Agency Response

Several commenters disagreed with NHTSA's decision to refrain from pursuing rulemaking on low overlap crashes. Some commenters pointed to existing guards (*e.g.,* the Manac guard) that they stressed provided protection against crashes with low overlap. Some disagreed with NHTSA's concern that such a guard might not perform as well in crashes with full or 50 percent overlap at crash speeds greater than 56 km/h (35 mph). Seven Hills stated that the extent of underride seen in the full overlap crash test with the Manac guard was due to the Chevrolet Malibu fitting ''just between both uprights contacting only the horizontal bar,'' and that this scenario ''represents an extremely small fraction of possible crash scenarios.'' IIHS argued that the Manac design performed well and that it is not the only possible guard design; IIHS said it tested a 2015 Vanguard design that was also able to prevent severe underride at 30 percent overlap.[65] Conversely, Wabash concurred that the design of the Manac guard reduced protection in full overlap conditions.

Agency Response

Several commenters argued that fatal low overlap crashes occurred more frequently than stated by NHTSA. IIHS believed that the data underlying NHTSA's finding that 40 percent of light vehicle impacts into the rear end of trucks and trailers in fatal crashes were offset crashes were collected ''during phone interviews with someone who was familiar with each crash but may not have been at the crash scene'' and ''took place 1–2 years after the crash.'' Advocates remarked that TIFA survey data ''is known to consist of notoriously suspect crash data and analysis.'' In response, NHTSA does not agree that the agency did not accurately calculate the prevalence of low overlap crashes. The 2013 UMTRI Study forms the most scientific, comprehensive and valid data set available to inform the agency and safety community on this issue.

IIHS referred to its 2010 study of passenger vehicle crashes into the rear of trailers and semitrailers in the Large Truck Crash Causation Study (LTCCS) to argue that, ''guard deformation or complete failure was frequent and most commonly due to weak attachments, buckling of the trailer chassis, or bending of the lateral end of the guard under narrow overlap loading.'' [66] IIHS noted that there were 30 LTCCS cases in the study involving trailers with guards that met the FMVSS No. 224 geometric requirements and among these 30 cases, 30 percent (n=9) were crashes in which less than half of the passenger vehicle overlapped the trailer.

In response, the data used in the 2010 IIHS study comprised too small a sample to generalize the extent of low overlap crashes in the U.S. NHTSA notes that in 22 of the 30 cases, it was not clear whether the rear impact guards on the trailers were compliant with FMVSS No. 223 and among the 9 low overlap crashes. Seven rear impact guards on the trailer exhibited deformation similar to that in the IIHS 30 percent overlap crash tests (the lateral end of the guard bent forward in the impact). In the other 2 cases, the rear impact guards experienced failure at other locations likely due to the guards being weak in general. Among the 30 LTCCS cases IIHS analyzed, only 8 were crashes of passenger vehicles into the rear of trailers with FMVSS No. 223 compliant rear impact guards. Among these 8 trailers, 2 rear impact guards showed no signs of failure, 3 rear impact guards failed at the attachment to the trailer structure, 1 rear impact guard bent forward due to localized loading from a low overlap crash, and 2 rear impact guards were damaged too severely to determine the failure mechanism. In other words, the 2010 IIHS study uses too small a data sample to generalize the extent of low overlap crashes in the U.S. In contrast, the 2013 UMTRI Study provides a scientific annual estimate of all fatal crashes into the rear of trailers in the U.S., including offset crashes and the extent and type of rear impact guard damage in crashes.

Seven Hills said it did not understand why NHTSA was considering the extent of guard damage, as a fatal collision involving major damage to a guard should be treated the same as a fatal collision that did not involve major damage. It also argued that minimal guard damage in fatal offset impacts indicates that the problem is lack of adequate guard strength on the outside edges of trailers. The commenter said that the absence of a difference in the percentage of light vehicle crashes with PCI in offset crashes and non-offset crashes shows a need to improve the performance of rear impact guards in low overlap conditions, particularly when such PCI is occurring in what Seven Hills viewed as ''otherwise non-injurious speed differences.''

In response, NHTSA believes examining the extent of rear impact guard damage, along with the occurrence of PCI, is important to determine the utility of improving guards to protect against non-offset crashes. Rear impact guards sustain more damage in non-offset crashes, which suggests that non-offset crashes are potentially more harmful and thus should be addressed first. Our statement that we found no difference between the percentage of light vehicle crashes with PCI in offset crashes and non-offset crashes was not meant to suggest that offset crashes are not a concern. Rather, because (a) more fatal light vehicle crashes into the rear of trucks and trailers are non-offset crashes, (b) non-offset occur significantly more frequently than low overlap crashes (crashes with 30 percent or less overlap of the impacting vehicle with the rear of the trailer), and (c) non-offset crashes appear more harmful of the two, NHTSA was explaining why it decided to pursue this rulemaking on non-low overlap crashes at this time.

IIHS stated that guard damage is not an adequate metric for the severity of underride and questioned whether NHTSA could accurately calculate the extent of guard damage based on TIFA survey data. In response, NHTSA notes that the damage to the guard was not used to assess the severity of underride but was part of the information collected to determine impact severity. The 2013 UMTRI Study used enhanced data on the rear of the trailer to determine the extent of guard damage. The severity of underride and the occurrence of PCI were determined from the light passenger vehicle information.

IIHS noted that the Manac rear impact guard was not the only design that performed well in the 30 percent overlap crash and that other designs such as the Vanguard rear impact guard also mitigated PCI in 30 percent overlap crashes. The agency agrees that other rear impact guard designs that connect directly to the longitudinal frame rails of the trailer through the vertical members are able to mitigate PCI in 30 percent overlap crashes without reducing protection against PCI in full and 50 percent overlap crashes. However, as shown later in the section, these guards add cost and weight to the trailer.

TSC and Advocates stated that, even if the majority of fatal light vehicle crashes into the rear of trucks and trailers were non-offset crashes, this still meant that 40 percent were offset

[65] In 2017, IIHS introduced the TOUGHGUARD award for trailers that mitigate PCI in a 56 km/h (35 mph) crash of a Chevrolet Malibu into the rear of the trailer in all three overlap conditions (full, 50 percent, and 30 percent). IIHS awarded the TOUGHGUARD to nine North American trailer manufacturers that offer this feature on at least some trailers.

[66] Quoting from its study. Brumbelow, M.L., Blanar, L., ''Evaluation of US Rear Underride Guard Regulation for Large Trucks Using Real-World Crashes,'' Stapp Car Crash Journal, Vol. 54, November 2010, pp. 119–131.

crashes. Other commenters also disagreed with NHTSA's decision to focus this rulemaking on fatal non-low overlap crashes, despite that such crashes occur more frequently than low overlap crashes. In response, NHTSA notes that this final rule would afford protection to occupants involved in 56 km/h (35 mph) crashes into the rear of trailers where the impacting vehicle fully overlaps with the trailer rear, and in offset crashes where 50 percent of the light vehicle front end overlaps with the trailer rear, and in offset crashes where a load bearing vertical member connecting the rear impact guard to the trailer is engaged by the front end of the impacting vehicle. In response to the comments, we reiterate some of the details provided in the NPRM and provide further reasoning below for not proceeding with low overlap performance requirements in this final rule.

Further Analysis on Requirements for Protection in Low Overlap Crashes

Rear impact guards are designed to absorb energy and prevent PCI by attaching to substantial structural elements of a trailer or semitrailer, such as the chassis longitudinal frame rails, by way of vertical support members. The test results from the initial testing at IIHS reported in the NPRM show that many trailer rear impact guards designed to CMVSS No. 223 met the proposed performance requirements in the NPRM in full overlap and 50 percent overlap crashes but were unable to prevent PCI in a 35 mph crash into the rear of the trailer where only 30 percent of the width of the passenger vehicle front end overlapped with the rear of the trailer. In these 30 percent overlap crashes, only a small lateral portion of the rear impact guard (about 22 percent of the guard width) engaged with the front end of the passenger vehicle. This small lateral portion typically did not include a vertical support member of the guard, so when the passenger vehicle struck this small lateral portion of the guard, the guard deformed locally and did not prevent PCI.

In the initial crash tests conducted by IIHS, only the Manac rear impact guard was able to prevent PCI in the Chevy Malibu in the 56 km/h (35 mph) full overlap, 50 percent overlap, and the 30 percent overlap test conditions. Unlike most trailer designs, however, where the vertical members of the rear impact guard attach directly to the longitudinal frame rails of the trailer, the vertical members of the Manac rear impact guard were located further outboard from the location of the trailer longitudinal frame rails and attached to a reinforced floor section of the trailer. While the more outboard vertical supports of the Manac guard improved rear impact protection in low overlap crashes of light vehicles into the rear of trailers, the further outboard vertical supports appeared to reduce guard strength near the center of the horizontal member of the rear impact guard. In the 56 km/h (35 mph) full overlap crash tests of the Malibu, the greatest amount of underride (1,350 mm) was in the test with the Manac trailer. In contrast, the extent of the underride was 990 mm in the test with the Wabash trailer.

The full overlap IIHS crash test results raise the possibility that for crash speeds greater than 56 km/h (35 mph), trailers that have the main vertical supports for the guard more outboard may not perform as well in full overlap crashes as trailers that have the vertical supports more inboard. Since full and 50 percent overlap crashes are more frequent than low overlap (30 percent or less) crashes, and because most fatal light vehicle impacts into the rear of trailers are at speeds greater than 56 km/h (35 mph), the agency is concerned that such guard designs may reduce protection against PCI in the more frequent higher speed full and 50 percent overlap crashes. NHTSA is concerned about potential negative safety consequences accruing from a rule that resulted in designs that moved the vertical members of rear impact guards more outward laterally to prevent underride in a 56 km/h (35 mph) 30 percent low overlap crash, if such a rule reduced protection in full and 50 percent overlap crashes.

NHTSA has estimated the potential benefits of adopting a 30 percent overlap crash. The agency estimated the number of fatalities in 30 percent or lower overlap crashes in the field based on the available information, estimated the effectiveness of the rear impact guards that prevent PCI in 30 percent overlap crashes, and estimated the lives saved by a requirement for rear impact guards mitigating PCI in 56 km/h (35 mph) 30 percent overlap crashes.

The 2013 UMTRI Study found that 40 percent of light vehicle impacts into the rear ends of trucks and trailers in fatal crashes met the UMTRI definition of ''offset crashes,'' [67] and that 60 percent were non-offset impacts. However, for a typical trailer rear width of 2,600 mm, an offset crash defined in the 2013 UMTRI Study is when 867 mm of the width of the trailer from its lateral edge is engaged by the impacting vehicle. In contrast, as detailed in the 2015 NPRM, in the IIHS 30 percent overlap crash of a Malibu with the rear impact guard of a trailer, the Malibu interacted with only 637 mm of the rear of the trailer (approximately a quarter of the trailer rear width) from its lateral edge. This difference is important as it relates to how the impacting vehicle engages the vertical members connecting the rear impact guard to the trailer. On a typical 2,600 mm width trailer, the vertical members connecting the rear impact guard to the trailer are located at about 753 mm from the left and right lateral edge of the trailer. Therefore, ''offset'' crashes in the 2013 UMTRI Study included crashes in which a vertical member of the rear impact guard was engaged. In contrast, in IIHS's 30 percent overlap crashes, the vertical members of the rear impact guards were not engaged.

Stated differently, the definition of an offset crash in the 2013 UMTRI Study includes crashes that would not have been considered low overlap crashes under IIHS's test program (as they had greater than 30 percent overlap of the front end of the vehicle). NHTSA reviewed a sample of the crash cases which were identified as ''offset crashes'' in the 2013 UMTRI Study. Based on the damage to the rear impact guard and the damage to the front end of the impacting vehicle in each of these offset crash cases, NHTSA determined that in many crashes the front end of the striking vehicle engaged the portion of the rear impact guard containing the vertical member, and therefore were not ''low overlap'' crashes as would have been considered under the IIHS protocol (crashes with 30 percent or less of the impacting vehicle front end overlapping the rear width of the trailer). This review indicated that a substantial number of cases identified as ''offset crashes'' in the 2013 UMTRI Study were not ''low overlap'' crashes like those in the IIHS 30 percent overlap crash test.

The 2013 UMTRI Study found that there are annually 72 fatalities in light vehicle crashes into the rear of trailers that result in PCI. According to this study, almost 40 percent of the impacts by light vehicles were ''offset,'' meaning that they occurred on the outer left or right third of a trailer's rear. For trailers

[67] UMTRI defined ''offset crashes'' as impacts with the outer one-third or less of the rear plane of the trailer. For a 2,600 mm wide trailer, one-third of the trailer width is 867 mm from the lateral edge of the trailer, which includes the location of the vertical member. In contrast, the IIHS 30 percent overlap crash test is a 30 percent overlap of the *impacting vehicle* with the trailer rear. For a 2,600 mm wide trailer, 30 percent overlap of a passenger vehicle corresponds to 637 mm from the lateral edge of the trailer, which does not include the location of the vertical member.

required to have rear impact guards, there was no difference in the extent of underride, including PCI, for offset and non-offset impacts of light vehicles into the rear of trailers.[68] Therefore, we determined the number of annual fatalities in offset crashes with PCI into the rear of trailers as the product of the annual number of fatalities in light vehicle crashes with PCI into the rear of trailers (72) and the percentage of offset crashes (40%). Accordingly, the number of fatalities in offset crashes with PCI from the 2013 UMTRI Study is 28.8 (=72 × 40%). Yet, as explained above, NHTSA reviewed a sample of the offset crashes in the 2013 UMTRI Study and found that in most of these offset crashes, there was more than 30 percent overlap of the impacting vehicle with the rear of the trailer (demonstrated by the impacting vehicle having engaged the rear impact guard at the location of a vertical member). Thus, to estimate the benefit of a requirement to prevent PCI in 30 percent overlap crashes, NHTSA assumed 20 to 40 percent of these 28.8 annual fatalities[69] were in crashes with 30 percent or less overlap of the front end of the impacting light vehicle with the trailer. Therefore, NHTSA estimated that there are 5.8–11.5 (= 28.8 × 20% to 28.8 × 40%) annual fatalities in low overlap crashes into the rear of trailers.

The 2013 UMTRI Study also found that only 26 percent of crashes into the rear of trailers were at relative impact speeds of 56 km/h (35 mph) or less. Though the 2013 UMTRI Study found that the crash speeds in offset crashes were higher than those in non-offset crashes, NHTSA used 26 percent to estimate the number of crashes into the rear of trailers with 30 percent or lower overlap that were at crash speeds 56 km/h (35 mph) or lower. Rear impact guards may not be able to mitigate all fatalities in crashes into the rear of trailers with relative velocity of 56 km/h (35 mph) or less because some crashes may be due to circumstances other than underride (*i.e.,* unrestrained status of occupants, elderly and other vulnerable occupants, post impact vehicle kinematics that could expose vehicle to subsequent impacts[70]). For the purpose of this analysis, NHTSA assumed that the incremental effectiveness of rear impact guards (CMVSS No. 223 compliant guards that also mitigate PCI in 30 percent overlap crashes) in preventing fatalities in light vehicle impacts with 30 percent overlap into the rear of trailers with crash speeds less than 56 km/h is 50 percent. Therefore, NHTSA estimated the overall effectiveness of upgrading from the final rule compliant guards to final rule compliant guards that also prevent PCI in 30 percent overlap crashes to be 13 percent (=26% × 50%). NHTSA estimates that the annual number of lives saved in low overlap crashes into the rear of trailers at relative velocities of 56 km/h (35 mph) or less to be 0.75 to 1.5 (= 5.8 × 0.13 to 11.6 × 0.13).

To prevent PCI in 30 percent overlap crashes, designs would have to either: (a) add additional vertical members at the lateral edge of the rear impact guard that connect to the trailer's transverse floor beam and strengthen the transverse floor beam of the trailer to withstand the loads transmitted from these vertical members at the edge of the guard; or (b) considerably strengthen the rear impact guard member so it would not deform locally in the 30 percent overlap crash. In these circumstances all the loads will still be taken up by the longitudinal chassis rails. This means that both these approaches would add significant weight to the vehicles because they involve adding more vertical members, strengthening the floor beams, or strengthening the guard itself.

Currently, there are 4 trailer manufacturers that offer rear impact guards that prevent PCI in all three IIHS crash test conditions (35 mph crash of a passenger vehicle with (1) full overlap, (2) 50 percent overlap and (3) 30 percent overlap with the rear of the trailer) as standard equipment. In 2020, the total trailer output of these 4 manufacturers is about 28 percent of the total number of trailers produced in 2020 (211,807).[71] Many other trailer manufacturers offer rear impact guards that prevent PCI in the three IIHS crash test conditions as optional equipment.

NHTSA reviewed the rear impact guard offerings in the trailer industry. The incremental cost and weight increase of a trailer with a rear impact guard that prevents PCI of passenger vehicles in all three overlap conditions (full, 50 percent, and 30 percent overlap) compared to an equivalent trailer by the same manufacturer with a rear impact guard that meets the performance requirements of this final rule[72] ranges from $100 to $1,000 and from 25 kg (55 lb) to 118 kg (260 lb), respectively. The large range in cost and weight is because some trailers need significant modifications to accommodate rear impact guards with 30 percent overlap protection, the higher cost of high-strength/light-weight materials for the guard, and other such factors. The weighted average (weights based on trailers produced in 2020)[73] of this incremental cost and weight increase of trailers with rear impact guards which prevent PCI in 30 percent overlap crashes is $306 and 35 kg (77 lb), respectively.

Stoughton Trailer, a trailer manufacturer, produces trailers with rear impact guards that prevent PCI in all three overlap conditions at 56 km/h (35 mph) as standard equipment and notes on its website that its rear impact guards do not add additional weight, cost, or negatively impact aerodynamics (presumably compared to rear impact guards that would meet this final rule requirements).[74] The Stoughton rear impact guard, made of steel, includes two vertical supports on the outer ends of the horizontal member that fasten to a robust undercarriage of the trailer. It does not appear feasible engineering-wise for the additional material (two steel vertical members on the outer edge of the horizontal member that is bolted to a reinforced undercarriage) not to add weight or cost to the trailer. Accordingly, NHTSA decided not to include this guard design in this analysis.

There are some unique rear impact guard designs that meet the performance requirements in this final rule and are also able to mitigate PCI in 30 percent overlap crashes without significant increase in weight. However, these unique designs may have restrictions in intermodal operations at loading docks[75] and may not be practicable for

[68] Figure 5 in the 2013 UMTRI Study. Heavy-Vehicle Crash Data Collection and Analysis to Characterize Rear and Side Underride and Front Override in Fatal Truck Crashes, DOT HS 811 725, March 2013, infra.

[69] As explained above, NHTSA's review of a sample of offset crashes into the rear of trailers in the 2013 UMTRI Study indicated that a majority of these offset crashes were with more than 30 percent overlap of the impacting vehicle with rear of the trailer.

[70] The IIHS tests showed that in 30 percent overlap crashes where PCI is mitigated, the impacting light vehicle rotates during the crash and therefore could be exposed to impact by vehicles traveling in adjacent lanes.

[71] *https://cdn.baseplatform.io/files/base/ebm/trailerbodybuilders/document/2021/04/TBB_Top_25_CY2020.6089da057e9d0.pdf.*

[72] As noted previously, the final rule requirements ensure preventing PCI in a 35 mph passenger vehicle crash with full and 50 percent overlap with the rear of a trailer.

[73] *https://cdn.baseplatform.io/files/base/ebm/trailerbodybuilders/document/2021/04/TBB_Top_25_CY2020.6089da057e9d0.pdf.*

[74] *https://www.stoughtontrailers.com/Portals/0/documents/Rear%20Underride%20Guard%20Sales%20Sheet.pdf.*

[75] In order to comply with Occupational Safety and Health Administration (OSHA) requirements (OSHA 29 CFR 1910.26(d)), loading docks have vehicle restraints that are designed to connect to rear impact guards to prevent the vehicle from moving during loading and unloading operations. Unique rear impact guard designs that are wider than 7.5 inches, with unique profiles (such as

Continued

all types of trailers covered by FMVSS No. 224. The benefit-cost analysis assumes intermodal operability is maintained and so these unique rear impact guard designs were not considered for this analysis.

There are 211,807 trailers produced in 2020[76] among which 65 percent (137,675 = 211,806 × 65%) are required to be equipped with rear impact guards, of which 28 percent are already equipped with rear impact guards that meet the performance requirements of this final rule and mitigate PCI in 30 percent overlap crashes. The annual average and minimal incremental fleet cost of equipping all new applicable trailers[77] (99,126 = 137,675 × 72%) with rear impact guards that mitigate PCI in 30 percent overlap crashes is $30.3 million (= 99,126 × $306) and $9.9 million (= 99,126 × $100).

In addition, the average weight increase of 35 kg (77 lb) from installing a guard that could mitigate PCI in a 30 percent overlap crash would increase fuel consumption. With 192,000 class 8 truck annual sales,[78] the total average incremental lifetime fuel cost is estimated to be $130 million undiscounted, $106 million with 3 percent discounting, and $84 million with 7 percent discounting. If the minimum weight increase of 25 kg (55 lb) is used instead, the total minimum incremental lifetime fuel cost is estimated to be $93 million undiscounted, $75 million with 3 percent discounting, and $60 million with 7 percent discounting. The overall undiscounted cost increase (material cost and lifetime fuel cost) is $161 million on average and $103 million at a minimum.

NHTSA is required by Section 1 of Executive Order 12866 to conduct a benefit cost analysis of any proposed regulatory requirements.[79] The undiscounted cost per life saved using the average cost estimate ranges from $107 million to $215 million, while that using the minimum cost estimate ranges from $69 million to $138 million, which is significantly greater than the value of a statistical life ($11.6 million).[80] Therefore, a requirement for equipping all new applicable trailers with rear impact guards that mitigate PCI in 30 percent overlap crashes is not cost-effective.[81] This indicates that total costs of such a requirement exceed overall benefits. Detailed calculations for the benefits, costs, and cost per life saved are provided in the FRE accompanying this final rule.[82]

For the above reasons, we have determined that an FMVSS that requires vehicles to provide rear impact protection in 56 km/h (35 mph) full-frontal, 50 percent overlap, and 30 percent overlap not to be reasonable or practicable. We conclude that such a revision would not meet the requirements of Section 30111(a) and (b) of the Safety Act for issuance of Federal motor vehicle safety standards. Accordingly, we have decided to refrain from adopting a requirement for a 30 percent overlap crash at this time.

However, as explained above, the Federal standards act as a floor, not a ceiling, to establish the minimum level of performance that meet the safety needs presented by the data. FMVSS are written in terms of minimum performance requirements for motor vehicles or motor vehicle equipment to protect the public against unreasonable risk of injury and death in crashes. Manufacturers have flexibility in design as long as their products comply with applicable FMVSS. There are rear impact guard designs in the current trailer and semitrailer market that prevent PCI in all three crash conditions described in Section 23011(b)(1)(A) of BIL: (1) full overlap crash, (2) 50 percent overlap crash, and (3) 30 percent overlap crash at 56 km/h impact speed. While data do not support the agency's requiring these guards for all vehicles, this final rule does not preclude these designs from being on the trailer and semi-trailer market.

Some commenters suggested design changes to rear impact guards that they viewed as increasing protection in low overlap conditions. Network requested that NHTSA require a barrier width within 100 mm of the trailer's outer frame; Advocates similarly stated that if rear impact guards were extended, protection against underride would be enhanced. Network and Ms. Wood also suggested that rear impact guards have angled struts attached to the ends of the guard. Batzer recommended that guards have support at their corners, while Seven Hills stated that a solution could be using three- or four-vertical support configurations. The VT Group suggested that stronger material selection for the horizontal member can improve a rear impact guard's load capability during low overlap crashes.

In response, NHTSA does not believe that it is reasonable, or appropriate, to mandate in this rulemaking that rear impact guards have designs of the specificity suggested by the commenters. The design of rear impact guards is dependent on trailer geometry and structure and we do not wish to unnecessarily restrict the flexibility of manufacturers to design appropriate guards. NHTSA also does not believe that it should mandate the materials used in constructing rear impact guards, as our standards are performance oriented.[83] Finally, this issue was not proposed in the NPRM and is not within the scope of this rulemaking.

d. Half-Guard Testing

CMVSS No. 223 allows for compliance testing on half of a symmetric rear impact guard through an application of a 175,000 N distributed load at the P3 location. NHTSA determined that half guard testing was not needed in FMVSS No. 223 and explained in the NPRM why it did not propose the inclusion of half-guard testing in the proposal.

Comments Received

Commenters on this issue all argued in favor of including an option allowing for testing of half of the rear impact guard. TTMA, Strick, and Mr. Young stated their general belief that testing on a half-guard will produce the same result as testing on the full guard. They further suggested that half-guard testing

pentagonal shapes) have provided challenges to connect the vehicle restraints to the rear impact guard.

[76] Id.

[77] There were 211,807 new trailers produced in 2020, among which 65 percent (137,675 = 211,807 × 0.65) are required to be equipped with rear impact guards. Among applicable trailers, 21 percent are already equipped with guards that mitigate PCI in 30 percent overlap crashes.

[78] See statista for class 8 truck annual sales (*https://www.statista.com/statistics/261416/class-3-8-truck-sales-in-the-united-states/*).

[79] ''Significant'' regulatory actions are also subject to Section 6 to assess potential benefits and costs.

[80] For more information on the value of a statistical life, see a 2021 Office of the Secretary memorandum on the ''Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses—2021 Update.'' *https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis.*

[81] Cost-effectiveness represents a measure of the average monetary cost per unit of change (benefit). In regulatory analyses for safety policies, cost-effectiveness generally measures the average estimated change in total costs per unit improvement in safety (*e.g.,* cost per life saved). A policy alternative can be considered cost-effective if the estimated cost per unit increase is less than an appropriate benchmark. For example, a proposed safety standard could be considered cost-effective if the average cost per life saved equivalent (*i.e.,* combining lives saved and injuries avoided, weighted by the relative values of injuries to fatalities) under the proposed standard were less than the comprehensive economic cost of a fatality ($11.6 million in 2020 dollars). That is, the proposed standard would yield safety benefits at a lower cost than the benchmark value for those benefits.

[82] NHTSA has placed a copy of the FRE in the docket for this final rule.

[83] 49 U.S.C. 30102(a)(10).

is beneficial to manufacturers, as they can test one half-guard, make any changes to the second half-guard, and then test the modified second half-guard with less time and effort. TTMA also remarked that allowing an option for half-guard testing would ensure maximum harmonization with the Canadian standard CMVSS No. 223.

Agency Response

NHTSA reviewed the comments and confirms its earlier decision that a half-guard testing option is not needed in FMVSS No. 223. As noted in the NPRM, CMVSS No. 223 allows for half-guard testing because at the time the standard was written, guard manufacturers lacked the equipment to apply a distributed force of 350,000 N as would be required in a test of the full guard. CMVSS No. 223 thus allowed manufacturers to use then existing equipment to certify rear impact guards through half-guard testing. No commenter suggested that this rationale should be applied to FMVSS No. 223 or that manufacturers presently lack the capability to conduct tests on a full guard. Significantly, there is also an absence of data showing that half-guard testing provides results representative of full guard performance.

NHTSA notes that the test procedures included in an FMVSS specify the compliance tests that NHTSA conducts. Manufacturers may use other reasonable methods to certify the compliance of their vehicles or equipment, provided that their vehicle or motor vehicle equipment complies. In other words, any changes to FMVSS Nos. 223 and 224 would not directly affect how manufacturers choose to structure their guard development processes, as long as the vehicle or equipment complies. If manufacturers believe that testing on half-guards will allow them to better iterate designs, the standard does not prevent them from doing so. The guard must meet the FMVSS when tested by NHTSA according to the test procedures in the standard.

e. Retrofitting

The NPRM did not propose to require used trailers be retrofitted with CMVSS No. 223 compliant rear impact guards, as NHTSA had estimated in the NPRM that the cost of retrofitting all applicable FMVSS compliant trailers far exceeds the total benefits from such a retrofit requirement.

Comments Received

Many commenters disagreed with NHTSA's decision not to propose that all trailers be retrofitted with newly compliant guards. Network commented that older guards can be easily fixed. Messrs. Kiefer and Young remarked that more lives would be saved if NHTSA required retrofitting. TSC remarked that NHTSA underestimated the potential benefits to requiring trailers be retrofitted. TSC stated that NHTSA based its analysis on the number of light vehicle crashes into the rear of trailers that resulted in PCI, which TSC claimed came from data sources that often do not report on intrusion. Conversely, ATA stated that retrofitting trailers will have a negative cost-benefit ratio, stating that there are more than 11.7 million commercial trailers registered in the states in 2012, many of which are not used on a regular basis. ATA argued that retrofitting them would create significant costs without any corresponding benefit.

Agency Response

As further detailed in the Final Regulatory Evaluation (FRE) accompanying this final rule, NHTSA evaluated requiring all trailers to be retrofitted with CMVSS No. 223 compliant guards. This evaluation suggests that such a requirement would not be practicable or cost-effective. Further, vehicle owners would need to assess each trailer-guard combination individually to determine whether an upgraded guard would be compatible with the used trailer, accounting for age and condition of the vehicle. A used trailer may not be structurally capable of accommodating a new upgraded guard without the addition of unique parts. Owners may not have the technical expertise to know if an upgraded rear impact guard installed on a used trailer would be able to meet the intended performance level.

VI. Lead Time

The NPRM proposed a lead time of two years following the date of publication of a final rule. NHTSA received mixed comments on the proposed lead time. Mr. Young and Network remarked that given most trailers already meet the proposed requirements, a two-year lead time was unnecessary. Mr. Young stated that NHTSA instead should require immediate compliance. TTMA commented that, for ''nearly all trailer models,'' TTMA members have the capability to manufacture to the proposed standard but suggested that manufacturers of other models may have to develop and test new rear impact guards. TTMA suggested a lead time that provides for an optional early compliance date may be worthwhile.

Section 23011(b)(1)(B) of BIL provides that the regulations promulgated under subparagraph (A) shall require full compliance with each FMVSS revised pursuant to those regulations not later than 2 years after the date on which those regulations are promulgated.

After considering the comments and Section 23011(b)(1)(B) of BIL, NHTSA is adopting a two-year compliance date. The agency estimates that 94 percent of new trailers sold in the United States subject to FMVSS Nos. 223 and 224 already comply with the requirements of this final rule. This means, however, that there remain many trailer manufacturers who will need time and resources to design and produce new rear impact guards that are compliant with this final rule. Establishing too short a lead time will disadvantage these manufacturers, many of which may be small manufacturers. NHTSA proposed a two-year lead time for the 1996 final rule and the agency believes this length of time is consistent with BIL and remains appropriate. Manufacturers may choose to comply with the new standards earlier.

VII. Benefit-Cost Analysis

For the NPRM, NHTSA developed a Preliminary Regulatory Evaluation (PRE) to estimate the benefits and cost of this rulemaking. We first estimated the annual number of fatalities and injuries in light vehicle crashes with PCI into the rear of trailers that could be prevented by the rulemaking.[84] We found that, annually, there are 72 light vehicle occupant fatalities in crashes into the rear of trailers with rear impact guards with PCI.[85] About 26 percent of fatal light vehicle crashes into the rear of trailers occur at speeds of 56 km/h (35 mph) or less, the speeds at which this rule would be effective. Thus, the agency estimated that there are 19 fatalities ($= 72 \times 0.26$) that occur in crashes with a relative velocity of 56 km/h (35 mph) or less.

CMVSS No. 223 guards may not be able to mitigate all fatalities in crashes into the rear of trailers with relative velocity of 56 km/h (35 mph) or less because some crashes may involve low overlap (30 percent or less) and some fatalities may be due to circumstances other than underride (*e.g.,* unrestrained status of occupants). NHTSA thus assumed that the incremental effectiveness of CMVSS No. 223

[84] NHTSA did not include non-PCI crashes into the rear of trailers into the analysis of benefits of the final rule because the agency assumed that the passenger vehicle's restraint systems, when used, would mitigate injury.

[85] NHTSA only counted crashes into trailers with rear impact guards as these would be the only trailers that NHTSA assumes would equip upgraded rear impact guards and thus be affected by this rule.

compliant guards over FMVSS No. 224 compliant guards in preventing fatalities in light vehicle impacts with PCI into the rear of trailers with crash speeds less than 56 km/h (35 mph) is 50 percent.[86] Since only 26 percent of light vehicle crashes with PCI into the rear of trailers are at relative velocity less than or equal to 56 km/h, NHTSA estimated the overall effectiveness of upgrading to CMVSS No. 223 compliant guards to be 13 percent (= 26% × 50%).

Since a number of vehicles currently meet CMVSS No. 223, this benefit must be reduced by the proportion of new trailers already compliant with CMVSS No. 223, which the agency estimated to be 93 percent. Assuming 13 percent effectiveness of these guards in fatal crashes with PCI into the rear of trailers, the agency estimated that about 0.66 $(= 72 \times (1 - 0.93) \times 0.13)$ lives would be saved annually by requiring all applicable trailers to be equipped with CMVSS No. 223 compliant guards. NHTSA estimated that a total of 2.7 serious injuries would also be prevented annually with this rear impact guard rule. Including fatalities and serious injuries, the agency estimated that 1.4 equivalent lives would be saved annually.

To determine the costs of the final rule, NHTSA considered the incremental fleet cost of equipping all applicable trailers with CMVSS No. 223 rear impact guards and the increased fuel costs resulting from the added weight CMVSS No. 223 compliant guards would place on trailers.

The average cost of a Canadian compliant rear impact guard was estimated as $492. The incremental cost of equipping CMVSS No. 223 compliant rear impact guards on applicable new trailers (those that are subject to FMVSS No. 223) was estimated as $229 per trailer. There were 243,873 trailers produced in 2013,[87] among which 65 percent were required to be equipped with rear impact guards. Of those, 93 percent were already equipped with CMVSS No. 223 compliant guards. The annual incremental fleet cost of equipping all applicable trailers with CMVSS No. 223 rear impact guards was estimated at $2.5 million $(= 243{,}873 \times 0.65 \times (1.0 - 0.94) \times \$229)$.

NHTSA determined that upgrading from the FMVSS No. 223 compliant guard to the CMVSS No. 223 compliant guard would add an average incremental weight of 22.2 kg (48.9 lb) to the trailer, thereby reducing the overall fuel economy during the lifetime of the trailer. The incremental increase in lifetime fuel cost for a 22.2 kg (48.9 lb) weight increase of a trailer was estimated to be $1,042.2 and $927.7 discounted at 3 percent and 7 percent, respectively. The annual incremental lifetime fuel cost of equipping all applicable trailers with CMVSS No. 223 rear impact guards was estimated as $9.2 million and $8.2 million in 2013 dollars discounted at 3 percent and 7 percent, respectively.

The agency estimated that the net cost per equivalent lives saved would be $9.1 million and $9.5 million in 2013 dollars discounted at 3 percent and 7 percent, respectively. At 3 percent discount rate, the net benefit of the proposed rule would be $0.59 million. At 7 percent discount rate, the net benefit of the proposed rule would be $0.13 million.

Comments. NHTSA received several comments on the estimates provided in the NPRM. A few commenters suggested NHTSA should not conduct a benefit-cost analysis for a safety focused regulation in the first place and/or should comply with Vision Zero and make saving human life a priority over monetary issues. Some others believed that NHTSA's benefit-cost analysis was fundamentally flawed because, they argued: safety-related benefits should intrinsically outweigh costs related to upgrading equipment, NHTSA should not shift the costs of its rule to the public at the benefit of truckers, or that NHTSA should use costs only to compare outcomes that involved a rear impact guard not failing upon collision.

Agency Response. NHTSA implements its regulatory, enforcement, and oversight authority provided by the National Traffic and Motor Vehicle Safety Act (49 U.S.C. Chapter 301) (Safety Act) to protect all members of the public. NHTSA's authority to issue Federal motor vehicle safety standard is set forth in sections 30111 of the Safety Act. Each safety standard must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. When issuing a safety standard, NHTSA must consider, among other things, relevant motor vehicle safety information, whether a standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed, and the extent to which the standard will carry out section 30101 of the Act.[88] NHTSA issues its regulations in accordance with agency and Departmental regulations and in conformity with Executive orders (E.O.).

Safety is of utmost importance, and NHTSA pursues such safety to the degree possible in accordance with its statutory authority and as instructed by Executive order. Under the Safety Act, the reasonableness and practicability of a standard (both technologically and economically) must be considered. Under E.O. 12866, agencies are instructed to undertake a benefit-cost analysis to inform its rulemaking decisions to ensure agency regulations protect and improve the public's health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society. Thus, in response to commenters who urge us to adopt safety standards without regard to costs, we cannot do so under the Safety Act and the E.O.

NHTSA also cannot measure safety-related benefits categorically differently from costs, as requested by several commenters. Under E.O. 12866, as specified in OMB Circular A–4, agencies must quantify and value safety impacts to compare them to the costs of the regulation. Agencies do so by calculating the value of the loss of life using a metric called the Value of a Statistical Life (VSL). The VSL includes costs such as medical care, reduced income, and the effects fatalities and injuries may have on family members. NHTSA uses the VSL to determine the monetary value of reducing fatalities and injuries, which NHTSA then compares to estimated costs of a regulation. NHTSA cannot arbitrarily increase the value of benefits outside of this framework.

Some commenters also raised issues with what they viewed as specific shortcomings in the PRE's benefit-cost analysis. Some believed NHTSA did not properly consider all necessary variables in its analysis. For example, Network stated that NHTSA did not consider new technology or what it claimed to be the negative consumer choices fueled by fear to adopt smaller and lighter fuel-efficient vehicles due to increased crash incompatibility. Mr. Karth believed NHTSA should consider ''what a parent would pay to protect their children,'' the ''impact upon a family if a bread-winner is injured or lost,'' and ''the medical expenses to care for a severely injured individual.'' Ms. Karth believed NHTSA's benefit-cost

[86] The estimation of rear impact guard effectiveness is detailed in the FRE. Fatalities and injuries would also depend on other factors such as occupant age, seat belt use, and crash dynamics. Considering these factors, and using engineering judgement we believe 50 percent is a reasonable estimate of the effectiveness of CMVSS compliant rear impact guards.

[87] *https://trailer-bodybuilders.com/trailer-output/2014-trailer-production-figures-table.*

[88] Section 30101 sets forth the purpose and policy of the Safety Act.

analysis did not ''take into consideration the circumstances and costs of the full extent of underride research.''

NHTSA has prepared a Final Regulatory Evaluation (FRE) for this final rule and has placed a copy of the FRE in the docket.[89] The FRE for this final rule discusses and explains the agency's final estimates for the benefits and cost that would result from this rulemaking. The analysis and findings are not significantly different from those of the PRE.

NHTSA believes that it has properly calculated the applicable benefits and costs to its rule using the appropriate variables. We sought to estimate the benefits of the rule by determining the number of lives and serious injuries it would prevent over the current situation and then monetize that number using the VSL value. We then compared these benefits with the cost of the rule, the increased material and fuel costs that requiring rear impact guard upgrades would necessitate. These variables encompass the benefits and costs that this rule would impose. In the absence of sufficient information to quantify changes in consumer behavior, we do not believe that factoring in variables such as negative consumer choices resulting from the fear of underride collisions is appropriate.

Some comments remarked on what were perceived to be NHTSA's overestimation of projected costs. Mr. Karth questioned NHTSA's calculations as being overstated, particularly emphasizing that the fuel costs NHTSA projected in the PRE did not turn out to be accurate. The commenter also believed NHTSA's benefit-cost analysis is faulty because manufacturers have been willing to ''provide a better rear impact guard even without regulation.'' Ms. Karth commented that customers have shown they are willing to pay for trailers to be safer, and manufacturers have shown that they are willing to respond to that demand and produce safer trailers. Network believed that NHTSA used outdated costs when analyzing how much an upgraded rear impact guard would cost. Mr. Brown indicated that the costs of the regulation could ''be distributed to many different people and products.''

Agency Response. We disagree that we overestimated the costs of the rule. We determined the incremental cost of installing CMVSS No. 223 compliant guards on all trailers that would need to upgrade to new guards and the resulting increase in fuel costs such installation would cause. While commenters pointed to factors they believed NHTSA should have considered, we do not believe such considerations are appropriate. For example, Mr. and Ms. Karth suggested that manufacturers have been willing to provide a better rear impact guard and that consumers have shown that they are willing to pay more for vehicles to have upgraded rear impact guards. The fact, however, that some manufacturers and consumers may be willing to accept increased costs is not relevant to estimating the increased costs of the guards, which is a factor germane to an analysis that seeks to quantify the costs of the rule and analyze societal impacts. Similarly, while Network remarked that NHTSA's estimates for the value of an upgraded rear impact guard were too high, it did so by reflecting on what it thought the cost of a guard should be. NHTSA determined this cost by looking to the average cost of CMVSS No. 223 compliant guards on the market, which the agency believes reflects a more realistic and accurate value.

In response to Mr. Karth's comment regarding NHTSA's estimated fuel costs from the PRE, NHTSA followed well established procedures to estimate incremental fuel costs due to increased weight of the rear impact guards and the most recent information on fuel price. NHTSA considered the most up-to-date data in developing this final rule, updated its variables where necessary in the FRE and used the most current data available to inform this rulemaking.

Some commentators stated that NHTSA underestimated the benefits of improved rear impact guards. According to Advocates, NHTSA based its calculation of the proposed rule's benefits on the agency's belief that only 26 percent of light vehicle occupant fatal crashes into the rear of trailers with rear impact guards that resulted in PCI occur at speeds of 35 mph or less. Advocates believed that using this number ''significantly reduced the agency's estimate of the number of crashes and occupants that could be aided by the upgrade in rear protection guards'' because it is based on speed estimates, which Advocates considers ''notoriously inaccurate.'' TSC similarly commented that NHTSA derived speed estimates from ''inconsistent, unreliable sources'' and failed to count instances of PCI properly, resulting in NHTSA's underestimating the benefits of the intended rule.

Agency Response. NHTSA has analyzed the comments and believes it has properly calculated the benefits of this rulemaking. The agency determined the number of fatalities and serious injuries this rule would prevent by analyzing the supplemented TIFA data from the 2013 UMTRI Study. This data source is the most accurate available to determine the number of fatalities and serious injuries currently caused by fatal light vehicle crashes into the rear of trailers with PCI at speeds of 56 km/h (35 mph) or less—the crashes NHTSA is targeting in this rule. We have used these data appropriately for determining the target population and estimating the benefits and in accordance with OMB Circular A–4 [90] guidance on the development of regulatory analysis. NHTSA also notes that, while commenters objected to using data based on speed estimates and determinations of PCI, they did not present any alternative data source they believed was more reliable. The TIFA data have been thoroughly apprised for accuracy and are the best data available for an analysis of benefits. NHTSA has concluded the data are sufficient to proceed with quantifying the benefits of this rulemaking and to proceed to a final rule.

Summary of the Final Regulatory Evaluation

The estimated benefits and costs of the FRE are along the same lines as those in the PRE. In the FRE, NHTSA determined that 94 percent of applicable new trailers are now equipped with rear impact guards that are compliant with the updated FMVSS No. 223 requirements. Additionally, NHTSA updated the value of statistical life (VSL) in accordance with the March 2021 Department of Transportation revised guidance regarding the treatment of the economic value of a statistical life in U.S Department of Transportation regulatory analyses (2021 Update).[91]

Assuming 13 percent effectiveness of these guards in fatal crashes with PCI into the rear of trailers, the agency estimates that about 0.56 ($= 72 \times (1 - 0.94) \times 0.13$) lives would be saved annually by requiring all applicable trailers to be equipped with CMVSS No. 223 compliant guards. The agency also estimates that a total of 3.5 serious injuries would be prevented annually with the rear impact guard final rule. Including fatalities and serious injuries,

[89] The FRE may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document.

[90] *https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/.*

[91] For more information, please see a 2021 Office of the Secretary memorandum on the ''Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses—2021 Update.'' *https://www.dot.gov/policy/transportation-policy/economy.*

the rule would result in an estimated 1.4 equivalent lives saved annually.

NHTSA estimates the annual incremental fleet cost of equipping all applicable trailers with CMVSS No. 223 rear impact guards to be $2.1 million based on an average increase in cost of $254.35 per guard. The annual incremental lifetime fuel cost, based on an average weight increase of 48.9 pound per vehicle, is estimated to be $5.59 million and $4.43 million discounted at 3 percent and 7 percent, respectively. Therefore, the total cost of the final rule, including material and fuel costs, is $7.69 million discounted at 3 percent and $6.54 million discounted at 7 percent.

The agency estimates that the cost per equivalent life saved is $6.77 million and $7.25 million discounted at 3 percent and 7 percent, respectively, as shown in Table 5. A summary of the regulatory cost and net benefit of the final rule at the 3 percent and 7 percent discount rates are presented in Table 6. At 3 percent discount rate, the net benefit of the final rule is $6.04 million. At 7 percent discount rate, the net benefit of the final rule is $4.36 million.

TABLE 5—COST PER EQUIVALENT LIFE SAVED

[In millions of 2020 dollars]

Discount rate	Undiscounted	3%	7%
Total Cost	$9.00	$7.69	$6.54
Equivalent Lives Saved	1.40	1.14	0.90
Cost per Equivalent Life Saved	$6.42	$6.77	$7.25

TABLE 6—NET BENEFITS

[In millions of 2020 dollars]

Discount rate	Undiscounted	3%	7%
Comprehensive Benefit	$16.96	$13.73	$10.90
Total Cost	9.00	7.69	6.54
Net Benefit	7.96	6.04	4.36

For further information regarding the aforementioned cost and benefit estimates, please reference the FRE that NHTSA placed in the docket.

VIII. Regulatory Notices and Analyses

Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

We have considered the impacts of this final rule under Executive Orders 12866 and 13563, and the Department of Transportation's administrative rulemaking procedures. This final rule has been determined to be nonsignificant under E.O. 12866 and was not reviewed by OMB. We have discussed comments to the PRE and summarized the estimated costs, benefits, and cost-effectiveness of this final rule in the above section of this preamble, and in the FRE. NHTSA estimates that this final rule will save approximately 1.14 and 0.9 equivalent lives annually discounted at 3 percent and 7 percent, respectively. The total cost of the final rule, including material and fuel costs, is estimated to be $7.69 million discounted at 3 percent and $6.54 million discounted at 7 percent. The net cost per equivalent lives saved is $6.77 million and $7.25 million discounted at 3 percent and 7 percent, respectively. NHTSA's FRE fully discusses the estimated costs, benefits, and other impacts of this rule.

Consistent with E.O. 13563, NHTSA is amending FMVSS Nos. 223 and 224 because of retrospectively analyzing the effectiveness of the standards. NHTSA realized the merits of CMVSS No. 223 in addressing the same safety need that is the subject of FMVSS Nos. 223 and 224 and undertook this rulemaking to adopt upgraded strength and other requirements of CMVSS No. 223.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small business, small organizations, and small governmental jurisdictions), unless the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

I certify that this rule will not have a significant economic impact on a substantial number of small entities. NHTSA estimates there are 354 manufacturers of trailers in the U.S., 331 of which are small businesses. The impacts of this final rule on small trailer manufacturers would not be significant. This rule will make changes to the strength requirements applying to rear impact guards but will not affect the method by which small trailer manufacturers can certify compliance with FMVSS Nos. 223 and 224.

FMVSS No. 223, an equipment standard, specifies strength and energy absorption requirements in quasi-static force tests of rear impact guards sold for installation on new trailers and semitrailers. FMVSS No. 224, a vehicle standard, requires new trailers and semitrailers with a GVWR of 4,536 kg (10,000 lb) or more to be equipped with a rear impact guard meeting FMVSS No. 223. NHTSA established the two-standard approach to provide underride protection in a manner that imposes reasonable compliance burdens on small trailer manufacturers.

Under FMVSS No. 223, the guard may be tested for compliance while mounted to a test fixture or to a complete trailer. FMVSS No. 224 requires that the guard be mounted on the trailer or semitrailer in accordance with the instructions provided with the guard by the guard manufacturer. Under this approach, a small manufacturer that produces relatively few trailers can certify its trailers to FMVSS No. 224 without feeling compelled to undertake destructive testing of what could be a substantial portion of its production. The two-standard approach was devised to provide small manufacturers a

practicable and reasonable means of meeting the safety need served by a rear impact guard requirement. This final rule does not change the method of certifying compliance to the rear impact guard requirements of FMVSS Nos. 223 and 224.

National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

Executive Order 13132 (Federalism)

NHTSA has examined this final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule 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.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under chapter 301, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under chapter 301. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Orders 13132 and 12988, NHTSA has considered whether this final rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation. To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of this final rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this final rule will preempt State tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by this rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard in this final rule. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

Executive Order 12988 (Civil Justice Reform)

When promulgating a regulation, Executive Order 12988 specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to Executive Order 12988, NHTSA notes as follows: The preemptive effect of this final rule is discussed above in connection with Executive Order 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Before seeking OMB approval, Federal agencies must provide a 60-day public comment period and otherwise consult with members of the public and affected agencies concerning each collection of information requirement. There are no PRA requirements associated with this final rule.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTIAA) (Pub. L. 104–113), all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the International Organization for Standardization (ISO) and the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This final rule will adopt requirements of CMVSS No. 223. NHTSA's consideration of CMVSS No. 223 accords with the principles of NTTAA, in that NHTSA is considering

an established, proven standard, and has not had to expend significant agency resources on the same safety need addressed by CMVSS No. 223.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). After analyzing the costs of this final rule, it will not result in expenditures by any of the aforementioned entities of over $100 million annually.

Executive Order 13609 (Promoting International Regulatory Cooperation)

The policy statement in section 1 of Executive Order 13609 provides in part that the regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. The E.O. states that, in some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. The E.O. states that, in meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation, and that international regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

This final rule adopts requirements of CMVSS No. 223 to upgrade FMVSS Nos. 223 and 224. NHTSA recognizes that these requirements are different from those in the European standard, ECE R.58, ''Rear underrun protective devices (RUPD); Vehicles with regard to the installation of an RUPD of an approved vehicle; Vehicles with regard to their rear underrun protection.'' [92] R.58 specifies requirements that are similar to, but less stringent than, the current standards in FMVSS Nos. 223 and 224. R.58 specifies a quasi-static loading test of 25 kN at P1, 25 kN at P2, and 100 kN at P3. R.58 also does not specify any energy absorption requirements. NHTSA has decided to adopt the strength requirements of CMVSS No. 223 rather than ECE R.58 because the rear impact protection requirements for trailers in Canada are more stringent than that in Europe and more appropriate for the underride crashes experienced in the U.S. Passenger vehicles in the U.S. are required by FMVSS No. 208 to have frontal air bag protection and comply with a full frontal 56 km/h (35 mph) rigid barrier crash test by ensuring that the injury measures of crash test dummies restrained in front seating positions are within the allowable limits. CMVSS No. 223 is designed to prevent PCI in full frontal 56 km/h (35 mph) crashes. Together, FMVSS No. 208 and FMVSS Nos. 223 and 224 will significantly reduce the harm resulting to occupants of passenger vehicles impacting the rear of trailers in crashes of up to 56 km/h (35 mph).

Plain Language

Executive Order 12866 require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Has the agency organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could the agency improve clarity by adding tables, lists, or diagrams?
- What else could the agency do to make this rulemaking easier to understand?

If you have any responses to these questions, please send them to NHTSA.

Privacy Act

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.*

Regulation Identifier Number

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the hearing at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.223 is amended by:
■ a. Revising S3;
■ b. Adding definitions of ''Ground clearance'' and ''Load path'' in alphabetical order in S4;
■ c. Revising S5.2, S5.5(c), S6 introductory text, S6.3, S6.4 introductory text, S6.4(a) introductory text, and S6.4(b) introductory text;
■ d. Removing S6.4(c);
■ e. Revising S6.5 introductory text and S6.5(a);
■ f. Adding S6.5(c);
■ g. Revising S6.6 introductory text, S6.6(b), and S6.6(c);
■ f. Adding S6.7 through S6.9;
■ g. Revising Figures 1 and 2; and
■ h. Adding Figures 3 and 4.

The revisions and additions read as follows:

§ 571.223 Standard No. 223; Rear impact guards

* * * * *

S3. *Application.* This standard applies to rear impact guards for trailers and semitrailers subject to Federal Motor Vehicle Safety Standard No. 224, *Rear Impact Protection* (§ 571.224).

S4. * * *

Ground clearance means the vertical distance from the bottom edge of a horizontal member to the ground.

* * * * *

Load path means a route of force transmission between the horizontal member and the chassis.

* * * * *

S5.2 *Strength and Energy Absorption.* When tested under the

[92] Economic Commission of Europe (ECE) R.58, ''Rear underrun protective devices (RUPDs); Vehicles with regard to the installation of an RUPD of an approved type; Vehicles with regard to their rear underrun protection (RUP),'' February 2019, *https://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29regs/2017/R058r3e.pdf.*

procedures of S6 of this section, each guard shall comply with the strength requirements of S5.2.1 of this section at each test location and the energy absorption requirements of S5.2.2 of this section when a distributed load is applied uniformly across the horizontal member, as specified in S6.8 of this section. However, a particular guard (*i.e.,* test specimen) need not be tested at more than one location.

S5.2.1 *Guard Strength.* The guard must resist the force levels specified in S5.2.1(a) through (c) of this section without deflecting by more than 125 mm and without eliminating any load path that existed before the test was initiated.

(a) A force of 50,000 N applied in accordance with S6.6 of this section at test location P1 on either the left or the right side of the guard as defined in S6.4(a) of this section.

(b) A force of 50,000 N applied in accordance with S6.6 of this section at test location P2 as defined in S6.4(b) of this section.

(c) A uniform distributed force of at least 350,000 N applied across the horizontal member, as specified in S6.8 of this section and in accordance with S6.6 of this section.

S5.2.2 *Guard Energy Absorption.*

(a) A guard, other than a hydraulic guard or one installed on a tanker trailer, when subjected to a uniform distributed load applied in accordance with S6.6(c) of this section:

(1) Shall absorb by plastic deformation at least 20,000 J of energy within the first 125 mm of deflection without eliminating any load path that existed before the test was initiated; and

(2) Have a ground clearance not exceeding 560 mm, measured at each support to which the horizontal member is attached, as shown in Figure 4 of this section, after completion of the load application.

(b) A guard, other than a hydraulic guard or one installed on a tanker trailer, that demonstrates resistance to a uniform distributed load greater than 700,000 N applied in accordance with S6.6(b) of this section, need not meet the energy absorption requirements of S5.2.2(a) of this section but must have a ground clearance not exceeding 560 mm at each vertical support to which the horizontal member is attached after completion of the 700,000 N load application.

* * * * *

S5.5 * * *

(c) An explanation of the method of attaching the guard to the chassis of each vehicle make and model listed or to the design elements specified in the instructions or procedures. The principal aspects of vehicle chassis configuration that are necessary to the proper functioning of the guard shall be specified including the maximum allowable vertical distance between the bottom edge of the horizontal member of the guard and the ground to ensure post-test ground clearance requirements are met. If the chassis strength is inadequate for the guard design, the instructions or procedures shall specify methods for adequately reinforcing the vehicle chassis. Procedures for properly installing any guard attachment hardware shall be provided.

S6. *Guard Test Procedures.* The procedures for determining compliance with S5.2 of this section are specified in S6.1 through S6.9 of this section.

* * * * *

S6.3 *Point Load Force Application Device.* The force application device employed in S6.6 of this section consists of a rectangular solid made of rigid steel. The steel solid is 203 mm in height, 203 mm in width, and 25 mm in thickness. The 203 mm by 203 mm face of the block is used as the contact surface for application of the forces specified in S5.2.1(a) and (b) of this section. Each edge of the contact surface of the block has a radius of curvature of 5 mm plus or minus 1 mm.

S6.4 *Point Load Test Locations.* With the guard mounted to the rigid test fixture or to a complete trailer, determine the test locations P1 and P2 in accordance with the procedure set forth in S6.4(a) and (b) of this section. See Figure 1 of this section.

(a) Point Load Test location P1 is the point on the rearmost surface of the horizontal member of the guard that:

* * * * *

(b) Point Load Test location P2 is the point on the rearmost surface of the horizontal member of the guard that:

* * * * *

S6.5 *Positioning of Force Application Device.* Before applying any force to the guard, locate the force application device specified in S6.3 of this section for the point load test location and that specified in S6.7 of this section for the uniform distributed load test location, such that:

(a) The center point of the contact surface of the force application device is aligned with and touching the guard test location, as defined by the specifications of S6.4 of this section for the point load test locations, and S6.8 of this section for the uniform distributed load test location.

* * * * *

(c) If the guard is tested on a rigid test fixture, the vertical distance from the bottom edge of the horizontal member to the ground at the location of each support to which the horizontal member is attached, shall be measured.

S6.6 *Force Application.* After the force application device has been positioned according to S6.5 of this section, at the point load test locations specified in S6.4 of this section or the uniform distributed load test location specified in S6.8 of this section, apply the loads specified in S5.2 of this section. Load application procedures are specified in S6.6(a) through (d) of this section.

* * * * *

(b) If conducting a strength test to satisfy the requirement of S5.2.1 or S5.2.2(b) of this section, the force is applied until the forces specified in S5.2.1 or S5.2.2(b) of this section have been exceeded, or until the displacement of the force application device has reached at least 125 mm whichever occurs first.

(c) If conducting a test to be used for the calculation of energy absorption levels to satisfy the requirement of S5.2.2(a) of this section, apply a uniform distributed force to the guard until displacement of the force application device, specified in S6.7 of this section, has reached 125 mm. For calculation of guard energy absorption, the value of force is recorded at least ten times per 25 mm of displacement of the contact surface of the loading device. Reduce the force until the guard no longer offers resistance to the force application device. Produce a force vs. deflection diagram of the type shown in Figure 2 of this section using this information. Determine the energy absorbed by the guard by calculating the shaded area bounded by the curve in the force vs. deflection diagram and the abscissa (X-axis).

* * * * *

S6.7 *Uniform Distributed Load Force Application Device.* The force application device to be employed in applying the uniform distributed load is to be unyielding, have a height of 203 mm, and have a width that exceeds the distance between the outside edges of the outermost supports to which the tested portion of the horizontal member is attached, as shown in Figure 3 of this section.

S6.8 *Uniform Distributed Load Test Location.* With the guard mounted to the rigid test fixture or to a complete trailer, determine the test location in accordance with the following procedure. See Figure 3 of this section. Distributed Force Test location is the plane on the rearmost surface of the horizontal member of the guard that:

(a) Is centered in the longitudinal vertical plane passing through the center of the guard's horizontal member; and

(b) Is centered 50 mm above the bottom of the guard.

S6.9 *Ground Clearance Measurement.*

(a) For the test device attached to a complete trailer as specified in S6.2 of this section, the ground clearance of the guard at the vertical supports to which the horizontal member is attached shall be measured after completion of the uniform distributed load test in accordance with S6.6(b) or S6.6(c) of this section.

(b) For the test device attached to a rigid test fixture as specified in S6.2 of this section, the vertical distance from the ground to the bottom edge of the horizontal member at the vertical supports to which the horizontal member is attached shall be measured after completion of the uniform distributed load test in accordance with S6.6(b) or S6.6(c) of this section and subtracted from the corresponding ground clearance measured before the load application in accordance with S6.5(c) of this section. The difference in ground clearance before and after the load application is added to the allowable maximum vertical distance between the bottom edge of the horizontal member of the guard and the ground as specified in S5.5(c) of this section, to obtain the ground clearance after completion of the uniform distributed load test.

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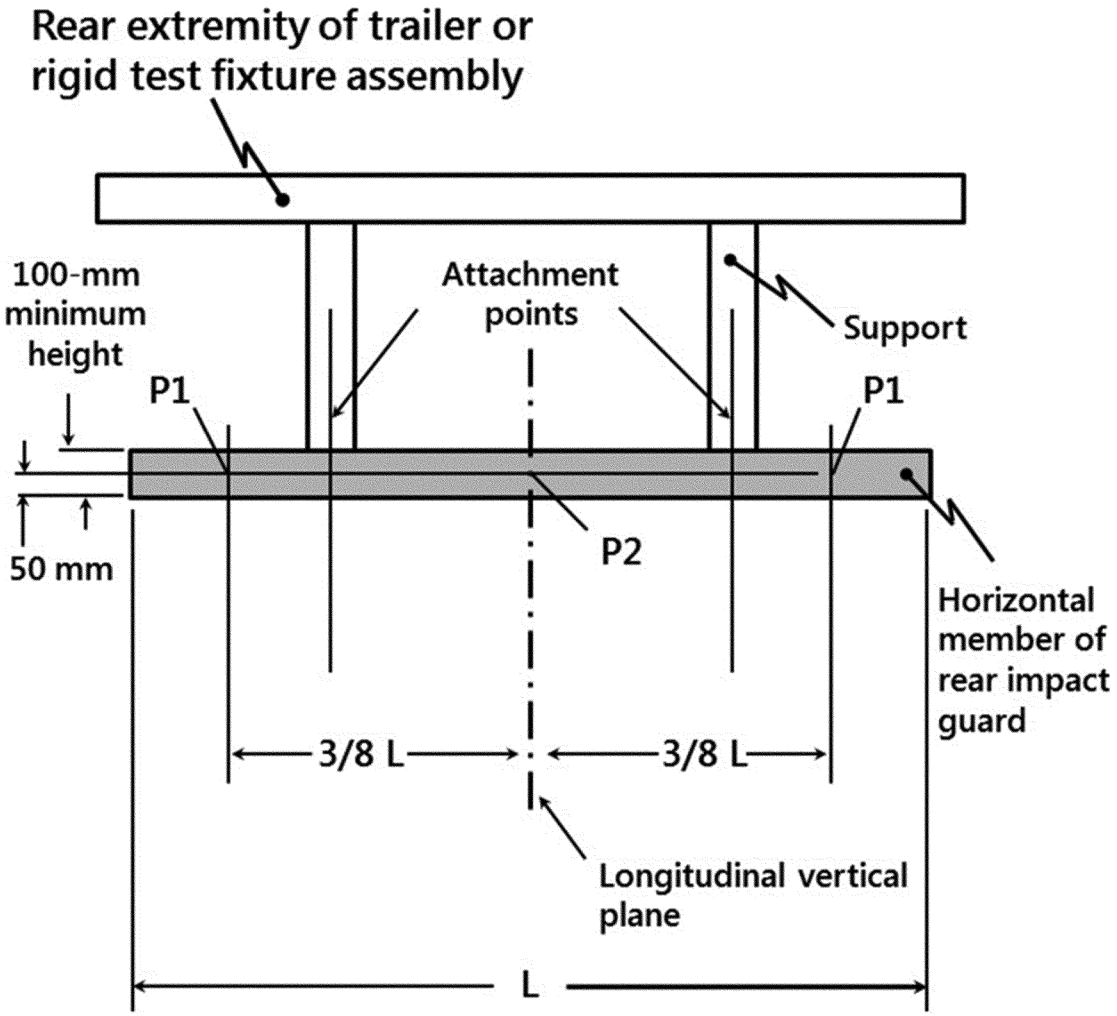
FIGURES TO § 571.223

FIGURE 1: REAR VIEW OF THE REAR IMPACT GUARD



Notes:
1. L means width of the horizontal member.
2. Drawing not to scale

(Note: Drawing is not to scale)

FIGURE 2: TYPICAL FORCE DEFLECTION DIAGRAM

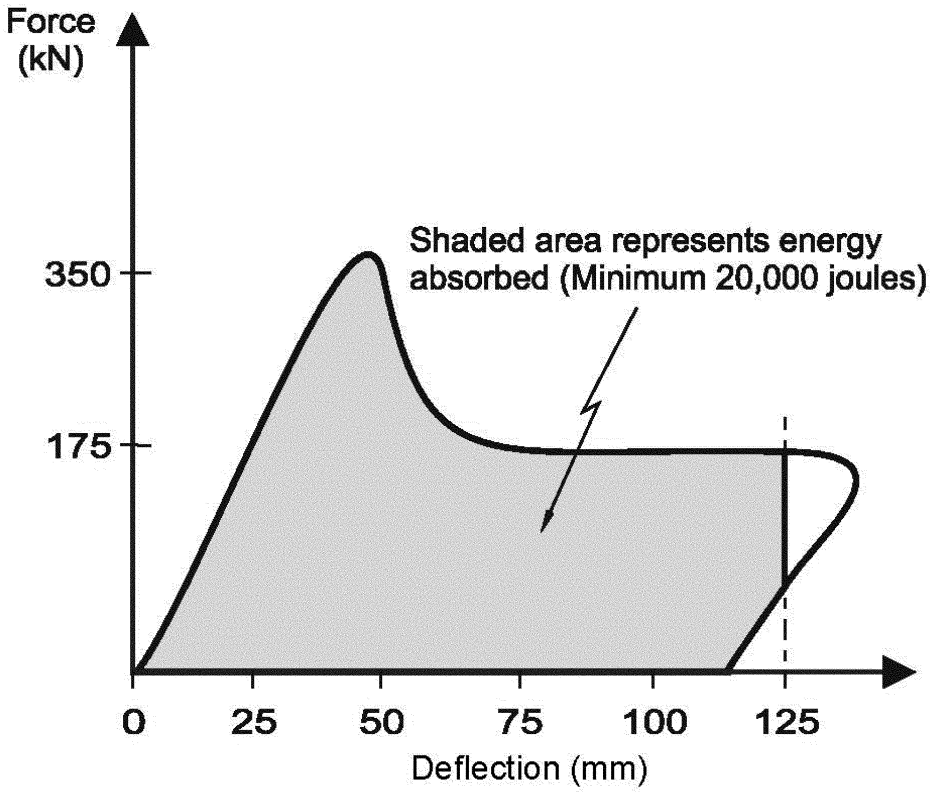
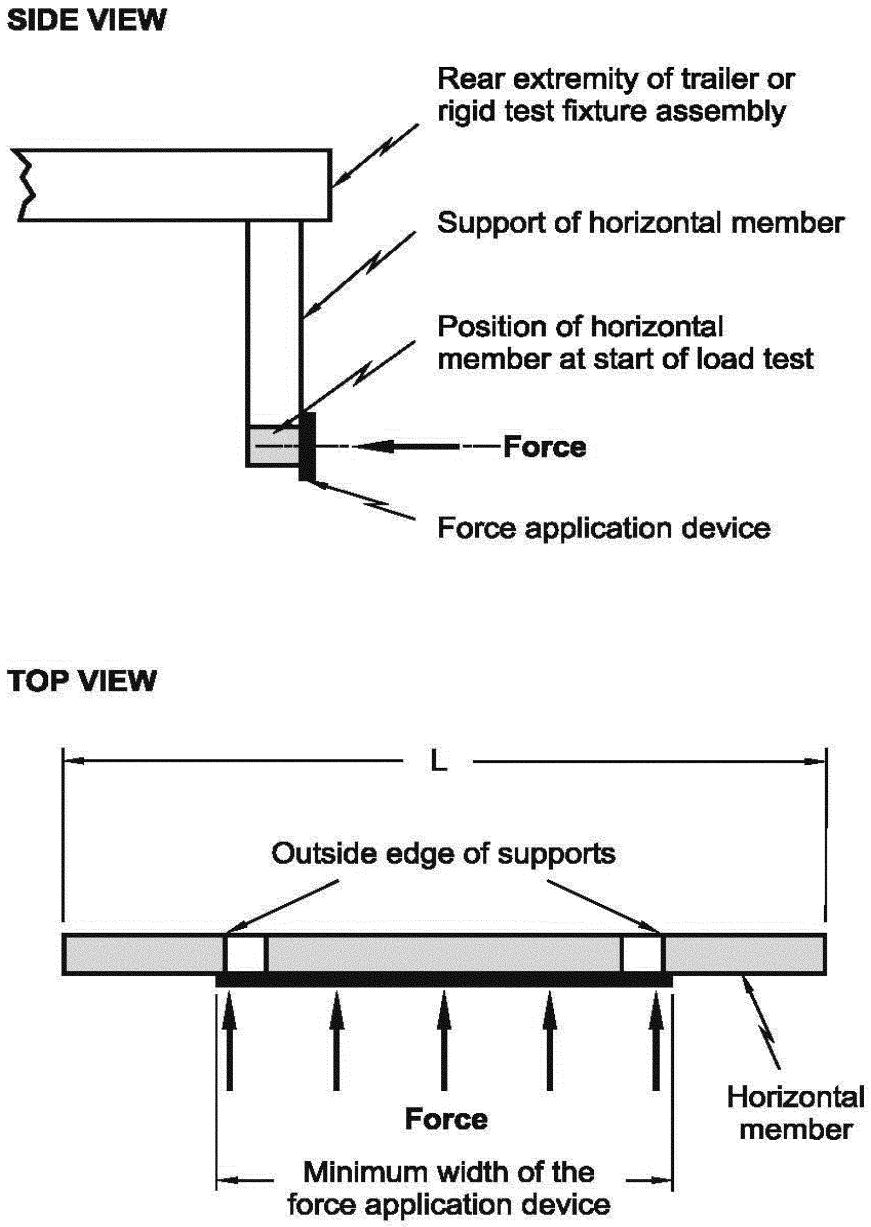


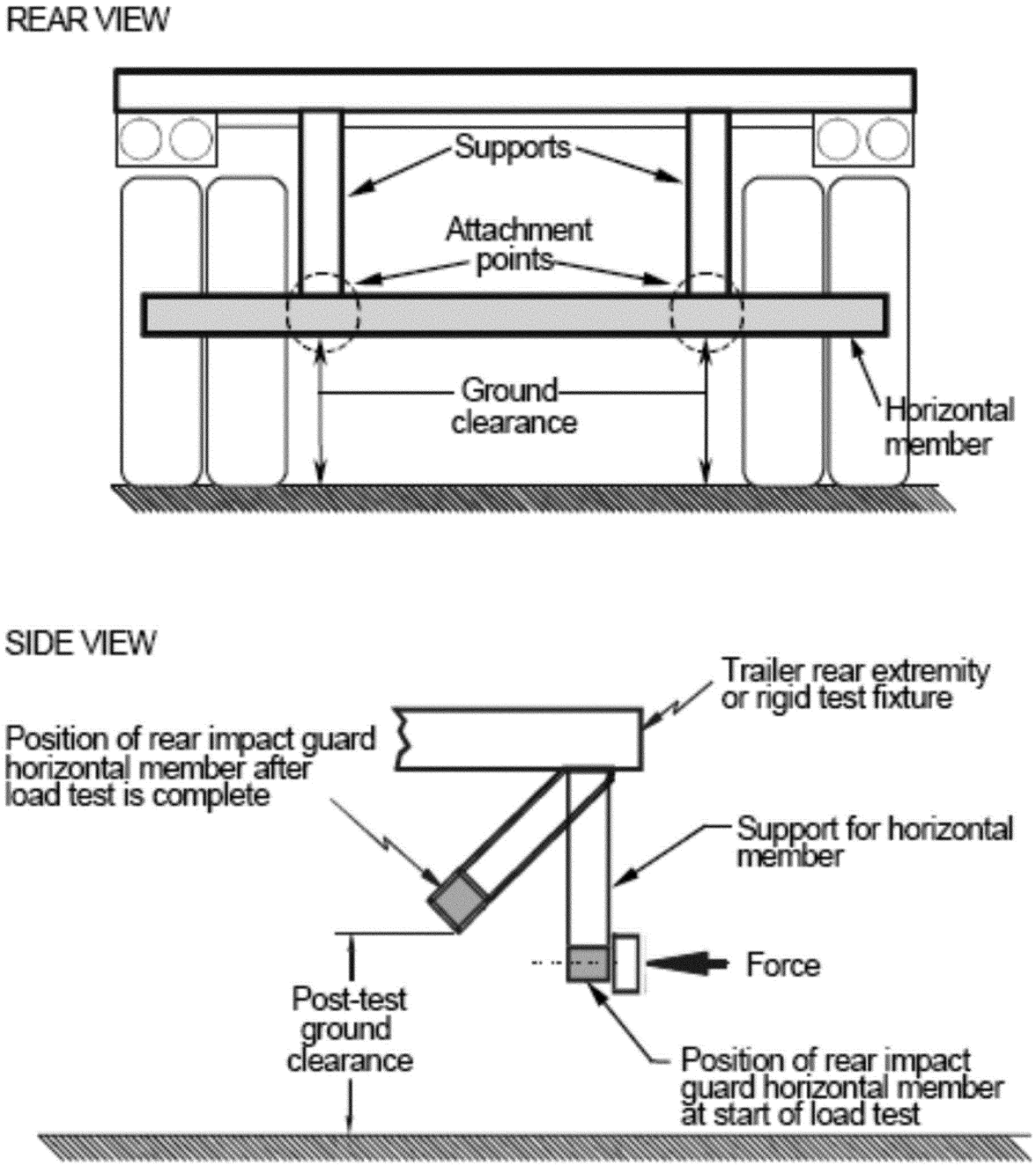
FIGURE 3: UNIFORM DISTRIBUTED LOAD APPLICATION TEST



Notes:
1. L means width of the horizontal member.
2. Drawings not to scale

(Note: Drawings are not to scale)

FIGURE 4: POST-TEST GROUND CLEARANCE MEASUREMENT



(Note: Drawings are not to scale)

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■ 3. Section 571.224 is amended by revising the second sentence in S3 and the definition of ''Rear extremity'' in S4 to read as follows:

§ 571.224 Standard No. 224; Rear impact protection.

* * * * *

S3. *Application.* * * * The standard does not apply to pole trailers, pulpwood trailers, low chassis vehicles, road construction controlled horizontal discharge trailers, special purpose vehicles, wheels back vehicles, or temporary living quarters as defined in 49 CFR 523.2. * * *

S4. * * *

Rear extremity means the rearmost point on a trailer that is above a horizontal plane located above the ground clearance and below a horizontal plane located 1,900 mm above the ground when the trailer is configured as specified in S5.1 of this

section and when the trailer's cargo doors, tailgate and other permanent structures are positioned as they normally are when the trailer is in motion, with non-structural protrusions excluded from the determination of the rearmost point, such as:

(1) Tail lamps;

(2) Rubber bumpers;

(3) Hinges and latches; and

(4) Flexible aerodynamic devices capable of being folded to within 305 mm from the transverse vertical plane tangent to the rear most surface of the horizontal member for vertical heights below 1,740 mm above ground and, when positioned as they normally are when the trailer is in motion, are located forward of the transverse plane that is tangent to the rear bottom edge of the horizontal member and intersecting a point located 1,210 mm rearward of the horizontal member and 1,740 mm above the ground.

* * * * *

Issued under authority delegated in 49 CFR 1.95 and 501.5.

Steven S. Cliff,

Administrator.

[FR Doc. 2022–14330 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220–711–0152; RTID 0648–XB986]

Atlantic Highly Migratory Species; Adjustments to 2022 North and South Atlantic Swordfish Quotas

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

ACTION: Temporary final rule.

SUMMARY: NMFS adjusts the 2022 baseline quotas for U.S. North and South Atlantic swordfish based on available underharvest of the 2021 adjusted U.S. quotas. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action to adjust the quotas is only temporary and will be effective through December 31, 2022. On January 1, 2023, the unadjusted annual baseline allocations of North and South Atlantic swordfish will renew and be available to harvest consistent with HMS regulations.

DATES: Effective August 15, 2022, through December 31, 2022.

ADDRESSES: Supporting documents, including environmental assessments and environmental impact statements, as well as the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments may be downloaded from NOAA Fisheries' HMS Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species.* These documents also are available upon request from Erianna Hammond or Steve Durkee at the email addresses and telephone number below.

FOR FURTHER INFORMATION CONTACT: Erianna Hammond (*erianna.hammond@noaa.gov*) or Steve Durkee (*steve.durkee@noaa.gov*) at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including swordfish fisheries, are managed under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27(c) implements the ICCAT-recommended quotas and describes the quota adjustment process for both North and South Atlantic swordfish. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

North Atlantic Swordfish Annual Quota and Adjustment Process

Consistent with the North Atlantic swordfish quota regulations at § 635.27(c), NMFS adjusts the U.S. annual North Atlantic swordfish quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments consistent with ICCAT limits and when catch information for the prior year is available. Under ICCAT Recommendation 16–03, as amended by Recommendation 21–02, the U.S. North Atlantic swordfish baseline annual quota for 2018 through 2022 is 2,937.6 metric tons (mt) dressed weight (dw) (3,907 mt whole weight (ww)). The maximum underharvest that the United States may carry forward from one year to the next is 15 percent of the baseline quota, which equals 440.6 mt dw (586 mt ww) for the United States. In 2021, the adjusted North Atlantic swordfish quota was 3,378.2 mt dw (2,937.6 mt dw baseline quota + 440.6 mt dw carried over from 2020).

Preliminary total 2021 U.S. North Atlantic swordfish catch, which includes landings and dead discards, was 961.8 mt dw, which is an underharvest of 2,416.4 mt dw of the 2021 adjusted quota. This underharvest exceeds the 440.6-mt dw underharvest carryover limit allowed under Recommendation 21–02. Thus, NMFS is carrying forward 440.6 mt dw, the maximum carryover allowed. The 2,937.6-mt dw baseline quota is increased by the underharvest carryover of 440.6 mt dw, resulting in a final adjusted North Atlantic swordfish quota for the 2022 fishing year of 3,378.2 mt dw (2,937.6 + 440.6 = 3,378.2 mt dw). From that adjusted quota, 50 mt dw will be allocated to the Reserve category for inseason adjustments and research, and 300 mt dw will be allocated to the Incidental category, which covers recreational landings and landings by incidental swordfish permit holders, in accordance with regulations at § 635.27(c)(1)(i). This results in an allocation of 3,028.2 mt dw (3,378.2 − 50 − 300 = 3,028.2 mt dw) for the directed category, split equally between two seasons in 2022 (January through June, and July through December) (Table 1).

South Atlantic Swordfish Annual Quota and Adjustment Process

Consistent with the South Atlantic swordfish quota regulations at § 635.27(c), NMFS adjusts the U.S. annual South Atlantic swordfish quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments consistent with ICCAT limits when catch information for the prior year is available. Under ICCAT Recommendation 17–03 as amended by Recommendation 21–03, the U.S. South Atlantic swordfish baseline annual quota for 2018 through 2022 is 75.2 mt dw (100 mt ww) and the amount of underharvest that the United States can carry forward from one year to the next is 100 percent of the baseline quota (75.2 mt dw). Under Recommendations 17–03 and 21–03, the United States continues to transfer a total of 75.2 mt dw (100 mt ww) to other countries. These transfers are 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize.

Since 2014, the annual U.S. adjusted South Atlantic swordfish quota has been

75.1 mt dw due to 0.1 mt dw of landings in 2013. Since the United States is allocated 75.2 mt dw of South Atlantic swordfish quota each year and 75.2 mt dw of South Atlantic swordfish quota is transferred to other countries each year, underharvest of the previous year largely drives the U.S. adjusted quota total for the stock. Since there was 0.1 mt of South Atlantic swordfish landed in 2013, there was only 75.1 mt dw of underharvest available for 2014 resulting in an adjusted quota of 75.1 mt dw for the 2014 fishing year. Similarly, subsequent years only had 75.1 mt dw of underharvest available each year to transfer to the next, resulting in a 75.1-mt dw adjusted quota each year through 2021. To fix this minor accounting issue, the United States reduced its quota transfer to Belize in 2022 by 0.1 mt dw, as reflected in the 2021 ICCAT compliance tables endorsed by the Commission at the 2021 Annual Meeting.

U.S. fishermen landed no South Atlantic swordfish in 2021. The United States had 75.1 mt dw of quota available for accounting in 2021. Therefore, 75.1 mt dw of underharvest is available to carry over to 2022. NMFS is carrying forward 75.1 mt dw to be added to the 75.2-mt dw baseline quota. The quota is then reduced by the 75.1 mt dw of annual international quota transfers outlined above, including the minor reduction in the quota transfer to Belize for 2022, resulting in an adjusted South Atlantic swordfish quota of 75.2 mt dw for the 2022 fishing year (Table 1).

TABLE 1—2022 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

	2021	2022
North Atlantic swordfish Quota (mt dw):		
Baseline Quota	2,937.6	2,937.6
International Quota Transfer	0	0
Total Underharvest from Previous Year	2,278.12	2,416.4
Underharvest Carryover from Previous Year †	(+)440.6	(+)440.6
Adjusted Quota	3,378.2	3,378.2
Quota Allocation:		
Directed Category	3,028.2	3,028.2
Incidental Category	300	300
Reserve Category	50	50
South Atlantic swordfish Quota (mt dw):		
Baseline Quota	75.2	75.2
International Quota Transfers *	(−)75.2	(−)75.1
Total Underharvest from Previous Year	75.1	75.1
Underharvest Carryover from Previous Year †	75.1	75.1
Adjusted quota	75.1	75.2

† Allowable underharvest carryover is capped at 15 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic.

* Under ICCAT Recommendations 17–03 and 21–03, the United States transfers 75.2 mt dw (100 mt ww) annually to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww). As detailed in the *South Atlantic Swordfish Annual Quota and Adjustment Process* section, the United States transferred 18.7 mt dw (24.94 mt ww) to Belize for 2022, resulting in total international quota transfers of 75.1 mt dw (99.94 mt ww).

Classification

NMFS is issuing this rule pursuant to 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the 2006 Consolidated Atlantic HMS FMP and amendments, the Magnuson-Stevens Act, ATCA, and other applicable law.

Pursuant to section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), the AA finds that it is unnecessary and would be contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the reasons described below.

The rulemaking process for the 2016 North and South Atlantic Swordfish Quota Adjustment Rule (81 FR 48719, July 26, 2016) specifically provided prior notice of, and accepted public comment on, the formulaic quota adjustment processes for the swordfish fisheries and the manner in which they occur. These processes have not changed, and the application of these formulas in this action does not have discretionary aspects requiring additional agency consideration. Thus, it would be redundant to provide an opportunity for public comment on this action. There are no new quotas for 2022, and the quota formulas are the same as in previous years. NMFS therefore is issuing this temporary final rule to adjust the North and South Atlantic swordfish quotas for 2022 without prior notice and an additional opportunity for comment. Actions to adjust the swordfish quotas based on the previous year's underharvest occur annually and the affected community expects similar adjustments in 2022. This action to adjust the 2022 quotas could not occur earlier in the year because preliminary 2021 landings data were not available until recently.

This action is exempt from review under Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 12, 2022.

Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–15203 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220711–0151]

RIN 0648–BL12

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 63

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

ACTION: Final rule.

SUMMARY: This action approves and implements Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan. This rule sets or adjusts catch limits for 5 of the 20 multispecies (groundfish) stocks, adjusts recreational measures for Georges Bank cod, and revises the default specifications process. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The final measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

DATES: Effective July 15, 2022.

ADDRESSES: Copies of Framework Adjustment 63, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: *http://www.nefmc.org/management-plans/northeast-multispecies* or *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fishery Policy Analyst, phone: 978–282–8493; email: *Liz.Sullivan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Summary of Approved Measures

The New England Fishery Management Council adopted Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan (FMP) on December 8, 2021. The Council submitted Framework 63, including an EA, for NMFS approval on March 28, 2022. We published a proposed rule for Framework 63 on April 20, 2022 (87 FR 23482), with a 15-day comment period that closed on May 5, 2022.

Under the Magnuson-Stevens Act, we approve, disapprove, or partially approve measures that the Council proposes, based on consistency with the Act and other applicable law. We review proposed regulations for consistency with the fishery management plan, plan amendment, the Magnuson-Stevens Act and other applicable law, and publish the proposed regulations, solicit public comment, and promulgate the final regulations. We have approved all of the measures in Framework 63 recommended by the Council, as described below. The measures implemented in this final rule:

- Set shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock for fishing years 2022 and 2023;
- Set specifications, including catch limits, for five groundfish stocks: Gulf of Maine (GOM) cod (2022–2024), GB yellowtail flounder (2022–2023), and GB cod, GB haddock, and white hake (2022);
- Adjust recreational measures for GB cod;
- Modify the regulatory process for the Regional Administrator to adjust recreational measures for GB cod to apply to the 2023 and 2024 fishing years, and;
- Modify the current process for default specifications.

This action also makes regulatory corrections that are not part of Framework 63, but that are implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are making these corrections in conjunction with the Framework 63 measures for expediency purposes. These corrections are described in Regulatory Corrections under Secretarial Authority.

Fishing Years 2022 and 2023 Shared U.S./Canada Quotas

Management of Transboundary Georges Bank Stocks

As described in the proposed rule, eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. This action adopts shared U.S./Canada quotas for these stocks for fishing year 2022 based on 2021 assessments and the recommendations of the Transboundary Management Guidance Committee (TMGC) and consistent with the Council's Scientific and Statistical Committee (SSC) recommendations. Framework 63 sets the same shared quotas for a second year (*i.e.,* for fishing year 2023) as placeholders, with the expectation that those quotas will be reviewed annually and new recommendations will be received from the TMGC. The 2022 and 2023 shared U.S./Canada quotas, and each country's allocation, are listed in Table 1.

TABLE 1—2022 AND 2023 FISHING YEARS U.S./CANADA QUOTAS (mt, live weight) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

Quota	Eastern GB cod	Eastern GB haddock	GB yellowtail flounder
Total Shared Quota	571	14,100	200.
U.S. Quota	160 (28 percent)	6,627 (47 percent)	122 (61 percent).
Canadian Quota	411 (72 percent)	7,473 (53 percent)	78 (39 percent).

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. Based on preliminary data through April 27, 2022, the U.S. fishery did not exceed its 2021 fishing year quota for any of the shared stocks. However, if final catch information for the 2021 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2022 fishing year in an adjustment action, as soon as possible in the 2022 fishing year. If any fishery that

is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that fishery's allocation in the following fishing year. This ensures that catch by one component of the overall fishery does not negatively affect another component of the overall fishery.

Catch Limits for Fishing Years 2022–2024

Summary of the Catch Limits

This rule adopts catch limits for GOM cod for the 2022–2024 fishing years and for GB cod for the 2022 fishing year, based on stock assessments completed in 2021; a catch limit for white hake for fishing year 2022, based on the revised rebuilding plan implemented by Framework 61; and a catch limit for GB yellowtail flounder for fishing years 2022–2023. Framework 59 (85 FR 45794; July 30, 2020) previously set 2022 quotas for seven groundfish stocks based on assessments conducted in 2019, which would remain in place, with a small change to the U.S. ABC for GB haddock, which is the amount available to the U.S. fishery after accounting for Canadian catch, to reflect the 2022 TMGC recommendation for that stock. Framework 61 (86 FR 40353; July 28, 2021) previously set 2022–2023 quotas for the remaining nine groundfish stocks based on assessments conducted in 2020, and those would also remain in place. The catch limits implemented in this action, including overfishing limits (OFL), acceptable biological catches (ABC), and annual catch limits (ACL), are listed in Tables 2 through 10. A summary of how these catch limits were developed, including the distribution to the various fishery components, was provided in the proposed rule and in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2022–FY 2024) to the EA, and is not repeated here. The sector and common pool sub-ACLs implemented in this action are based on fishing year 2022 potential sector contributions (PSC) and final fishing year 2022 sector rosters.

TABLE 2—FISHING YEARS 2022–2024 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES

[mt, live weight]

Stock	2022		Percent change from 2021	2023		2024	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	343	−73.78				
GOM Cod	724	551	0	853	551	980	551
GB Haddock	114,925	81,383	−2				
GOM Haddock	14,834	11,526	−31				
GB Yellowtail Flounder	UNK	122	53	UNK	122		
SNE/MA Yellowtail Flounder	184	22	0				
CC/GOM Yellowtail Flounder	1,116	823	0				
American Plaice	3,687	2,825	−2				
Witch Flounder	UNK	1,483	0				
GB Winter Flounder	974	608	0	1,431	608		
GOM Winter Flounder	662	497	0	662	497		
SNE/MA Winter Flounder	1,438	456	0	1,438	456		
Redfish	13,354	10,062	−1	13,229	9,967		
White Hake	3,022	2,116	−1				
Pollock	21,744	16,812	−24				
N. Windowpane Flounder	UNK	160	0	UNK	160		
S. Windowpane Flounder	513	384	0	513	384		
Ocean Pout	125	87	0	125	87		
Atlantic Halibut	UNK	101	0	UNK	101		
Atlantic Wolffish	122	92	0	122	92		

UNK = Unknown.
Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

TABLE 3—CATCH LIMITS FOR THE 2022 FISHING YEAR

[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	330	244	238	6					11	75
GOM Cod	522	462	261	8.8	192				48	12
GB Haddock	77,302	75,382	74,375	1,007		1,514			0	406
GOM Haddock	10,873	10,690	6,915	141	3,634	107			38	38
GB Yellowtail Flounder	118	97	94	3.0			19	2.3	0.0	0.0
SNE/MA Yellowtail Flounder	21	16	12	3.4			2.0		0.2	3.3
CC/GOM Yellowtail Flounder	787	692	661	31					58	37
American Plaice	2,687	2,630	2,566	64					28	28

TABLE 3—CATCH LIMITS FOR THE 2022 FISHING YEAR—Continued

[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
Witch Flounder	1,414	1,317	1,277	40					44	52
GB Winter Flounder	591	563	551	12					0	27
GOM Winter Flounder	482	281	259	22					194	7.5
SNE/MA Winter Flounder	441	288	250	38					21	132
Redfish	9,559	9,559	9,459	100					0	0
White Hake	2,011	1,990	1,970	20					11	11
Pollock	16,068	14,135	14,020	115					1,093	841
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors.

TABLE 4—CATCH LIMITS FOR THE 2023 FISHING YEAR*

[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	261	8.8	192				48	12
GB Yellowtail Flounder	118	97	94	3.0			19	2.3	0	0
GB Winter Flounder	591	563	551	12					0	27
GOM Winter Flounder	482	281	259	22					194	7.5
SNE/MA Winter Flounder	441	288	250	38					21	132
Redfish	9,469	9,469	9,370	99					0	0
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors.
*All other Northeast multispecies stocks not included in Table 4 do not have catch limits approved beyond fishing year 2022.

TABLE 5—CATCH LIMITS FOR THE 2024 FISHING YEAR*

[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh isheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	261	9	192				48	12

*Framework 63 sets a fishing year 2024 catch limit for GOM cod only.

TABLE 6—FISHING YEARS 2022–2024 COMMON POOL TRIMESTER TACS

[mt, live weight]

Stock	2022			2023			2024		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	1.8	2.1	2.4						
GOM Cod	4.3	2.9	1.6	4.3	2.9	1.6	4.3	2.9	1.6
GB Haddock	271.8	332.3	402.7						
GOM Haddock	38.0	36.6	66.2						
GB Yellowtail Flounder	0.6	0.9	1.5	0.6	0.9	1.5			
SNE/MA Yellowtail Flounder	0.7	1.0	1.7						
CC/GOM Yellowtail Flounder	17.8	8.1	5.3						
American Plaice	47.3	5.1	11.5						

TABLE 6—FISHING YEARS 2022–2024 COMMON POOL TRIMESTER TACS—Continued

[mt, live weight]

Stock	2022			2023			2024		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
Witch Flounder	21.9	8.0	10.0	.....	.....	.....	.....	.....	.....
GB Winter Flounder	1.0	2.9	8.2	1.0	2.9	8.2	.....	.....	.....
GOM Winter Flounder	8.0	8.2	5.4	8.0	8.2	5.4	.....	.....	.....
Redfish	24.9	30.9	43.8	24.7	30.6	43.4	.....	.....	.....
White Hake	7.6	6.2	6.2	.....	.....	.....	.....	.....	.....
Pollock	32.1	40.1	42.4	.....	.....	.....	.....	.....	.....

TABLE 7—COMMON POOL INCIDENTAL CATCH TACS FOR THE 2022–2024 FISHING YEARS

[mt, live weight]

Stock	Percentage of common pool sub-ACL	2022	2023	2024
GB Cod	1.68	0.11	.....	.....
GOM Cod	1	0.09	0.09	0.09
GB Yellowtail Flounder	2	0.06	0.06	.....
CC/GOM Yellowtail Flounder	1	0.31	.....	.....
American Plaice	5	3.20	.....	.....
Witch Flounder	5	1.99	.....	.....
SNE/MA Winter Flounder	1	0.38	0.38	.....

TABLE 8—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (percent)	Eastern U.S./CA haddock SAP (percent)
GB Cod	60	40
GOM Cod	100	n/a
GB Yellowtail Flounder	50	50
CC/GOM Yellowtail Flounder	100	n/a
American Plaice	100	n/a
Witch Flounder	100	n/a
SNE/MA Winter Flounder	100	n/a

TABLE 9—FISHING YEARS 2022–2024 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM

[mt, live weight]

Stock	Regular B DAS program			Eastern U.S./Canada haddock SAP		
	2022	2023	2024	2022	2023	2024
GB Cod	0.06	.....	.....	0.04	.....	.....
GOM Cod	0.09	0.09	0.09	n/a	n/a	n/a
GB Yellowtail Flounder	0.03	0.03	.....	0.03	0.03	.....
CC/GOM Yellowtail Flounder	0.31	.....	.....	n/a	n/a	n/a
American Plaice	3.20	.....	.....	n/a	n/a	n/a
Witch Flounder	1.99	.....	.....	n/a	n/a	n/a
SNE/MA Winter Flounder	0.38	0.38	.....	n/a	n/a	n/a

TABLE 10—FISHING YEARS 2022–2024 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS

[mt, live weight]

Stock	2022				2023				2024			
	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)
GB Cod	0.01	0.02	0.02	0.02	.....	.....	.....	.....	.....	.....	.....	.....
GOM Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03
GB Yellowtail Flounder	0.004	0.009	0.009	0.009	0.00	0.01	0.01	0.01	.....	.....	.....	.....
CC/GOM Yellowtail Flounder	0.04	0.09	0.09	0.09	.....	.....	.....	.....	.....	.....	.....	.....
American Plaice	0.42	0.93	0.93	0.93	.....	.....	.....	.....	.....	.....	.....	.....
Witch Flounder	0.26	0.58	0.58	0.58	.....	.....	.....	.....	.....	.....	.....	.....

TABLE 10—FISHING YEARS 2022–2024 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS—Continued
[mt, live weight]

Stock	2022				2023				2024			
	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)	1st quarter (13 percent)	2nd quarter (29 percent)	3rd quarter (29 percent)	4th quarter (29 percent)
SNE/MA Winter Flounder	0.05	0.11	0.11	0.11	0.05	0.11	0.11	0.11	.....	.....	.....	.....

Sector Annual Catch Entitlements (ACE)

At the start of the 2022 fishing year, we allocated stocks to each sector, based on the catch limits set by prior frameworks. This rule updates the ACE allocated to sectors based on the catch limits approved in Framework 63, fishing year 2022 PSC, and final fishing year 2022 sector rosters. We calculate a sector's allocation for each stock by summing its members' PSC for the stock and then multiplying that total percentage by the commercial sub-ACL for that stock. The process for allocating ACE to sectors is further described in the final rule allocating ACE to sectors for fishing year 2022 (87 FR 24875; April 27, 2022) and is not repeated here. Table 11 shows the cumulative PSC by stock for each sector for fishing year 2022. Tables 12 and 13 show the ACEs allocated to each sector for fishing year 2022, in pounds and metric tons, respectively. We have included the common pool sub-ACLs in tables 11 through 13 for comparison.

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Table 11 -- Cumulative PSC (percentage) each sector is receiving by stock for fishing year 2022

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	64	11.57437434	0.70089617	1.55519582	0.18102677	0.01097362	0.19081548	1.71017673	0.50290396	1.09923355	0.02017438	8.03466759	0.99095592	0.53639676	1.04444409	3.10432913
Maine Coast Community Sector	108	2.15981094	15.96272261	3.05040299	12.26623521	1.65881234	2.43176803	6.42304059	15.55482796	12.32711923	0.75080575	7.96502545	1.83038959	8.91076473	13.77820055	12.62891583
Maine Permit Bank	11	0.13420443	1.15723293	0.04447830	1.12476158	0.01383913	0.03193513	0.31910182	1.16557943	0.72761271	0.00021871	0.42712661	0.01808815	0.82192224	1.65450461	1.69560998
Mooncusser Sector	48	12.01246812	6.23497319	3.84352772	3.68933703	1.22858724	0.85891785	3.02327800	0.85900641	1.81413333	0.95225711	2.85065686	2.47136026	4.74544471	10.66355140	10.53173805
NEFS 2	113	6.42201775	23.91782213	10.59877827	20.60072774	1.63512775	1.23146092	22.74413334	9.56948964	12.91933231	3.21922867	21.70754111	4.09675919	14.90208675	8.16040158	13.76997503
NEFS 4	58	7.43563310	11.16605718	5.83717898	8.87641414	2.17153621	2.27336558	6.41190111	9.52747738	8.86565245	0.69751694	7.43888383	1.00213039	6.67306380	8.27041162	6.86770790
NEFS 5	20	0.47560552	0.32230808	0.81001507	0.11416047	1.26971817	17.64422540	0.95098526	0.43624697	0.61815715	0.43005854	0.84495369	10.42838830	0.01835670	0.09207645	0.04502427
NEFS 6	23	3.12782423	2.92650355	3.59851426	4.39743319	3.31836153	5.13539140	4.19995133	4.55719164	6.01292714	1.73420349	4.75759934	1.92732147	6.81096482	4.52319801	3.66608439
NEFS 7	8	0.46511153	0.02295198	0.39870508	0.01682869	1.30597646	1.04216498	0.05141221	0.25101541	0.25426560	0.30404575	0.05435503	0.19115862	0.15784343	0.07885382	0.18131273
NEFS 8	53	10.13299723	2.49983686	9.79484471	5.66831751	22.77507456	7.59008019	6.97195047	7.82492823	6.62788366	30.20976493	3.97159976	10.28725145	5.67756224	4.75673535	4.17257288
NEFS 10	30	0.53019689	2.61458523	0.17733240	1.32984406	0.00115364	0.56810314	4.45627686	1.21947025	2.12396902	0.01090896	9.43507929	0.61343625	0.33681854	0.65808782	0.77242016
NEFS 11	42	0.39805525	11.34830591	0.03480859	2.78497443	0.00149043	0.00955308	2.28711030	1.56460487	1.55723626	0.00308144	2.00460513	0.02143804	1.87817602	4.30447165	8.77105183
NEFS 12	21	0.63215855	3.12919672	0.09407804	1.08979160	0.00043163	0.03437315	8.61359448	0.79827496	0.62437747	0.00044212	10.30223232	0.26160710	0.22794467	0.29619013	0.77836927
NEFS 13	69	12.54290661	0.64374598	21.32289563	0.90390551	36.46192362	24.12518771	6.45002441	8.56341139	9.05151733	19.52786616	1.78331523	17.60715282	4.39852834	2.22895185	2.68258729
New Hampshire Permit Bank	4	0.00082581	1.14746151	0.00003417	0.03235447	0.00002035	0.00001795	0.02188704	0.02851462	0.00616587	0.00000326	0.06077592	0.00003670	0.01940283	0.08137015	0.11138837
Sustainable Harvest Sector 1	41	7.37399596	4.75721282	9.58374023	13.21279184	5.57672392	1.93185297	4.91323377	13.86812558	12.08322143	11.57749726	3.37733183	5.81877850	13.83149559	16.57067620	10.19928896
Sustainable Harvest Sector 2	28	5.06336818	1.50908222	2.14763455	1.43830630	5.11110904	4.57576219	5.67509896	2.50453932	2.24113631	8.73243092	4.19271236	8.46085022	1.11393369	1.66621635	1.45140966
Sustainable Harvest Sector 3	59	16.93732864	6.67798255	25.77220574	20.27554749	14.34082650	8.34577346	10.26110959	18.77191045	18.02199479	19.68751795	3.10984537	20.76120966	27.89687122	20.16078203	17.75892150
Common Pool	487	2.58111692	3.26112237	1.33562945	1.99724198	3.11831389	21.97925140	4.51573373	2.43248153	3.02406440	2.14197767	7.68169328	13.21168739	1.04242293	1.01087634	0.81129276
Sector Total	800	97.42	96.74	98.66	98.00	96.88	78.02	95.48	97.57	96.98	97.86	92.32	86.79	98.96	98.99	99.19

Table 12 -- ACE (in 1,000 lb), by stock, for each sector for fishing year 2022 #^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	41	21	4	227	2,357	28	0	0	26	29	32	0	50	6	113	46	967
Maine Coast Community Sector	8	4	95	446	4,624	1,908	4	1	98	902	358	9	49	12	1,878	605	3,935
Maine Permit Bank	0	0	7	6	67	175	0	0	5	68	21	0	3	0	173	73	528
Mooncusser Sector	42	22	37	562	5,826	574	3	0	46	50	53	12	18	16	1,000	468	3,282
NEFS 2	23	12	142	1,548	16,065	3,205	3	0	347	555	375	40	134	26	3,140	358	4,291
NEFS 4	26	14	66	853	8,848	1,381	5	1	98	552	257	9	46	6	1,406	363	2,140
NEFS 5	2	1	2	118	1,228	18	3	6	15	25	18	5	5	66	4	4	14
NEFS 6	11	6	17	526	5,455	684	7	2	64	264	175	22	29	12	1,435	198	1,142
NEFS 7	2	1	0	58	604	3	3	0	1	15	7	4	0	1	33	3	57
NEFS 8	36	19	15	1,431	14,847	882	49	3	106	454	192	375	25	65	1,196	209	1,300
NEFS 10	2	1	16	26	269	207	0	0	68	71	62	0	58	4	71	29	241
NEFS 11	1	1	68	5	53	433	0	0	35	91	45	0	12	0	396	189	2,733
NEFS 12	2	1	19	14	143	170	0	0	131	46	18	0	64	2	48	13	243
NEFS 13	44	23	4	3,115	32,321	141	78	8	98	497	263	242	11	112	927	98	836
New Hampshire Permit Bank	0	0	7	0	0	5	0	0	0	2	0	0	0	0	4	4	35
Sustainable Harvest Sector 1	26	14	28	1,400	14,527	2,055	12	1	75	804	351	144	21	37	2,915	727	3,178
Sustainable Harvest Sector 2	18	9	9	314	3,255	224	11	2	87	145	65	108	26	54	235	73	452
Sustainable Harvest Sector 3	60	31	40	3,765	39,065	3,154	31	3	157	1,088	523	244	19	132	5,879	885	5,534
Common Pool	9	5	19	195	2,025	311	7	8	69	141	88	27	48	84	220	44	253
Sector Total	343	181	576	14,415	149,554	15,245	207	27	1,457	5,657	2,816	1,215	572	551	20,854	4,343	30,909

[#] Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector.

Table 13 -- ACE (in metric tons), by stock, for each sector for fishing year 2022 #^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	19	10	2	103	1,069	13	0	0	12	13	14	0	23	3	51	21	439
Maine Coast Community Sector	3	2	43	202	2,097	865	2	0	44	409	162	4	22	5	852	274	1,785
Maine Permit Bank	0	0	3	3	31	79	0	0	2	31	10	0	1	0	79	33	240
Mooncusser Sector	19	10	17	255	2,643	260	1	0	21	23	24	5	8	7	454	212	1,489
NEFS 2	10	5	65	702	7,287	1,454	2	0	157	252	170	18	61	12	1,424	162	1,946
NEFS 4	12	6	30	387	4,013	626	2	0	44	251	117	4	21	3	638	165	971
NEFS 5	1	0	1	54	557	8	1	3	7	11	8	2	2	30	2	2	6
NEFS 6	5	3	8	238	2,474	310	3	1	29	120	79	10	13	6	651	90	518
NEFS 7	1	0	0	26	274	1	1	0	0	7	3	2	0	1	15	2	26
NEFS 8	16	9	7	649	6,734	400	22	1	48	206	87	170	11	30	543	95	590
NEFS 10	1	0	7	12	122	94	0	0	31	32	28	0	27	2	32	13	109
NEFS 11	1	0	31	2	24	197	0	0	16	41	21	0	6	0	180	86	1,240
NEFS 12	1	1	8	6	65	77	0	0	60	21	8	0	29	1	22	6	110
NEFS 13	20	11	2	1,413	14,661	64	35	4	45	225	119	110	5	51	420	44	379
New Hampshire Permit Bank	0	0	3	0	0	2	0	0	0	1	0	0	0	0	2	2	16
Sustainable Harvest Sector 1	12	6	13	635	6,589	932	5	0	34	365	159	65	9	17	1,322	330	1,442
Sustainable Harvest Sector 2	8	4	4	142	1,477	101	5	1	39	66	30	49	12	24	106	33	205
Sustainable Harvest Sector 3	27	14	18	1,708	17,720	1,431	14	1	71	494	237	111	9	60	2,667	401	2,510
Common Pool	4	2	9	89	918	141	3	3	31	64	40	12	22	38	100	20	115
Sector Total	156	82	261	6,538	67,837	6,915	94	12	661	2,566	1,277	551	259	250	9,459	1,970	14,020

Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector.

Recreational Fishery Measures

This action sets the GB cod recreational catch target to 75 mt. The values of the state and other sub-components for GB cod are based, in part, on this catch target (see Appendix II of the EA).

Framework 63 also adjusts the recreational measures for GB cod, in order to reduce mortality to stay below the GB cod recreational catch target. Combined with the reduction in catch target, these measures are intended to reduce mortality on GB cod and allow for the promotion of GB cod stock rebuilding. These measures apply to both private and for-hire recreational vessels, and would remain in place unless modified. Table 14 shows the final GB cod recreational measures, which are approved as proposed.

TABLE 14—GEORGES BANK COD RECREATIONAL MANAGEMENT MEASURES

Minimum Size	22 in (55.9 cm).
Maximum Size	28 in (71.1 cm).
Possession Limit	5 fish per person per day.
Closed Season	May 1 through July 31.
Open Season	August 1 through April 30.

Framework 57 established a regulatory process for the Regional Administrator to adjust recreational measures to prevent the recreational catch target from being exceeded for fishing years 2018 and 2019. Framework 63 modifies the process to apply to fishing years 2023 and 2024, to prevent future overages of the GB cod ACL. After consultation with the Council, the Regional Administrator would make any changes to recreational measures consistent with the Administrative Procedure Act.

Default Specifications Process

Framework 63 modifies the default specifications process to increase the default limits to 75 percent of the previous year's catch limit, and extend the effective date through October 31 of that fishing year, or when replaced by new catch limits, whichever happens first. As previously implemented by Framework 53, if the default value is higher than the Council's recommended catch limit for the upcoming fishing year, the default catch limits will be equal to the Council's recommended catch limits for the applicable stocks for the upcoming fishing year.

Regulatory Corrections Under Secretarial Authority

Under our authority to carry out fishery management plans described in section 305(d) of the Magnuson-Stevens Act, in this action the Regional Administrator reinstates the regulation implementing the possession limit for the northern red hake stock, specified at § 648.86(d)(1)(vi), that was inadvertently deleted from the regulations through a prior rulemaking. The possession limit for the northern red hake stock remains unchanged at 3,000 lb (1,361 kg).

This action also corrects the allocation of the sub-ACL for GB haddock catch by the midwater trawl Atlantic herring fishery, specified at § 648.90(a)(4)(iii)(D)(*1*). In Framework 59, the Council recommended and the Regional Administrator approved increasing the allocation from 1.5 percent to 2 percent. The change was implemented through the specifications approved in Framework 59, but was unintentionally omitted from the regulatory text. Notice and opportunity for comment was provided in Framework 59, so adding this provision in this final rule is an administrative correction made under our administrative authority at section 305(d) of the Magnuson-Stevens Act.

Comments and Responses on Measures Proposed in the Framework 63 Proposed Rule

During the comment period, we received 20 comments on the Framework 63 proposed rule from Conservation Law Foundation (CLF), the Rhode Island Party and Charter Boat Association (RIPCBA), and 18 members of the public. We also received one comment from the New Bedford Port Authority that was sent before the proposed rule had published, and one comment from Northeast Seafood Coalition (NSC), which was submitted after the comment period had closed.

General Comments on Framework 63

Comment 1: A member of the public commented in support of the measures proposed by Framework 63, highlighting the adverse environmental effects of overfishing on ecosystems, fish populations, and coastal economies.

Response 1: We agree, and are approving the measures as proposed.

Comments Regarding Fishing Years 2022 and 2023 Shared U.S./Canada Quotas

Comment 2: RIPCBA commented in support of the proposed quotas. However, it suggested that the TMGC process should be reevaluated in future years, to make sure that the U.S. is getting a fair portion of the shared stocks. RIPCBA stated that eastern GB cod is ''entirely commercial,'' but that the resulting quotas can affect recreational management for U.S. vessels. NSC expressed concern that the Transboundary Resources Assessment Committee (TRAC) and TMGC process occur prior to the U.S. GB cod assessment update. It states that there are inconsistencies between the Data Limited Methods Tool (DLMtool) used for the TRAC's assessment of eastern GB cod and the PlanBSmooth approach used to assess the bank-wide GB cod stock, which can lead to conflicting catch advice recommendations. NSC advised that the Agency should work with the Council to seek a solution. One member of the public commented on the shared U.S./Canada quota for eastern GB cod and haddock, stating that American commercial fishing vessels in the area would be shorted a large amount of fish.

Response 2: The transboundary management of the shared eastern GB cod stock is based on an international understanding between the U.S. and Canada, which results in a process that has been agreed on by the two countries. As such, the timing of the international TRAC and TMGC cycle is not easily adjusted to account for the anticipated timing of a domestic assessment. We and the U.S. delegation to the TMGC understand the mismatch that can occur as a result of the separate assessments of GB and eastern GB cod, and make every effort at TMGC meetings to select shared quotas that accommodate the needs of the U.S. fishery.

In its comment, NSC misinterprets the purpose of the DLMtool. The DLMtool is not an assessment model, but rather is a method of calculating catch based on the available assessment information for eastern GB cod. The TRAC developed the DLMtool based on the direction of the TMGC to reduce the TMGC delegations' debate about uncertainty in the cod assessments that made it difficult for the two countries to agree on catch allocations. As part of the DLMtool, the TMGC chose two management objectives, which the TRAC used in 2021 to provide a range of catch advice from 520 mt to 650 mt, with the recommendation that the TMGC select a shared Total Allowable Catch (TAC) that fell in the lower part of this range. The TMGC continues to debate the appropriate level of catch for eastern GB cod and has noted that the DLMtool is a temporary solution to selecting catch allocations until a new assessment for GB cod can be completed. The U.S. and Canada are working to identify future plans to assess the shared cod resource.

Regarding the allocation shares of each shared quota, the member of the public is incorrect that the current agreement entitles the U.S. to 35 percent of the total ''cod and haddock'' quota on eastern GB. The current allocation shares entitle the U.S. to 28 percent of

the shared eastern GB cod quota and 47 percent of the shared eastern GB haddock quota. The process by which these allocation shares are determined is formulaic and takes into account historical utilization and shifts in resource distribution; it is not subject to negotiation by the TMGC and does not represent a new proposal on the part of the TMGC.

Comments Regarding Catch Limits for Fishing Years 2022–2024

Comment 3: RIPCBA commented in support of the quota setting and specifications as proposed in Framework 63.

Response 3: We agree and are approving the specifications as proposed, as explained in the preamble.

Comment 4: CLF urged NMFS to disapprove the 2022–2024 catch limits for GOM cod and to remand them back to the Council. It argued that the GOM cod ABCs and ACLs are unchanged from Framework 59, and that the SSC should have used ''Option C'' of the groundfish ABC control rule, which would restrict catch to incidental bycatch only.

Response 4: We disagree. The Council's reliance on the SSC's consideration and use of the ABC Control Rule is consistent with the FMP and the Magnuson-Stevens Act. The SSC considered the use of Option C of the ABC Control Rule for setting the GOM cod ABC. The Groundfish Plan Development Team (PDT) provided the SSC with recent discard information, but also indicated that the values of discards would not represent all incidental, non-target catch under the current operating conditions of the fishery. Most notably, groundfish sectors are required to retain all legal-sized cod, even if not targeting that species, and therefore this catch is not counted in the discards. The SSC determined that the available bycatch data were insufficient to inform setting an ABC, and instead based their recommendation on the projections of the two models used by the assessment, which is the best available science.

In April 2022, the Council initiated Framework 65, which includes the development of a revised rebuilding plan for GOM cod. Additionally, the ongoing work on the Atlantic cod stock structure that is currently being undertaken by the Research Track Working Group, could provide a better basis for catch limits and management for Atlantic cod. However, the ABCs set by this action comply with the Magnuson-Stevens Act and the current rebuilding plan for GOM cod. Last, if we were to disapprove the GOM cod ABCs and ACLs, the 2022 ABC for this stock would remain at 552 mt, as implemented by Framework 59, one metric ton higher than the ABC implemented in this action (551 mt). As noted above, there also would be no additional information to support a different ABC based on an unsupportable estimation of incidental bycatch.

Comment 5: CLF also urged NMFS to disapprove the 2022 GB cod catch limit and remand it back to the Council. It argued that the proposed rule did not explain how NMFS is adequately accounting for scientific uncertainty without a buffer between OFL and ABC. It further argued that NMFS cannot justify the lack of scientific uncertainty buffer based on a constant catch approach, as it did in Framework 59, because Framework 63 incudes only a one-year allocation for GB cod. CLF also stated that the empirical approach (*i.e.* the PlanBsmooth used in the assessment) is the best approach available without an analytical assessment.

Response 5: We disagree that we should disapprove the proposed ABC for GB cod. However, we agree that the PlanBsmooth approach is the best scientific information available on which to base catch advice for GB cod, and are therefore approving the 2022 ABC for GB cod, as proposed. If we were to disapprove this limit, the result would be that the 2022 ABC for this stock would remain at the level set by Framework 61 (1,308 mt), which is significantly higher than 343 mt, as implemented by this action.

During the development of Framework 59, the SSC decided to use the catch advice coming out of the PlanBsmooth approach to recommend an ABC, rather than an indeterminate OFL, to remain consistent with other stocks that were using an empirical approach for catch advice to prevent overfishing. National Standard guidelines provide for SSC ABC recommendations that differ from the usual ABC control rule calculations, based on factors such as data uncertainty, recruitment variability, declining trends in population variables, and other factors. The SSC has explained this approach and has remained consistent with this decision in Framework 63. While the SSC recommended applying the catch advice for three years of specifications (fishing years 2022–2024), the Council only included an ABC for 2022 in Framework 63. The SSC will need to recommend, and the Council will need to propose, a GB cod ABC for fishing year 2023 and beyond in Framework 65, and we intend to work with the Council and SSC to ensure that the ABC is based on the best scientific information available. Limiting the specification to one year provides an opportunity for consideration of updated information for the following two fishing years and thus could reduce potential uncertainty for those years compared to implementing on data available this year. If the Council does not select an ABC for GB cod for 2023, or if we disapprove it in Framework 65, the ABC for GB cod would drop to zero in 2023.

In Framework 59, it was appropriate to set a constant ABC for all three years of specifications (fishing years 2020–2022) based on the results of the PlanBsmooth approach to account for scientific uncertainty. For Framework 63, the Council's decision to include an ABC for only one year (2022) does not increase the scientific uncertainty of using the results of the PlanBsmooth to set the ABC, compared to setting it for all three years. The extremely low one-year specification in this action is expected to increase the probability of the stock rebuilding, while addressing the poor condition of the GB cod resource for the next year. It also allows the SSC, Council, and NMFS to adopt conservation measures for 2023 in Framework 65, where scientific uncertainty would again be considered.

Comment 6: New Bedford Port Authority and NSC both raised concerns with the reduction to the GB cod ABC. NSC questioned the use of imputed data in the PlanBsmooth empirical assessment to replace the year of survey data missing due to the COVID–19 health crisis. NSC asserted that there should have been a peer reviewed deliberation prior to the assessment to determine how to deal with the missing survey data. Similarly, New Bedford Port Authority raised a concern that there should have been a review process to examine the implications of missing survey data. NSC stated that if past years' catch is not close to the quota, the resulting catch advice from the PlanBsmooth approach can have large changes. NSC also stated that the survey strata data used has been limited to a smaller portion of the larger GB cod stock area. Last, NSC argued that the SSC did not have all relevant information, including socioeconomic information and the final catch information from the 2020 fishing year. New Bedford Port Authority also raised the same concern as NSC about the final catch of GB cod not being available until after the SSC met.

Response 6: The assessment Peer Review Panel determined that the PlanBsmooth is the best available

science for determining catch advice and recommended it for use by the SSC. The GB cod assessment went through peer review in September 2021, and the panel considered using imputed values to replace the missing survey data; however, the panel ultimately decided to approve the PlanBsmooth without using an imputed value. At its October 25, 2021, meeting, the SSC recommended adjusting the catch advice that had come out of the PlanBsmooth to incorporate an imputed value, resulting in an ABC that was 25 mt higher than the catch advice provided by the assessment. The SSC raised the concern that the PlanBsmooth approach has the potential to ''chase noise in the survey index, particularly for a stock at low abundance.'' In other words, there is a potential for large fluctuations in the catch advice that comes out of the PlanBsmooth approach. However, the SSC did not find that this concern justified recommending an alternative approach to calculating catch advice, and endorsed the continued use of the PlanBsmooth approach for setting the GB cod ABC.

The SSC had an extensive discussion of how the Council Risk Policy could be used to inform a different recommendation for the GB cod ABC, and the SSC report references economic analysis and information presented by the PDT. While the SSC did recommend that, in the future, the PDT provide additional socioeconomic information, it was clear that the SSC was aware, at least qualitatively, of the potential economic impact of the decreased quota. The SSC did not postpone their recommendation in order to obtain additional information, and a majority of the SSC supported the ABC recommendation that was made to the Council and included as part of Framework 63. Fishing year final catch reports have not historically been provided to the SSC for consideration as part of the process for setting ABCs, although the PDT does provide the inseason catch data that is available at the time of the SSC meeting. Requiring the inclusion of such reports could delay implementation of necessary specifications and adversely impact fisheries and fishing communities. The GB cod assessment that was used by the SSC to recommend ABCs was based on commercial fishery catch data through calendar year 2020 and survey data through spring of 2021, and would not have been updated to reflect the 2020 fishing year catch report that is produced by NMFS in the fall of 2021 for purposes of catch accounting. The Council was aware of NSC's concerns regarding the availability of this information to the SSC, and voted to submit Framework 63 to NMFS with the SSC's recommended ABC for GB cod to support timely implementation of these specifications, including a closed season for the recreational fishery that was intended to begin on May 1, 2022. Waiting for additional information could have resulted in an even greater delay of these specifications and increased adverse impacts from a further delay.

Comments Regarding Recreational Measures for Georges Bank Cod

Comment 7: RIPCBA commented in support of the proposed changes to recreational measures for GB cod for fishing year 2022.

Response 7: We agree with the RIPCBA's support for the 2022 recreational measures and are approving the changes as proposed.

Comment 8: Seventeen members of the public commented on the proposed GB cod recreational measures. While some supported parts of the measures, most expressed concern about or objected to some or all of the proposed measures, including the closed recreational season for GB cod, the reduced possession limit, the increased minimum size, and the implementation of a maximum size without an allowance of a trophy fish (*i.e.,* a single fish over the maximum size limit). The commenters raised concerns about other stocks that are being restricted, limiting fishing options, and about economic damage to ancillary services, such as marinas and bait shops. Several stated that they get their food through recreational fishing, and raised concerns about the increased cost of fuel to go fishing. Some commenters blamed the commercial fishery for the state of the GB cod stock, and argued that recreational fishermen were being punished instead. A few commenters argued that a winter closure would be more useful for protecting spawning, or that it would be less restrictive for recreational fishermen targeting cod.

Response 8: The goal of the slot limit, reduction in possession limit, and recreational closed season for GB cod was to create a suite of measures to achieve a reduction in mortality of GB cod, given the overall reduction in the U.S. ABC and the revised recreational catch target. Because the recreational measures were developed and analyzed as a suite, rather than individually, we cannot be assured that alternative measures, or a subset of the proposed measures, would achieve the necessary reduction in GB cod catch. As some commenters stated, it is rare for a recreational fisherman to catch a large cod above the proposed maximum size limit, and so allowing a trophy fish would likely negate the intended impact of the maximum size limit. While a winter closure could provide spawning protections, the goal of the summer closure for GB cod is to reduce the overall mortality of GB cod. Therefore, closing the GB cod recreational fishery in the winter would not be as effective for reducing overall catch because recreational fishing is not as prominent during that period in comparison to the summer. Thus, we approve the Council's recommended suite of measures in full. Recreational fishermen can continue to fish in the GB cod stock area for other species during the May through July closure. Some alternative options may be found *http://www.fishwatch.gov.*

Comment 9: Five members of the public commented on cod stock structure in the region, stating that the cod caught off Rhode Island are not the same as GB cod.

Response 9: Under the Northeast Multispecies FMP, we manage Atlantic cod as two stocks: GOM and GB. A working group is currently developing improved stock assessments for two to five stocks of Atlantic cod. However, this work is not complete, and therefore we are limited to managing cod stocks as they are defined in the FMP. The quotas for GB cod that are approved in this rule are based on the most recent assessment for GB cod, which includes cod found off Rhode Island as part of the GB cod stock.

Comment 10: NSC commented in support of modifications to the recreational catch target to reflect the reduction to the ABC, and referenced Option 3, which was one of the potential options for a catch target developed by the Groundfish PDT. NSC questioned how the catch target in Option 3 complies with National Standard 8 of the Magnuson-Stevens Act.

Response 10: Option 3 for the recreational catch target (71 mt) was developed by the PDT. However, it was not the preferred alternative recommended by the Council or considered in the proposed rule. The Council considered several catch targets, and voted to recommend a recreational catch target of 75 mt (Option 4). The EA provides the rationale that this catch target allows a portion of the total ACL to account for recreational catch, while maximizing the quota available to the commercial fishery. The Council's selection of the 75-mt catch target is consistent with

National Standard 8, which requires the consideration of the importance of fishery resources consistent with the conservation requirement of the Magnuson-Stevens Act. The Magnuson-Stevens Act recognizes the importance of recreational fishing and requires consideration of its importance to the nation and its impacts on fishing communities. National Standard 8 guidance specifically recognizes recreational fishing interests within fishing communities (''[a] fishing community is a social or economic group whose members reside in a specific location and share a common dependency on commercial, recreational, or subsistence fishing or on directly related fisheries-dependent services and industries (for example, boatyards, ice suppliers, tackle shops''). That, along with the goal of the FMP to maintain a directed commercial and recreational fishery for Northeast multispecies, is achieved by the Council's selection of a catch target that allows the commercial and recreational fisheries to continue to operate.

Comment 11: NSC commented that it supports renewing the Regional Administrator's exercise of authority to adjust recreational measures to prevent the catch target from being exceeded.

Response 11: We agree and approve the Regional Administrator's exercising authority consistent with these regulations for fishing years 2023 and 2024, if necessary to carry out the FMP. Any changes would be made in consultation with the Council.

Comments Regarding Default Specifications

Comment 12: NSC commented in support of the modifications to the default specifications process, noted that operating under default specifications is not preferred, and urged NMFS to implement newly proposed regulations quickly.

Response 12: We agree and approve this default specifications modification. The timing of a rule's publication and implementation depends on several factors, including when the Council takes final action, when the Council submits the action to NMFS for consideration, and the legal requirements of the rulemaking process. We continue to work with the Council to ensure that it submits the action to us with enough time for us to satisfy our regulatory requirements, prepare and publish the proposed rule, provide time for public comment, consider and respond to the comments received, and prepare, publish, and implement the final rule.

Comment 13: RIPCBA provided some recommendations for fishing years 2023 and 2024, when the Regional Administrator may adjust the recreational measures for GB cod. Specifically, the RIPCBA recommended removing the maximum size limit, and having the minimum size match the GOM cod recreational size. It also recommended considering changing the summer (May–July) closure to a month or combination of months during January through April.

Response 13: Any changes made by the Regional Administrator for fishing year 2023 consistent with these regulations will be based on the best available information and made in consultation with the Council.

Changes From the Proposed Rule

The proposed rule included sector and common pool sub-ACLs based on fishing year 2022 PSCs and preliminary fishing year 2022 sector rosters, but did not include the PSCs and ACEs allocated to each sector. This final rule updates these sub-ACLs to reflect final fishing year 2022 sector rosters and includes the PSCs and ACEs at the sector level.

This final rule includes a correction, under our authority at 305(d), to the regulatory text at § 648.90(a)(4)(iii)(D)(*1*) regarding the increase of the midwater trawl Atlantic herring fishery's 1.5 percent sub-ACL of the GB haddock ACL to 2 percent. This correction was not included in the proposed rule. It was subject to notice and public comment in Framework 59 (Proposed rule: 85 FR 32347; May 29, 2020; Final rule: 85 FR 45794; July 30, 2020), but was inadvertently omitted from the regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness of this action. This action relies on the best available science to set 2022 catch limits for groundfish stocks and adopts several other measures to improve the management of the groundfish fishery. This final rule must be implemented as soon as possible to capture fully the conservation and economic benefits of Framework 63 and avoid adverse economic impacts.

The development of Framework 63 began in June 2021. While the Council took final action on the Framework 63 measures in December 2021, the framework was not formally submitted to NMFS until March 28, 2022. Given the timing of the Council process and submission, the earliest we were able to publish a proposed rule for Framework 63 was on April 20, 2022.

A delay in implementation of this rule increases negative economic effects for regulated entities. The eastern portions of the GB cod and haddock stocks, jointly managed with Canada, did not have 2022 quotas set by a previous framework. A separate action implemented a default quota (35 percent of the 2021 quota) for eastern GB cod and haddock that will be in effect only through July 31, 2022, unless we implement Framework 63 before that date. After July 31, the default quotas expire, at which point vessels would be prohibited from fishing in the Eastern U.S./Canada Area until Framework 63 is effective. The default quotas are constraining the fishery in the Eastern U.S./Canada Area. The majority of fishing in that region occurs during summer primarily due to the seasonal geographic distribution of the stocks. Providing timely access to these stocks is also a potential safety issue. Vessels fish in the summer in the Eastern U.S./Canada Area (approximately 150–200 miles offshore) to avoid extremely dangerous weather in the winter, spring, and fall.

There are also biological impacts associated with a delay in implementation. The GB cod U.S. ABC for fishing year 2022 was previously set by Framework 61 at 1,308 mt, and groundfish sectors were allocated quota on May 1, 2022, based on this catch limit. Based on the 2021 management track assessment, this action reduces the GB cod U.S. ABC for fishing year 2022 to 343 mt. A delay in effectiveness of this action could result in the commercial groundfish fishery overharvesting the GB cod stock, because the higher allocation the commercial fishery received at the beginning of the fishing year could encourage greater fishing during the delay. Similarly, the changes to recreational measures for GB cod being implemented by this final rule (including the reduction in possession limit, the change in slot limit, and the implementation of a closed season) are

substantial from those measures in place for fishing year 2021. This rule's recreational restrictions are intended to reduce mortality of GB cod to ensure limits on total catch are not exceeded. If the recreational fishery contributes to an ACL overage in 2022, the commercial fishery will be required to pay back, pound-for-pound, any ACL overage in a following fishing year, which will have even greater adverse social and economic impacts on the fishery. Therefore, a delay would be contrary to the public interest and would undermine the intent of the rule.

The 30-day delay in implementation for this rule is unnecessary because this rule contains no new measures (*e.g.,* it does not require new nets or equipment) for which regulated entities need time to prepare or revise their current practices. Fishermen who are subject to this action expect and need timely implementation to avoid adverse economic impacts. This action is similar to the process used to set quotas every 1–2 years, approves all items as proposed, and was discussed at multiple noticed meetings where the public was provided opportunity to learn about the action, ask questions, and provide input into the development of the measures. Affected parties and other interested parties participated in this public process to develop this action and expect implementation as close to the beginning of the fishing year on May 1 as possible. A 30-day delay in implementing the portion of this action that changes the default specification percentage and duration is not necessary because the new default provisions will not affect the fishery until May 1, 2023, if at all.

Overall, a delay in implementation of this action would greatly diminish the benefits of these specifications and other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in Framework 63 and its accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for and for the objectives of this action are contained in Framework 63 and in the preamble to this final rule, and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

We received several comments expressing concern about the economic impacts of this action and we have summarized the comments in the comments and responses section of this rule. None of these comments were directly related to the IRFA, or provided information that changed the conclusions of the IRFA. The Chief Counsel for the Office of Advocacy of the Small Business Administration (SBA) did not file any comments. We made no changes to the proposed rule measures.

Description and Estimate of the Number of Small Entities to Which the Rule Would Apply

The final rule impacts the recreational groundfish, Atlantic sea scallop, small mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2021, NMFS had issued 721 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history, CPH), 649 party/charter groundfish permits, 705 limited access and general category Atlantic sea scallop permits, 734 small-mesh multispecies permits, 80 Atlantic herring permits, and 802 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, this action potentially regulates 3,691 permits. When accounting for overlaps between fisheries, this number falls to 2,126 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Federal fishing permit. The current ownership data set is based on calendar year 2020 permits and contains gross sales associated with those permits for calendar years 2018 through 2020.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2018 through 2020. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of $8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2018–2020) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,696 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,696 business entities identified could be directly regulated by this proposed action. Of these 1,696 entities, 976 are commercial fishing entities, 281 are for-hire entities, and 439 did not have revenues (were inactive in 2020). Of the 976 commercial fishing entities, 967 are categorized as small entities and 9 are categorized as large entities, per the NMFS guidelines. Furthermore, 579 of these commercial fishing entities held limited access groundfish permits, with 577 of these entities being classified as small businesses and 2 of these entities being classified as large businesses. All 281 for-hire entities are categorized as small businesses.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Final Rule

The action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The economic impacts of each proposed measure are discussed in more detail in sections 6.5 and 7.12 of the Framework 63 Environmental Assessment and are not repeated here. For the updated groundfish specifications and adjustments to the GB cod recreational measures, the No Action alternative was the only other alternative considered by the Council. There are no significant alternatives that would minimize the economic impacts. The proposed action is predicted to generate $73.3 million in gross revenues on the sector portion of the commercial groundfish trips, which is $2.2 million less than No Action, but falls within the recent historical range. Small entities engaged in common pool groundfish fishing may be negatively impacted by the proposed action as well. Likewise, small entities engaged in the recreational groundfish fishery are also likely to be negatively impacted. These negative impacts for both commercial and recreational groundfish entities are driven primarily by a substantial decline in the ACL for GB cod for fishing year 2022. While this decline is expected to result in short-term negative impacts, decreased GB cod catch in fishing year 2022 is expected to yield long-term positive impacts through stock rebuilding.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule, and will designate such publications as ''small entity compliance guides.'' The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.,* bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office Northeast multispecies fishery email list, as well as the email lists for scallop and herring fisheries, which receive an allocation of some groundfish stocks. The final rule and the guide are available from NMFS at the following website: *https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan.* Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 11, 2022.

Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, revise paragraph (k)(16)(v) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(16) * * *

(v) *Size limits.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout that are smaller than the minimum fish sizes or larger than maximum fish sizes specified in § 648.89(b)(1) and (b)(3).

* * * * *

■ 3. In § 648.86 add paragraph (d)(1)(vi) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(vi) *Possession of northern red hake.* Vessels participating in the small-mesh multispecies fishery and fishing on the northern red hake stock, defined as statistical areas 464–465, 467, 511–515, 521–522, and 561, may possess and land no more than 3,000 lb 91,361 kg) of red hake when fishing in the GOM/GB Exemption area, as described in § 648.80(a)(17).

* * * * *

■ 4. Amend § 648.89 by revising paragraph (b) paragraph heading, paragraphs (b)(1), Table 2 to paragraph (c), Table 3 to paragraph (c), and (g), to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) *Recreational minimum and maximum fish sizes*—(1) *Minimum and maximum fish sizes.* Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes or larger than the maximum fish sizes, measured in total length, as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area [1]	21	53.3	N/A	N/A
Outside GOM Regulated Mesh Area [1]	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area [1]	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area [1]	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A

TABLE 1 TO PARAGRAPH (b)(1)—Continued

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

[1] GOM Regulated Mesh Area specified in § 648.80(a).

* * * * * (i) * * *

(c) * * *

(1) * * *

TABLE 2 TO PARAGRAPH (c)(i)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1–April 30	5	May 1–July 31.
GOM Cod	September 15–30, April 1–14	1	April 15–September 14, October 1–March 31.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29), April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N Windowpane Flounder	Closed	No retention	All Year.
S Windowpane Flounder	Closed	No retention	All Year.
Ocean Pout	Closed	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section.		
Atlantic Wolffish	Closed	No retention	All Year.

* * * * * (2) * * *

TABLE 3 TO PARAGRAPH (c)(2)

Species	Open season	Possession limit	Closed season
GB Cod	August 1–April 30	5	May 1–July 31.
GOM Cod	September 8–October 7, April 1–14	1	April 15–September 7, October 8–March 31.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29), April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N Windowpane Flounder	Closed	No retention	All Year.
S Windowpane Flounder	Closed	No retention	All Year.
Ocean Pout	Closed	No retention	All Year.
Atlantic Halibut	See Paragraph (c)(3) of this section.		
Atlantic Wolffish	Closed	No retention	All Year.

* * * * *

(g) *Regional Administrator authority for Georges Bank cod recreational measures.* For the 2023 and 2024 fishing years, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for Georges Bank cod to prevent the recreational fishery from exceeding the annual catch target as determined by the NEFMC. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the **Federal Register** prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2024 will be in effect beginning in fishing year 2025, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

* * * * *

■ 5. In § 648.90, revise paragraph (a)(3)(i), paragraph (a)(4)(i) introductory text, and paragraph (a)(4)(iii)(D)(*1*) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(3) * * * (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the **Federal Register** for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.

* * * * *

(4) * * * (i) *ABC/ACL recommendations.* As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(6) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components for each of the next 2 years as part of the annual process described in this paragraph (a)(4) and § 648.85(a)(2).

* * * * *

(iii) * * *

(D) * * *

(*1*) *Sub-ACL values.* The midwater trawl Atlantic herring fishery will be allocated sub-ACLs equal to 1 percent of the GOM haddock ABC, and 2 percent of the GB haddock ABC (U.S. share only), pursuant to the restrictions in § 648.86(a)(3). The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section. For the purposes of these sub-ACLs, the midwater trawl Atlantic herring fishery includes vessels issued a Federal Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3).

* * * * *

[FR Doc. 2022–15065 Filed 7–14–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No.: 220712–0153]

RIN 0648–BL60

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; C Shares

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

ACTION: Temporary rule; emergency action.

SUMMARY: NMFS issues an emergency rule to temporarily suspend the active participation requirement for captains and crew holding crew quota or C shares under the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program). This emergency action temporarily suspends the requirement to withhold Individual Fishing Quota (IFQ) and revoke quota share (QS) from individuals who do not meet active participation requirements for the 2022/2023 crab fishing year. This emergency rule is intended to provide flexibility to C share holders in the 2022/2023 crab fishing year. This emergency rule does not modify other provisions of the CR Program. This emergency rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, and other applicable laws.

DATES: Effective July 15, 2022 through January 11, 2023. Comments must be received by August 15, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0067, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0067 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to the Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

Electronic copies of this emergency rule may be obtained from *https://www.regulations.gov* identified by Docket ID NOAA–NMFS–2021–0021 or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

FOR FURTHER INFORMATION CONTACT: Alicia M. Miller, 907–586–7228.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs

FMP (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L 108–199, section 801). Regulations implementing the FMP, including the CR Program, are primarily located at 50 CFR part 680.

Background

On June 10, 2022, the Council received a request from its Advisory Panel to consider emergency action under section 305(c) of the Magnuson-Stevens Act to provide flexibility to CR Program participants who hold catcher vessel crew (CVC) quota share (QS) or catcher processor crew (CPC) QS in the 2022/2023 crab fishing year. On June 13, 2022, the Council recommended that NMFS implement an emergency rule to suspend the recent participation requirements under the CR Program for CVC QS and CPC QS holders and not withhold individual fishing quota (IFQ) or revoke QS in the 2022/2023 crab fishing year.

The following sections provide an overview of the CR Program and crew shares (C shares), the emergency rule, and justification for emergency action.

Overview of CR Program and C Shares

The CR Program is a limited access privilege program that allocates the harvest of certain crab fisheries managed under the FMP among harvesters, processors, and coastal communities. Under the CR Program, NMFS issued four types of QS to persons based on their qualifying harvest histories in certain BSAI crab fisheries during a specific period of time defined under the CR Program. The four types of QS are catcher vessel owner (CVO), catcher/processor owner (CPO), catcher vessel crew (CVC), and catcher processor crew (CPC). CVC and CPC QS are also known as ''crew shares'' or ''C shares.'' At the beginning of the CR Program, NMFS issued 97 percent of the QS as owner QS, either CVO or CPO, and issued the remaining three percent as C shares, either CVC or CPC.

NMFS issued C shares to individuals holding State of Alaska Commercial Fisheries Entry Commission Interim Use Permits, generally vessel captains, who met specific historical and recent participation requirements in CR Program fisheries. NMFS did not issue C shares to individuals who did not meet both the historical and recent participation criteria. After the initial issuance of C shares individuals could only acquire C shares through transfer.

On May 1, 2015, NMFS issued regulations to implement Amendment 31 to the FMP (80 FR 15891, March 26, 2015) to modify regulations governing the acquisition, use, and retention of C shares, under the CR Program. Regulations implementing Amendment 31 temporarily expanded the eligibility requirements for individuals wishing to acquire C share QS by transfer; established the current regulations for minimum participation requirements for C share QS holders to be eligible to receive an annual allocation of IFQ; established minimum participation requirements for C share QS holders to be eligible to retain their C share QS as well as the administrative process for revocation of an individual's C share QS if he or she fails to satisfy the minimum participation requirements. For more detailed descriptions of the regulations implementing Amendment 31 to the FMP and the rationale for those actions, please see the preamble of the proposed rule (79 FR 77427; December 24, 2014) and the preamble of the final rule (80 FR 15891, March 26, 2015).

Following the implementation of Amendment 31, in order to receive an annual allocation of C share IFQ, the regulations require a C share QS holder to have either (1) participated as crew in at least one delivery in a CR Program fishery in the three crab fishing years preceding the crab fishing year for which the holder is applying for IFQ; or (2) if the individual was an initial recipient of C shares, participated as crew in at least 30 days of fishing in a commercial fishery managed by the of State of Alaska or a U.S. commercial fishery in Federal waters off Alaska in the three crab fishing years preceding the crab fishing year for which the holder is applying for IFQ (§ 680.40(g)(2)). The regulations also require holders of C share QS to meet similar participation requirements over a span of 4 years in order to retain their C share QS (§ 680.40(m)).

If a C share QS holder fails to satisfy the participation requirements three crab fishing years in a row, NMFS will send that individual a notice of withholding and will not issue IFQ for the subsequent crab fishing year (§ 680.40(g)(3)(i)). If a C share QS holder fails to satisfy the participation requirements four crab fishing years in a row and does not divest his or her C share QS, NMFS will revoke the C share QS (§ 680.40(m)(4)). C share holders are permitted to lease their IFQ and join cooperatives; however, all C share QS holders must meet the participation requirements in order to receive C share IFQ and retain C share QS (§ 680.40(m)). Those C share QS holders who lease C share IFQ or join a cooperative are not exempt from the participation requirements.

Each year, a QS holder submits a timely and complete ''Application for Annual Crab Individual Fishing Quota (IFQ) Permit'' in order to receive an exclusive harvest privilege for a portion of the total allowable catch (TAC) for each CR Program fishery in which the person holds QS (§ 680.40(g)). This harvest privilege is conferred as IFQ, and provides the QS holder with an annual allocation of pounds of crab for harvest in a specific CR Program crab fishery during the year in which it was allocated. The size of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery (§ 680.40(h)). For example, an individual holding C share QS equaling one percent of the C share QS pool in a crab fishery would receive IFQ to harvest one percent of the annual TAC allocated to C share QS in that crab fishery. Current regulations allow C share IFQ to be delivered to any registered crab receiver (see § 680.40(b)(2)). Annually, C share IFQ is assigned based on the individual's underlying QS. In a CR Program fishery, the annual allocation of IFQ assigned to any person is based on the TAC for that crab QS fishery less the allocation to the Western Alaska Community Development Quota (CDQ) Program and the Western Aleutian Islands golden king crab fishery. This annual calculation is expressed in regulations at § 680.40(h).

In developing the CR Program and Amendment 31, the Council and NMFS intended that individuals holding C share QS are active in CR Program fisheries. In addition to the participation requirements applicable to the issuance of C share IFQ and retention of C share QS, the CR Program also includes participation criteria that must be satisfied for an individual to be eligible to receive C share QS by transfer.

To receive C share QS by transfer, current regulations require an applicant to meet eligibility requirements at the time of transfer (§ 680.41(c)). To meet these eligibility requirements, an individual may submit an Application for CR Program Eligibility to Receive QS/PQS or IFQ/IPQ by Transfer in advance of, or concurrently with, their Application for Transfer of Crab Quota Share (QS) or Application for Transfer of Crab Processor Quota Share (PQS). The regulations require that an individual must be a U.S. citizen with (1) at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery; and (2) participation as crew in one of the CR

Program fisheries in the 365 days prior to the date the transfer application is submitted to NMFS. If NMFS determines that an individual is eligible to receive C share QS by transfer, that individual would be required to submit proof of participation as crew in one of the CR Program fisheries in the 365 days prior to the date of their application to transfer QS if more than 365 days has elapsed between NMFS's determination of eligibility and the submission of the transfer application (§ 680.41(c)(2)(ii)(C)).

When NMFS implemented the CR Program in 2005, NMFS made initial allocations of C share QS to Commercial Fisheries Entry Commission permit holders that were individuals (*i.e.,* a natural person who is not a corporation, partnership, association, or other such entity), U.S. citizens, and who met the historical and recent participation requirements established at the time. Based on those criteria, 239 individuals received initial allocations of C share QS. These individuals were mostly captains. The expanded eligibility requirements implemented with Amendment 31 to the FMP provided an opportunity from May 1, 2015, until May 1, 2019, for those individuals who may have been forced out of the crab fisheries due to fleet contraction at the beginning of the CR Program to obtain C shares to fish crab again.

Upon implementation of Amendment 31 to the FMP, one hundred and seventy-nine individuals held C shares. Of those individuals, 70 were estimated to have been part of the 239 individuals who received an initial allocation of C shares based on their historical participation. Currently, 155 individuals hold C shares.

This Emergency Rule and Justification for Emergency Action

This emergency rule temporarily suspends the active participation requirements for persons holding C shares QS by removing NMFS's obligation to consider an individual's recent participation in reviewing 2022 applications for C share IFQ and to make decisions about whether to withhold IFQ or revoke QS in the 2022/2023 crab fishing year. This emergency rule does not suspend the participation requirements applicable for an individual to be eligible to receive C share QS by transfer. This emergency rule is intended to provide temporary relief from the participation requirements for C share QS holders for the 2022/2023 crab fishing year. This emergency rule temporarily adds regulations at § 680.40(g)(4) and (m)(6) and § 680.43(d) instructing the NMFS Regional Administrator to not consider participation requirements for the 2022/2023 crab fishing year upon review of an Application for Annual Crab Individual Fishing Quota (IFQ) Permit submitted in 2022. This emergency rule does not modify any other aspect of the CR Program and would not affect subsequent crab fishing years.

In subsequent crab fishing years, in order to receive an annual allocation of C share IFQ, holders of C shares (CVC or CPC QS) must meet the recent participation requirements specified at § 680.40(g)(2) and described above. Additionally, in subsequent crab fishing years holders of C share QS will be required to meet participation requirements over a span of the four preceding years in order to retain their C share QS, as specified at § 680.40(m). The temporary relief from participation requirements in the 2022/2023 crab fishing year will provide some C share QS holders with the opportunity to participate in the fishery in 2022/2023, when they would otherwise have had their IFQ withheld or QS revoked in 2022, and thus providing those individuals with the opportunity to meet requirements to retain their QS for the subsequent four crab fishing years and receive annual IFQ for the subsequent three crab fishing years.

After the 2022/2023 crab fishing year, if a C share QS holder has failed to satisfy the recent participation requirements and does not divest his or her C share QS, NMFS will revoke the C share QS pursuant to §§ 680.40(m) & 680.43. If a C share QS holder satisfies the participation requirements to receive C share IFQ pursuant to § 680.40(g)(2), the holder also will satisfy the participation requirements for retention of C share QS.

This emergency action does not impose additional restrictions on CR Program participants, but would temporarily provide relief to C share QS holders from the participation requirement for the 2022/2023 crab fishing year. This emergency rule does not increase the amount of TAC available for harvest, increase the risk of overfishing, or otherwise modify conservation measures. This emergency rule is needed to provide relief to C share QS holders from the participation requirements for the years preceding the 2022/2023 crab fishing year due to the impacts of the COVID–19 pandemic and significant reduction in the overall crab TAC in the 2021/2022 crab fishing year. This emergency rule does not modify existing requirements on the types of vessels and gear that could be used, monitoring requirements, record keeping regulations, or other aspects of the CR Program.

Section 305(c) of the Magnuson-Stevens Act authorizes the Secretary of Commerce (Secretary) to promulgate regulations to address an emergency (16 U.S.C. 1855(c)). Under that section, a Council may request that the Secretary promulgate emergency regulations. NMFS's Policy Guidelines for the Use of Emergency Rules require that an emergency must exist and that NMFS have an administrative record justifying emergency regulatory action and demonstrating compliance with the Magnuson-Stevens Act and the National Standards (see NMFS Procedure 01–101–07; 62 FR 44421, August 21, 1997). Emergency rulemaking is intended for circumstances that are ''extremely urgent,'' where ''substantial harm to or disruption of the . . . fishery . . . would be caused in the time it would take to follow standard rulemaking procedures (62 FR 44421, August 21, 1997).''

Under NMFS's Policy Guidelines for the Use of Emergency Rules, the phrase ''an emergency exists involving any fishery'' is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances;

2. Presents serious conservation or management problems in the fishery; and

3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

The following sections describe why the Council and NMFS determined that this action meets these criteria.

Criterion 1—Recent, Unforeseen Events or Recently Discovered Circumstances

The combined impact of two unforeseen events—the COVID–19 pandemic and the sudden and recent reduction of the overall crab TACs in the 2021/2022 crab fishing year—led to the recently discovered circumstance that a number of CVC and CPC QS holders may be subject to withholding of IFQ or revocation of QS because there was insufficient opportunity to participate in the CR fisheries in recent years. Beginning in March 2020 (the last quarter of the 2019/2020 crab fishing year), fishing activity has been impacted by the unexpected COVID–19 pandemic. Vessel operations continued to be impacted by ongoing outbreaks of the COVID–19 pandemic throughout the

2020/2021 and 2021/2022 crab fishing years. While vessels and crew attempted to adapt, the extent and duration of the COVID–19 pandemic presented unforeseen challenges in the prosecution of the crab fisheries in Alaska. This included travel restrictions and health mandates that broadly impacted fishing operations. By the last quarter of the 2021/2022 crab fishing year, substantial progress had been made to safely move forward and get back to more normal routines including the use of vaccines and treatments for severe illness, preparing for new variants, ending the closure of schools and businesses, and returning to the office.

In October 2021, NMFS determined the Bering Sea snow crab stock to be overfished. The sudden decline of the snow crab biomass resulted in an 88 percent reduction in overall BSAI crab TAC in the 2021/2022 crab fishing year. This large reduction in overall crab TAC reduced available crew jobs because fewer vessels operated in the fishery and made fewer CR Program landings in the 2021/2022 crab fishing year. In the 2021/2022 crab fishing year, there were 380 vessel landings in the CR Program fisheries. This is less than half the annual average number of landings made by vessels in the preceding 5 year period at approximately 837 per year.

The combination of the COVID–19 pandemic and sudden decline in CR Program TACs limited the ability of CVC and CPC QS holders to meet participation requirements necessary to receive an annual allocation of IFQ and retain C share QS. In particular, the health risks of the pandemic may have limited crew jobs in the 2019/2020, 2020/2021, and 2021/2022 crab fishing years, a situation compounded by the large reduction of overall BSAI crab TAC in the 2021/2022 crab fishing year. The impacts of these events have resulted in the recently discovered circumstances that it will be difficult for CVC and CPC QS holders to demonstrate compliance with recent participation requirements when applying for IFQ for the 2022/2023 crab fishing year and for retaining C shares QS.

Criterion 2—Presents Serious Conservation or Management Problems in the Fishery

The C shares were included in the BSAI CR Program to protect the interests of qualifying crew by allocating 3 percent of the initial QS pool to C shares. In creating the CR Program, the Council and NMFS intended the economic benefits of C shares and resulting IFQ to flow to at-sea participants in the fisheries by including an active participation requirement for C share QS holders.

The active participation requirement was expected to influence the market for C shares to be more active and fluid, since individuals who retire or exit the fisheries would have an incentive to transfer their C shares before NMFS would revoke C share QS and remove it from the C share QS pool.

Due to the impacts of the COVID–19 pandemic and significant reduction in the overall crab TAC in the 2021/2022 crab fishing year, CVC and CPC QS holders may not meet participation requirements necessary to receive an annual allocation of IFQ and retain C share QS for the 2022/2023 crab fishing year. Additionally, low market value for C shares due to the recent declines in CR Program TACs may limit market opportunities to divest C shares on the QS market.

As part of Amendment 31 to the FMP, the Council and NMFS implemented specific C share provisions to address concerns of crews displaced by fleet consolidation to provide opportunity for those interested in acquiring C shares to maintain an interest in the fisheries. The potential withholding of C share IFQ and revocation of C share QS due to COVID–19 pandemic impacts and significant crab TAC reduction presents a serious management problem for the BSAI CR Program.

Criterion 3—Can Be Addressed Through Emergency Rulemaking for Which the Immediate Benefits Outweigh the Value of Notice and Comment Rulemaking

NMFS and the Council have determined that the emergency situation created by the combined impact of the COVID–19 pandemic and the sudden and recent reduction of overall crab TACs on C share QS holders' ability to meet active participation requirements can be addressed by emergency regulations. The Council requested emergency action at its regularly scheduled June 2022 meeting. The application deadline for the 2022/2023 crab fishing year is June 15, 2022, after which NMFS will review applications for annual IFQ including documentation submitted to demonstrate compliance with recent participation requirements. NMFS will make initial decisions about withholding annual IFQ or revoking C share QS prior to the issuance of IFQ for the opening of the crab fishing season, which is anticipated to occur on or after July 15, 2022. The Council and NMFS believe the value of emergency action to suspend withholding of C share IFQ and revocation of C share QS outweighs the value of notice and comment rulemaking for the 2022/2023 crab fishing year.

To address the emergency in a timely manner, NMFS must implement an emergency rule that waives the notice-and-comment rulemaking period. The benefits of waiving notice-and-comment rulemaking will serve the affected C share QS holders by temporarily suspending the requirement for NMFS to withhold IFQ and revoke QS from individuals that do not meet active participation requirements for the 2022/2023 crab fishing year. Any delay of implementing this emergency rule could result in adverse economic harm to individuals who may have their annual IFQ withheld or C share QS revoked for the 2022/2023 crab fishing year.

The Council could not recommend and NMFS cannot implement regulations through the conventional notice-and-comment rulemaking process before NMFS must make initial decisions about withholding annual IFQ or revoking C share QS prior to the issuance of IFQ for the opening of the crab fishing season, which is anticipated to occur on or after July 15, 2022.

Typically, the process of Council analysis and NMFS rulemaking takes at least one year to implement. For this action, NMFS received the request for emergency action on June 13, 2022. In the same motion requesting emergency action to provide immediate relief to C share QS holders, the Council initiated an analysis to consider permanently modifying the CVC QS and CPC QS recent participation requirements in order to address the ongoing impacts of the COVID–19 pandemic and the decline of the CR Program TACs. If the Council recommends further action to implement a longer-term solution to revise regulations that would occur through conventional notice-and-comment rulemaking.

Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) of the APA to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. The benefits of waiving notice-and-comment rulemaking will temporarily provide relief to C share QS holders from participation requirements for the 2022/2023 crab fishing year and prevent NMFS from withholding any annual C share IFQ or revoking C share QS. Any delay to implementation of this rulemaking could result in adverse economic harm to individuals who may have their annual IFQ withheld or C share QS revoked in the 2022/2023 crab

fishing year. The time required for notice-and-comment rulemaking would not provide relief to affected C share QS holders before NMFS must make initial decisions about withholding annual C share IFQ or revoking C share QS prior to the issuance of IFQ for the opening of the crab fishing season, which is anticipated to occur on or after July 15, 2022. This emergency rule will provide immediate relief to individual C share QS holders that outweighs the value of the deliberative notice-and-comment rulemaking process.

Similarly, for the reasons above that support the need to implement this emergency rule in a timely manner, the Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness provision of the APA and make the emergency rule effective immediately upon publication in the **Federal Register**. NMFS must make initial decisions about withholding annual C share IFQ or revoking C share QS prior to the issuance of IFQ for the opening of the crab fishing season, which is anticipated to occur on or after July 15, 2022. Waiving the 30-day delay in effectiveness is necessary to avoid an unnecessary delay in the issuance of IFQ permits.

This emergency rule has been determined to be not significant for the purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule is issued without opportunity to provide prior notice and opportunity for public. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

Collection-of-Information Requirements

This emergency rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under OMB Control Number 0648–0514, Alaska Region Crab Permits. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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. All currently approved NOAA collections of information may be viewed at: *https://www.reginfo.gov/public/do/PRAMain.*

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 12, 2022.

Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 2. In § 680.40, add paragraphs (g)(4) and (m)(6) to read as follows:

§ 680.40 Crab Quota Share (QS), Processor QS (PQS), Individual Fishing Quota (IFQ), and Individual Processor Quota (IPQ) Issuance.

* * * * *

(g) * * *

(4) *Emergency rule suspending withholding of CVC or CPC IFQ.* Under emergency measures effective July 15, 2022, and notwithstanding any other section of this part, the Regional Administrator will not consider participation requirements at paragraph (g)(2) of this section in reviewing a CVC or CPC QS holder's Application for Annual Crab Individual Fishing Quota (IFQ) Permit for the 2022/2023 crab fishing year and will not withhold IFQ from an individual holding CVC or CPC QS.

* * * * *

(m) * * *

(6) Under emergency measures effective July 15, 2022, and notwithstanding any other section of this part, the Regional Administrator will not consider participation requirements set forth in paragraph (m)(2) of this section in reviewing a CVC or CPC QS holder's Application for Annual Crab Individual Fishing Quota (IFQ) Permit for the 2022/2023 crab fishing year or in making any other determinations about whether to revoke CVC or CPC QS in the 2022/2023 crab fishing year.

■ 2. In § 680.43, add paragraph (d) to read as follows:

§ 680.43 Revocation of CVC and CPC QS.

* * * * *

(d) *Emergency rule suspending revocation of CVC and CPC QS.* Under emergency measures effective July 15, 2022, and notwithstanding any other section of this part, the Regional Administrator will not consider participation requirements set forth in § 680.40(m) and will not revoke an individual's CVC QS or CPC QS for the 2022/2023 crab fishing year and will not begin proceedings to revoke any CVC QS or CPC QS upon reviewing an Application for Annual Crab Individual Fishing Quota (IFQ) Permit submitted in 2022.

[FR Doc. 2022–15193 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 135
Friday, July 15, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0826; Airspace Docket No. 21–AEA–21]

RIN 2120–AA66

Proposed Amendment and Establishment of Area Navigation (RNAV) Routes; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend three low altitude Area Navigation (RNAV) routes (T-routes) and establish two T-routes in support of the VHF Omnidirectional Range (VOR) Minimum Operational Network (MON) Program. The purpose is to enhance the efficiency of the National Airspace System (NAS) by transitioning from ground-based navigation aids to a satellite-based navigation system.

DATES: Comments must be received on or before August 15, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0826; Airspace Docket No. 21–AEA–21 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV and enhance the efficiency of the NAS by transitioning from ground-based navigation aids to a satellite-based navigation system

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0826; Airspace Docket No. 21–AEA–21) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0826; Airspace Docket No. 21–AEA–21.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend three low altitude RNAV T-routes, designated T–287, T–358, and T–608; and to establish two T-routes designated T–318, and T–

320, in the northeast United States; to support the VOR MON Program, and the transition of the NAS from ground-based navigation aids to satellite-based navigation.

T–287: T–287 extends between the DENNN, VA waypoint (WP) (located northwest of the Gordonsville, VA, (GVE) VHF Omnidirectional Range and Tactical Air Navigational System (VORTAC)) and the TOMYD, MD, WP (located northwest of the Westminster, MD, (EMI) VORTAC). The TOMYD WP would be relocated 2.8 nautical miles (NM) to the north of its current position which would change its state location from MD to PA. This action proposes to extend T–287 from the TOMYD, PA, WP to the Kennebunk, ME, (ENE) VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME). The CAARY, VA, WP and the WILMY, VA, WP would be removed from the route description because they do not denote a turn point on the route. However, those WPs will continue to be shown on aeronautical charts for air traffic control purposes. T–287 would overlay portions of VOR Federal airway V–44 from the VYSOR, MD, WP to the WNSTN, NJ, WP. It would also overlay airway V–139 from the WNSTN, NJ, WP, to the Kennebunk VOR/DME. In the description of T–287, the WNSTN, NJ, WP replaces the Sea Isle, NJ, (SIE) VORTAC. The ORCHA, NY, WP replaces the Hampton, NY, (HTO) VORTAC. The PROVI, RI, WP replaces the Providence, RI, (PVD) VOR/DME. As amended, T–287 would extend between the DENNN, VA, WP, and the Kennebunk, ME, VOR/DME.

T–358: T–358 extends between the Martinsburg, WV, (MRB) VORTAC, and the AVALO, NJ, Fix. This action proposes to extend T–358 from the AVALO Fix, to the Augusta, ME, (AUG) VOR/DME. The HOGZZ, MD, WP would be changed to the TWIRK, MD, WP per request from air traffic control (ATC). The latitude/longitude coordinates of the WP would remain unchanged. The GOLDA, MD, Fix; the BROSS, MD, Fix; and the LEEAH, NJ, Fix would be removed from the route description because they don't denote turn points on the route. The Fixes will remain on aeronautical charts for ATC purposes. T–358 would overlay portions of airway V–268 from the AVALO Fix to the Augusta VOR/DME. The ''OA'' abbreviation for the HAVNS WP means ''Offshore Atlantic.''

T–318: T–318 is a proposed new route that would extend between the Rochester, NY, (ROC) VOR/DME and the Kennebunk, ME, (ENE) VOR/DME. T–318 would overlay airway V–34 from the Rochester VOR/DME to the ARRKK, NY, WP. It would overlay airway V–167 from the ARRKK WP, to the Kennebunk VOR/DME. The location abbreviation ''OA'' used for the CBIRD and HUBELL WPs, and the SCUPP Fix, means ''Offshore Atlantic.''

T–320: T–320 is a proposed new route that would extend between the GILFF, VA, WP and the Gardner, MA, (GDM) VOR/DME. T–320 would overlay portions of airway V–308 from the BILIT, MD, Fix, to the CHOPS, MD Fix, and from the WNSTN, NJ, WP to the YANCT, CT, WP.

T–608: T–608 is an existing Canadian T route that extends into U.S. airspace between the HOCKE, MI, WP, and the YANTC, CT, WP. The FAA proposes to modify the eastern end of the route by removing the segments between the Gardner, MA, (GDM) VOR/DME and the YANCT, CT, WP. Instead, the route will be realigned to proceed eastward from the Gardner VOR/DME through the BRONC, MA; LOBBY, MA; and SOSYO, MA Fixes; terminating at the REVER, MA, Fix (located 5 NM north of the Boston, MA, (BOS) VOR/DME). The proposed new T–320 (described above) would incorporate the segments between the YANCT WP, and the Gardner VOR/DME that is being proposed for removal from T–608.

In addition, the following points would be removed from the T–608 legal description because they do not denote a turn point on the route: MONCK, NY, WP; LORTH, NY, Fix; MAGEN, NY, WP; KONDO, NY, WP; WIFFY, NY, WP; STODA, NY, WP; VASTS, NY, Fix; NORSE, NY, WP; MARIA, NY, WP; WARUV, NY, WP; GRISY, MA, WP; WARIC, MA, WP; HURLY, MA, Fix; GRAYM, MA, WP; BLATT, CT, WP; MOGUL, CT, WP; and YANCT, CT, WP;.

Full route descriptions of the above T routes are listed in the amendments to part 71 set forth below.

United States RNAV T-routes are published in paragraph 6011, and Canadian RNAV T-routes are published in paragraph 6023, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document would be subsequently published in FAA Order 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for part 14 CFR 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–287 DENNN, VA to Kennebunk, ME (ENE) [Amended]

DENNN, VA	WP	(Lat. 38°05′06″ N, long. 078°12′28″ W)
KAIJE, VA	WP	(Lat. 38°44′35″ N, long. 078°42′48″ W)
BAMMY, WV	WP	(Lat. 39°24′33″ N, long. 078°25′46″ W)
REEES, PA	WP	(Lat. 39°47′52″ N, long. 077°45′56″ W)
TOMYD, PA	WP	(Lat. 39°43′39.02″ N, long. 077°07′58.89″ W)
MOYRR, MD	WP	(Lat. 39°30′03.42″ N, long. 076°56′10.84″ W)
DANII, MD	WP	(Lat. 39°17′46.42″ N, long. 076°42′19.36″ W)
VYSOR, MD	WP	(Lat. 39°02′03.86″ N, long. 076°14′59.88″ W)
WNSTN, NJ	WP	(Lat. 39°05′43.81″ N, long. 074°48′01.20″ W)
MANTA, NJ	WP	(Lat. 39°54′07.01″ N, long. 073°32′31.63″ W)
BEADS, NY	WP	(Lat. 40°44′04.51″ N, long. 072°32′34.21″ W)
ORCHA, NY	WP	(Lat. 40°54′55.46″ N, long. 072°18′43.64″ W)
PARCH, NY	WP	(Lat. 41°05′57.22″ N, long. 072°07′14.66″ W)
PROVI, RI	WP	(Lat. 41°43′25.46″ N, long. 071°25′54.17″ W)
INNDY, MA	WP	(Lat. 41°46′19.19″ N, long. 071°05′55.93″ W)
BURDY, MA	WP	(Lat. 41°57′19.14″ N, long. 070°57′07.45″ W)
HAVNS, OA	WP	(Lat. 42°17′55.00″ N, long. 070°27′42.00″ W)
GRGIO, MA	WP	(Lat. 42°35′09.36″ N, long. 070°33′54.40″ W)
LBSTA, MA	WP	(Lat. 42°48′00.00″ N, long. 070°36′48.70″ W)
Kennebunk, ME (ENE)	VOR/DME	(Lat. 43°25′32.42″ N, long. 070°36′48.69″ W)

* * * * * * *

T–358 Martinsburg, WV (MRB) to Augusta, ME (AUG) [Amended]

Martinsburg, WV (MRB)	VORTAC	(Lat. 39°23′08.06″ N, long. 077°50′54.08″ W)
CPTAL, MD	WP	(Lat. 39°32′16.02″ N, long. 077°41′55.65″ W)
TWIRK, MD	WP	(Lat. 39°34′36.70″ N, long. 077°12′44.75″ W)
MOYRR, MD	WP	(Lat. 39°30′03.42″ N, long. 076°56′10.84″ W)
DANII, MD	WP	(Lat. 39°17′46.42″ N, long. 076°42′19.36″ W)
OBWON, MD	WP	(Lat. 39°11′54.69″ N, long. 076°32′04.84″ W)
SWANN, MD	FIX	(Lat. 39°09′05.28″ N, long. 076°13′43.94″ W)
Smyrna, DE (ENO)	VORTAC	(Lat. 39°13′53.93″ N, long. 075°30′57.49″ W)
AVALO, NJ	FIX	(Lat. 39°16′54.52″ N, long. 074°30′50.75″ W)
MANTA, NJ	FIX	(Lat. 39°54′07.01″ N, long. 073°32′31.63″ W)
BEADS, NY	FIX	(Lat. 40°44′04.51″ N, long. 072°32′34.21″ W)
ORCHA, NY	WP	(Lat. 40°54′55.46″ N, long. 072°18′43.64″ W)
Sandy Point, RI (SEY)	VOR/DME	(Lat. 41°10′02.77″ N, long. 071°34′33.91″ W)
BURDY, MA	FIX	(Lat. 41°57′19.14″ N, long. 070°57′07.45″ W)
HAVNS, OA	WP	(Lat. 42°17′55.00″ N, long. 070°27′42.00″ W)
GRGIO, MA	WP	(Lat. 42°35′09.36″ N, long. 070°33′54.40″ W)
LBSTA, MA	FIX	(Lat. 42°48′00.00″ N, long. 070°36′48.70″ W)
MESHL, ME	FIX	(Lat. 43°19′12.07″ N, long. 070°09′48.03″ W)
Augusta, ME (AUG)	VOR/DME	(Lat. 44°19′12.07″ N, long. 069°47′47.63″ W)

* * * * * * *

T–318 Rochester, NY (ROC) to Kennebunk, ME (ENE) [New]

Rochester, NY (ROC)	VOR/DME	(Lat. 43°07′04.65″ N, long. 077°40′22.06″ W)
FAULT, NY	FIX	(Lat. 42°59′03.01″ N, long. 077°21′47.78″ W)
BEEPS, NY	FIX	(Lat. 42°49′13.26″ N, long. 076°59′04.84″ W)
KOLTT, NY	WP	(Lat. 42°14′21.22″ N, long. 075°41′48.39″ W)
ARRKK, NY	WP	(Lat. 42°03′48.52″ N, long. 075°19′00.41″ W)
HELON, NY	FIX	(Lat. 41°40′02.72″ N, long. 074°16′49.52″ W)
Kingston, NY (IGN)	VOR/DME	(Lat. 41°39′55.62″ N, long. 073°49′20.01″ W)
MOONI, CT	FIX	(Lat. 41°37′53.28″ N, long. 073°19′19.43″ W)
Hartford, CT (HFD)	VOR/DME	(Lat. 41°38′27.98″ N, long. 072°32′50.70″ W)
PROVI, RI	WP	(Lat. 41°43′25.46″ N, long. 071°25′54.17″ W)
PEAKE, MA	FIX	(Lat. 41°34′14.87″ N, long. 070°24′31.61″ W)
Marconi, MA (LFV)	VOR/DME	(Lat. 42°01′01.88″ N, long. 070°02′14.04″ W)
CBIRD, OA	WP	(Lat. 42°08′48.41″ N, long. 070°04′46.69″ W)
HUBEL, OA	WP	(Lat. 42°16′34.88″ N, long. 070°07′19.97″ W)
SCUPP, OA	FIX	(Lat. 42°36′11.01″ N, long. 070°13′49.35″ W)
Kennebunk, ME (ENE)	VOR/DME	(Lat. 43°25′32.42″ N, long. 070°36′48.69″ W)

* * * * * * *

T–320 GILFF, VA to Gardner, MA (GDM) [New]

GILFF, VA	WP	(Lat. 38°21′44.86″ N, long. 077°26′05.38″ W)
HIGPO, VA	WP	(Lat. 38°22′16.09″ N, long. 077°22′19.97″ W)
CAVDI, MD	WP	(Lat. 38°25′33.43″ N, long. 076°54′43.49″ W)
DAILY, MD	FIX	(Lat. 38°33′37.83″ N, long. 076°43′31.05″ W)
VAALI, MD	WP	(Lat. 38°44′00.85″ N, long. 076°26′38.26″ W)
BILIT, MD	FIX	(Lat. 38°45′15.82″ N, long. 076°03′57.59″ W)
CHOPS, MD	FIX	(Lat. 38°45′41.81″ N, long. 075°57′36.18″ W)
EGGRS, DE	WP	(Lat. 38°53′30.52″ N, long. 075°30′49.95″ W)
JILLI, NJ	WP	(Lat. 39°00′42.22″ N, long. 075°05′46.21″ W)
WNSTN, NJ	WP	(Lat. 39°05′43.81″ N, long. 074°48′01.20″ W)
MANTA, NJ	FIX	(Lat. 39°54′07.01″ N, long. 073°32′31.63″ W)
BEADS, NY	FIX	(Lat. 40°44′04.51″ N, long. 072°32′34.21″ W)
ORCHA, NY	WP	(Lat. 40°54′55.46″ N, long. 072°18′43.64″ W)
BOROS, NY	FIX	(Lat. 41°09′24.45″ N, long. 072°09′50.96″ W)
Groton, CT (GON)	VOR/DME	(Lat. 41°19′49.45″ N, long. 072°03′07.14″ W)
YANTC, CT	WP	(Lat. 41°33′22.81″ N, long. 071°59′56.95″ W)
Gardner, MA (GDM)	VOR/DME	(Lat. 42°32′45.31″ N, long. 072°03′29.48″ W)

* * * * *

Paragraph 6013 Canadian Area Navigation Routes.

* * * * *

T–608 HOCKE, MI to REVER, MA [Amended]

HOCKE, MI	WP	(Lat. 43°15′43.38″ N, long. 082°42′38.27″ W)
KATNO, Canada	WP	(Lat. 43°10′34.00″ N, long. 082°19′32.00″ W)
UKNIX, NY	WP	(Lat. 42°56′44.51″ N, long. 078°55′05.60″ W)
WOZEE, NY	WP	(Lat. 42°56′01.65″ N, long. 078°44′19.64″ W)
CLUNG, NY	WP	(Lat. 43°03′17.17″ N, long. 078°00′13.38″ W)
Rochester, NY (ROC)	VOR/DME	(Lat. 43°07′04.65″ N, long. 077°40′22.06″ W)
Syracuse, NY (SYR)	VORTAC	(Lat. 43°09′37.87″ N, long. 076°12′16.41″ W)
LAMMS, NY	WP	(Lat. 43°01′35.30″ N, long. 075°09′51.50″ W)
Albany, NY (ALB)	VORTAC	(Lat. 42°44′50.20″ N, long. 073°48′11.47″ W)
GRAVE, NY	WP	(Lat. 42°46′47.34″ N, long. 073°22′20.91″ W)
Gardner, MA (GDM)	VOR/DME	(Lat. 42°32′45.31″ N, long. 072°03′29.48″ W)
BRONC, MA	FIX	(Lat. 42°30′53.93″ N, long. 071°43′21.61″ W)
LOBBY, MA	FIX	(Lat. 42°30′15.53″ N, long. 071°36′34.04″ W)
SOSYO, MA	FIX	(Lat. 42°29′14.45″ N, long. 071°25′55.75″ W)
REVER, MA	FIX	(Lat. 42°26′27.48″ N, long. 070°57′41.31″ W)

Excluding the airspace within Canada.

* * * * *

Issued in Washington, DC, on July 7, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–14890 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. FDA–2020–N–1383]

Revocation of Methods of Analysis Regulation

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is proposing to revoke the Methods of analysis regulation describing an FDA policy to use certain methods of analysis for FDA enforcement programs when the method of analysis is not prescribed in a regulation. FDA is proposing this action because the existing regulation is unnecessary.

DATES: Either electronic or written comments on the proposed rule must be submitted by September 28, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 28, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–N–1383 for ''Revocation of Methods of Analysis Regulation.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the

electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Holli Kubicki, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–4557.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Proposed Rule

This proposed rule would revoke the Methods of analysis regulation, § 2.19 (21 CFR 2.19), describing an FDA policy to use certain methods of analysis for FDA enforcement programs when the method of analysis is not prescribed in a regulation. The regulation is unnecessary.

B. Summary of the Major Provisions of the Proposed Rule

The proposed rule revokes § 2.19, which states that it is FDA policy to use the methods of analysis of the Association of Analytical Chemists (AOAC) International as published in the 1980 edition of ''Official Methods of Analysis of the Association of Analytical Chemists'' for FDA enforcement programs when the method of analysis is not prescribed in a regulation.

C. Legal Authority

FDA is taking this action under the general administrative provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

D. Costs and Benefits

Because this proposed rule would not impose any additional regulatory burdens, this regulation is not anticipated to result in any compliance costs and the economic impact is expected to be minimal.

II. Background

A. Introduction

FDA's regulation concerning its policy on methods of analysis in enforcement programs dates back nearly 50 years (37 FR 16174, Aug. 11, 1972). Early versions of the regulation stated that unless a regulation prescribed a specific method of analysis, it would be FDA's policy to use the methods of analysis in the ''latest edition of [the AOAC's] publication . . . and supplements thereto. . . .'' (see, *e.g.,* 21 CFR 3.89 (1976 ed.). However, in 1982, 1 CFR 51.1 was amended to limit incorporation by reference of a publication to the edition of the publication that is approved, and to exclude future amendments or revisions of the publication.

FDA has revised the methods of analysis regulation several times, including in 1982 to meet the drafting requirements for incorporation by reference set forth in 1 CFR part 51, and after to make several technical amendments to update names and addresses. However, since the 1982 revision, the regulation has referred to the methods of analysis in the 13th Edition, 1980 of AOAC's publication. FDA is now proposing to revoke the methods of analysis regulation as specified in this proposed rule.

B. Need for Regulation

The Agency believes that the regulation is unnecessary as a general matter. Absent specifying a method of analysis in a regulation, FDA believes it is more appropriate, flexible, and efficient to identify the Agency's preferred methods of analysis in documents such as the Office of Regulatory Affairs Laboratory Procedures Manual, FDA compliance programs, and other resources.

III. Legal Authority

FDA is issuing this proposed rule under the following provisions of the FD&C Act: 21 U.S.C. 321, 331, 335, 342, 343, 346a, 348, 351, 352, 355, 360b, 361, 362, 371, 372, 374.

IV. Description of the Proposed Rule

The proposed rule revokes § 2.19, which states that it is FDA policy to use the methods of analysis of the AOAC International as published in the 1980 edition of ''Official Methods of Analysis of the Association of Analytical Chemists'' for FDA enforcement programs when the method of analysis is not prescribed in a regulation. Repeal of this regulation would eliminate an unnecessary policy.

FDA is proposing this action because a general reference to the 1980 edition of the ''Official Methods of Analysis of the Association of Analytical Chemists'' is unnecessary and because newer, updated methods of analysis may exist. Unless a method of analysis is specified in regulations, FDA believes it is more appropriate, flexible, and efficient to identify the Agency's preferred methods of analysis in documents such as the Office of Regulatory Affairs Laboratory Procedures Manual and other resources.

FDA is proposing to remove § 2.19 from the regulations.

V. Proposed Effective Date

FDA is proposing that any final rule based on this proposed rule become effective 30 days after the date of its publication in the **Federal Register**.

VI. Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all 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, and other advantages; distributive impacts; and equity). This proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule does not add any new regulatory burden on the industry, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any

one year.'' The current threshold after adjustment for inflation is $165 million, using the most current (2021) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

We believe industry will largely maintain their current practices following the removal of § 2.19 Methods of analysis regulation. FDA will also maintain its current practices, similarly generating no quantifiable cost savings. Therefore, we expect this proposed rule to be cost neutral. Table 1 summarizes the estimated benefits and costs of the proposed rule, if finalized.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (years)	Period covered (%)	
Benefits:							
Annualized	$0	$0	$0	2019	7	10	
Monetized $millions/year	0	0	0	2019	3	10	
Annualized							
Quantified							
Qualitative	There would no longer be any inefficiencies due to keeping unnecessary regulations on the books.						
Costs:							
Annualized	$0	$0	$0	2019	7	10	
Monetized $millions/year	0	0	0	2019	3	10	
Annualized					7		
Quantified					3		
Qualitative							
Transfers:							
Federal Annualized					7		
Monetized $millions/year					3		
From/To	From:			To:			
Other Annualized					7		
Monetized $millions/year					3		
From/To	From:			To:			
Effects:							
State, Local or Tribal Government: None.							
Small Business: None.							
Wages: None.							
Growth: None.							

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.31(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that 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. Accordingly, we conclude that this proposed rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that this proposed rule does not contain policies that would 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. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XI. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m. Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA/Economics Staff, ''Revocation of Methods of Analysis Regulation, Preliminary Regulatory Impact Analysis, Preliminary Regulatory Flexibility Analysis, Unfunded Mandates Reform Act Analysis,'' 2020. (Available at: *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*)

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, FDA proposes that 21 CFR part 2 be amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

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

Authority: 15 U.S.C. 402, 409; 21 U.S.C. 321, 331, 335, 342, 343, 346a, 348, 351, 352, 355, 360b, 361, 362, 371, 372, 374; 42 U.S.C. 7671 *et seq.*

§ 2.19 [Removed]

■ 2. Remove § 2.19.

Dated: July 11, 2022.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2022–15109 Filed 7–14–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA–2021–0004]

RIN 2125–AF99

National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: Extreme weather due to climate change threatens the safety and mobility of Americans and challenges the stability of supply chains. To help address the climate crisis, FHWA proposes to amend its regulations governing national performance management measures to require State departments of transportation (State DOTs) and metropolitan planning organizations (MPOs) to establish declining carbon dioxide (CO_2) targets and to establish a method for the measurement and reporting of greenhouse gas (GHG) emissions associated with transportation under the Highways title of the United States Code (U.S.C.). The proposed rule would not mandate the level of the targets. Rather, State DOTs and MPOs would have flexibility to set targets that are appropriate for their communities and that work for their respective climate change and other policy priorities, as long as the targets would reduce emissions over time. Specifically, the proposed rule would require State DOTs and MPOs that have National Highway System (NHS) mileage within their State geographic boundaries and metropolitan planning area boundaries, respectively, to establish declining CO_2 emissions targets to reduce CO_2 emissions generated by on-road mobile sources relative to a reference year defined as calendar year 2021, that align with the Administration's net-zero targets as outlined in the national policy established under Executive orders entitled ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'' and ''Tackling the Climate Crisis at Home and Abroad'' and at the Leaders Summit on Climate. The proposed rule would require MPOs serving urbanized areas with multiple MPOs to establish additional joint targets. The proposed rule also would require State DOTs and MPOs to biennially report on their progress in meeting the targets and require FHWA to assess significant progress toward achieving the targets.

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

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit comments by only one of the following means:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

All submissions should include the agency name and the docket number that appears in the heading of this document or the Regulation Identifier Number (RIN) for the rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. John Davies, Office of Planning, Environment, and Realty, (202) 366–6039, or via email at *JohnG.Davies@dot.gov,* or Mr. Lev Gabrilovich, Office of the Chief Counsel (HCC–30), (202) 366–3813, or via email at *Lev.Gabrilovich@dot.gov.* Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are also available at *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after DOT has had the opportunity to review the comments submitted.

Table of Contents for Supplementary Information

I. Executive Summary

FHWA proposes to amend its regulations on national performance management measures to establish a method for the measurement and reporting of GHG emissions associated with transportation under Title 23, U.S.C. The environmental sustainability, and specifically the carbon footprint, of the transportation system is a critically important attribute that State DOTs can and should use to assess the performance of the Interstate and non-Interstate National Highway System (NHS). 23 U.S.C. 150(c) directs FHWA to establish performance measures that the State DOTs can use to assess performance of the Interstate and non-Interstate NHS. Although the statute does not define the meaning of ''performance'' of the Interstate and non-Interstate NHS under 23 U.S.C. 150(c), Congress identified national goals under 23 U.S.C. 150(b), which include environmental sustainability. To support the environmental sustainability national goal, FHWA is proposing that ''performance'' of the Interstate and non-Interstate NHS under 23 U.S.C. 150(c) includes environmental performance. This definition of ''performance'' is also consistent with other Title 23, U.S.C. provisions, such as 23 U.S.C. 119, as discussed later in this preamble.

The proposed GHG measure would be codified among the National Highway Performance Program (NHPP) performance measures that FHWA established in 23 CFR part 490 (part 490) through prior rulemakings. The proposed rule would require State DOTs and MPOs that have NHS mileage within their State geographic boundaries and metropolitan planning area boundaries, respectively, to establish declining targets that reduce CO_2 emissions [1] generated by on-road mobile sources relative to a reference year defined as calendar year 2021, that align with the Administration's target of net-zero emissions, economy-wide, by 2050, as outlined in the national policy established under section 1 of E.O. 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'', E.O. 14008, and ''Tackling the Climate Crisis at Home and Abroad'', and at the Leaders Summit on Climate. Declining targets also indicate a reduction in CO_2 emissions from one performance period to a subsequent performance period. The proposed rule uses ''NHS'' to mean the mainline highways of the NHS, consistent with the applicability of the measure described in proposed § 490.503(a)(2). State DOTs would establish 2- and 4-year statewide emissions reduction targets, and MPOs would establish 4-year emissions reduction targets for their metropolitan planning areas. In addition, the proposed rule would require certain MPOs serving urbanized areas to establish additional joint targets. The term ''urbanized area'' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census. 23 CFR 450.104; *see* 23 U.S.C. 101(a)(34). Specifically, when the metropolitan planning area boundaries of two or more MPOs overlap any portion of an urbanized area, and the urbanized area contains NHS mileage, those MPOs would establish joint 4-year targets for that urbanized area. This joint target would be established in addition to each MPO's target for their metropolitan planning area. Further, the proposed rule would require State DOTs and MPOs to set declining targets for reducing tailpipe CO_2 emissions on the NHS. State DOTs and MPOs would have the flexibility to set targets that work for their respective climate change policies and other policy priorities, so long as they are in line with the net-zero goals by 2050 set forth in this rule. The proposed rule also would require State DOTs and MPOs to report on their progress in meeting the targets. The proposed rule would apply to the 50 States, the District of Columbia, and Puerto Rico, consistent with the definition of the term ''State'' in 23 U.S.C. 101(a).

The proposed GHG measure would help the United States confront the increasingly urgent climate crisis. The Sixth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC), released on August 7, 2021, confirms that human activities are increasing GHG concentrations that have warmed the atmosphere, ocean, and land at a rate that is unprecedented in at least the last 2,000 years.[2] According to the report, global mean sea level has increased between 1901 and 2018, and changes in extreme events such as heatwaves, heavy precipitation, hurricanes, wildfires, and droughts have intensified since the last assessment report in 2014.[3] These changes in extreme events, along with anticipated future changes in these events due to climate change, threaten the reliability, safety and efficiency of the transportation system and the people who rely on it to move themselves and transport goods. The National Oceanic and Atmospheric Administration (NOAA) has documented billion-dollar weather and climate disasters since 1980. According to the NOAA data, which are adjusted for inflation, five of the six years with the greatest total annual costs occurred between 2012 and 2021.[4] Many of these disasters have impacted a variety of Federal, State, and local resources, including FHWA funding programs, in a number of ways, including recovery and response. Action to significantly reduce global GHG emissions can reduce climate-related risks to communities. At the same time, transportation contributes significantly to the causes of climate change,[5] and each additional ton of CO_2 produced by the combustion of fossil fuels contributes to future warming and other climate impacts.

The proposed GHG measure would align with recent Executive Orders described later in this preamble and a U.S. target of achieving a 50 to 52 percent reduction from 2005 levels of economy-wide net GHG pollution in

[1] The proposed GHG measure specifically applies to CO_2 emissions, which is the predominant human-produced greenhouse gas. CO_2 is also the predominant GHG from on-road mobile sources, accounting for 97 percent of total greenhouse gas emissions weighted by global warming potential in 2019. See EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, *available at https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2019.*

[2] *See* IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, *available at https://www.ipcc.ch/report/ar6/wg1/#SPM.*

[3] IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press. In Press.

[4] NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2022). *https://www.ncei.noaa.gov/access/billions/,* DOI: 10.25921/stkw-7w73.

[5] Jacobs, J.M., M. Culp, L. Cattaneo, P. Chinowsky, A. Choate, S. DesRoches, S. Douglass, and R. Miller, 2018: Transportation. In Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 479–511. doi: 10.7930/NCA4.2018.CH12.

2030, on a course toward reaching net-zero emissions economy-wide by no later than 2050.[6] The first step toward reducing GHG emissions in every sector involves inventorying and monitoring those emissions. The transportation sector is both the largest source of U.S. CO_2 emissions[7] and increasingly vulnerable to the higher temperatures, more frequent and intense precipitation, and sea level rise associated with the changing climate.

Accordingly, as a matter of transportation policy, DOT considers the proposed GHG performance management measure essential not only to improve transportation sector GHG performance and work toward achieving net-zero emissions economy-wide by 2050, but also to demonstrate Federal leadership in the assessment and disclosure of climate pollution from the transportation sector. Measuring and reporting complete, consistent, and timely information on GHG emissions from on-road mobile source emissions is necessary so that all levels of government and the public can monitor changes in GHG emissions over time and make more informed choices about the role of transportation investments and other strategies in achieving GHG reduction targets. In addition, a requirement for State DOTs and MPOs to establish declining targets for reductions in tailpipe CO_2 emissions on the NHS, informed by complete, consistent, and timely information on GHG emissions from on-road mobile source emissions, is vital to achieving 50 to 52 percent reductions by 2030 and net-zero emissions economy-wide by 2050.

Furthermore, the proposed rule responds to the direction in sections 1 and 2 of Executive Order 13990 that Federal agencies review any regulations issued or similar actions taken between January 20, 2017, and January 20, 2021, and, consistent with applicable law, take steps to address any such actions that conflict with the national objectives set forth in the order to address climate change. FHWA reviewed its 2018 final rule (83 FR 24920, May 31, 2018) that repealed a GHG measure FHWA adopted in 2017 (2017 GHG measure) and determined that the repeal conflicts with those objectives.

FHWA has the legal authority to establish the proposed GHG measure under 23 U.S.C. 150. Specifically, FHWA is directed under 23 U.S.C. 150(c)(A)(ii) to establish measures for States to use to assess the performance of the Interstate System and non-Interstate NHS. Although the statute does not define performance, 23 U.S.C. 150(b)(6) identifies environmental sustainability as a national goal of the Federal-aid highway program. To address this national goal, FHWA has determined that the performance of the Interstate System and the NHS under 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V) includes environmental performance. The proposed GHG measure is also appropriate in light of other provisions of Title 23, U.S.C., notably the National highway performance program provisions at 23 U.S.C. 119, which include requirements for State asset management plans that support progress toward the achievement of the environmental sustainability national goal to enhance the performance of the transportation system while protecting and enhancing the natural environment at 23 U.S.C. 150(b)(6). In addition, several other provisions support the measure, including: 23 U.S.C. 101(b)(3)(G) (transportation policy); 134(a)(1) (transportation planning policy); 134(c)(1) (metropolitan planning); and 135(d)(1) and (d)(2) (statewide planning process and a performance-based approach).

The proposed GHG measure does not conflict with the on-road mobile source emissions provision in 23 U.S.C. 150(c)(5), which requires that the Secretary establish performance measures to carry out the Congestion Mitigation and Air Quality Improvement (CMAQ) Program to reduce criteria pollutants under 23 U.S.C. 149. As discussed below, performance measures may overlap to achieve the national goals set forth in the statute.

In addition, there are two other lines of support for the proposed GHG measure. First, the proposed measure would inform transportation planning at all levels of government, including by State DOTs, MPOs, and FHWA. By providing consistent and timely information about on-road mobile source emissions on the NHS, the proposed GHG measure has the potential to yield benefits including greater public awareness of GHG emissions trends, increased transparency and improved decision-making at all levels of government, and planning choices to reduce GHG emissions or inform tradeoffs among competing policy choices.

Second and related, the establishment of a national GHG measure would provide a new source of information that would be valuable to State DOTs, MPOs, and the Federal government as they pursue GHG reduction goals and targets. The potential for duplication of efforts by other government entities was one reason FHWA cited in 2018 when repealing the 2017 GHG measure. Upon further consideration, FHWA rejects the notion that the proposed GHG measure would duplicate other efforts and therefore is inappropriate. While the U.S. Department of Energy (DOE) and the U.S. Environmental Protection Agency (EPA) publish State-by-State CO_2 estimates for the transportation sector, this data is not disaggregated to reflect CO_2 emissions from on-road sources, and can reflect significant fluctuations in CO_2 emissions from other transportation sources (such as aircraft, boats, and rail). The DOE and EPA data also lag FHWA's publication of fuel use data by up to a year. The proposed GHG measure would utilize FHWA's fuel use data very shortly after its publication and provide a more timely information source that is better suited for setting targets, monitoring trends, and evaluating the impact of strategies across various levels of government to reduce GHG emissions. In these capacities the proposed GHG measure is integral to a whole-of-Government approach to address climate change and its effects, and would provide State DOTs with valuable information that is not already addressed by other Federal agencies.

FHWA proposes changes to two subparts of part 490: Subpart A—General Information, and Subpart E—National Performance Management Measures to Assess Performance of the National Highway System. The proposed changes to subpart A include a new definition in § 490.101 and the addition of references to the proposed GHG measure and new provisions in the following sections: § 490.105 Establishment of performance targets; § 490.107 Reporting on performance targets; and § 490.109 Assessing significant progress toward achieving the performance targets for the National Highway Performance Program and the National Highway Freight Program. The

[6] White House Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies (Apr. 22, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/;* White House Fact Sheet: President Biden's Leaders Summit on Climate (Apr. 23, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/fact-sheet-president-bidens-leaders-summit-on-climate/; see* U.S. Department of Transportation Strategic Plan FY 2022–2026, *available at https://www.transportation.gov/sites/dot.gov/files/2022-04/US_DOT_FY2022-26_Strategic_Plan.pdf.*

[7] *See* EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, *available at https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2019.*

proposed changes to subpart E would incorporate the GHG measure into existing regulations on NHPP performance measures. Specifically, the proposed changes would affect the following sections: § 490.503 Applicability; § 490.505 Definitions; § 490.507 National performance management measures for system performance; § 490.509 Data requirements; § 490.511 Calculation of National Highway System performance metrics; and § 490.513 Calculation of National Highway System performance measures.

The draft regulatory impact analysis (RIA) prepared pursuant to Executive Order 12866, and which is available in the rulemaking docket (Docket No. FHWA–2021–0004), estimates the costs associated with establishing the GHG measure, derived from the costs of implementing the GHG measure for each component of the rule that may involve costs. To estimate the costs, FHWA assessed the level of effort that would be needed to comply with each applicable section in part 490 with respect to the GHG measure, including labor hours by labor category, over a 10-year study period (2022–2031). Total costs over this period are estimated to be $11.0 million, discounted at 7 percent, and $12.9 million, discounted at 3 percent. The RIA discusses anticipated benefits of the rule qualitatively; they are not quantified because they are difficult to forecast and monetize.

II. Background and Regulatory History

The 2012 Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141) and the 2015 Fixing America's Surface Transportation (FAST Act, Pub. L. 114–94) transformed the Federal-aid highway program by establishing performance management requirements and tasking FHWA with carrying them out. To implement this program, FHWA established an organizational unit with dedicated full time staff to coordinate with program staff from each of the performance areas to design and establish an approach to effectively implement the Title 23 performance provisions. FHWA has technical and policy experts on staff to provide State DOTs and MPOs assistance implementing performance management, and to oversee program requirements.

FHWA conducted several rulemakings to implement the new performance management framework. The rulemakings established in part 490 the performance measures and requirements for target establishment, reporting on progress, and how determinations would be made on whether State DOTs have made significant progress toward applicable targets.

The transportation performance management requirements provide increased accountability and transparency, and facilitate efficient investment of Federal transportation funds through a focus on performance outcomes for the seven national transportation goals concerning safety, infrastructure condition, congestion reduction, system reliability, freight movement and economic vitality, environmental sustainability, and reduced project delivery delays. *See* 23 U.S.C. 150(b). Through performance management, recipients of Federal-aid highway funds make transportation investments to achieve short-term performance targets and make progress toward the longer-term national goals. Performance management allows FHWA to more effectively evaluate and report on the Nation's surface transportation conditions and performance.

Prior to MAP–21, there were no explicit statutory requirements for State DOTs or MPOs to demonstrate how their transportation programs supported national performance outcomes, making it difficult to assess the effectiveness of the Federal-aid highway program. The new Transportation Performance Management (TPM) requirements established in MAP–21 changed this paradigm by requiring State DOTs and MPOs to measure condition or performance, establish targets, assess progress towards targets, and report on condition or performance in a nationally consistent manner for the first time (23 U.S.C. 150(e) and 23 CFR 490.107).

As previously noted, FHWA conducted several rulemakings implementing the performance management framework. Most relevant to this proposed rule are three related national performance management measure rulemakings in which FHWA established various measures for State DOTs and MPOs to use to assess performance, found at 23 CFR part 490. The first rulemaking focused on Safety Performance Management (PM1), and a final rule published on March 15, 2016 (81 FR 13882), established performance measures for State DOTs to use to carry out the Highway Safety Improvement Program (HSIP). The second rulemaking on Infrastructure Performance Management (PM2) resulted in a final rule published on January 18, 2017 (82 FR 5886), that established performance measures for assessing pavement condition and bridge condition for the NHPP. The third rulemaking, System Performance Management (PM3), established measures for State DOTs and MPOs to use to assess the performance of the Interstate and non-Interstate NHS for the purpose of carrying out the NHPP; to assess freight movement on the Interstate System; and to assess traffic congestion and on-road mobile source emissions for the purpose of carrying out the CMAQ Program. The PM3 final rule was published on January 18, 2017 (82 FR 5970).

The PM3 rule addressed a broad set of performance issues and some of the national transportation goals, such as environmental sustainability, that were not addressed in the earlier rulemakings focused solely on safety and infrastructure condition. In the preamble to the PM3 proposed rule, published on April 22, 2016 (81 FR 23806), FHWA requested public comment on whether to establish a CO_2 emissions measure in the final rule and, if so, how to do so. FHWA acknowledged the contribution of on-road sources to over 80 percent of U.S. transportation sector GHG emissions, and the historic Paris Agreement in which the United States and more than 190 other countries agreed in December 2015 to reduce GHG emissions, with the goal of limiting global temperature rise to less than 2 degrees Celsius above pre-industrial levels by 2050. FHWA recognized that achieving U.S. climate goals would require significant GHG reductions from on-road transportation sources. *See* 81 FR 23830. Against this backdrop, FHWA stated that it was considering how GHG emissions could be estimated and used to inform planning and programming decisions to reduce long term emissions. FHWA sought comment on the potential establishment and effectiveness of a GHG emissions measure as a planning, programming, and reporting tool, and FHWA requested feedback on specific considerations related to the design of such a measure. 82 FR 23831.

In the PM3 final rule, FHWA established a GHG emissions performance measure to measure environmental performance in accordance with 23 U.S.C. 150(c)(3) after considering extensive public comments on whether and how FHWA should establish such a measure. Specifically, the GHG measure involved the percent change in CO_2 emissions from the reference year 2017, generated by on-road mobile sources on the NHS. Had the GHG measure remained in effect, State DOTs would have been required to estimate CO_2 emissions based on annual fuel sales, Energy Information Agency (EIA) published emission conversion factors, and the proportion of statewide vehicle miles

traveled (VMT) that occurs on the NHS. MPOs would have been given options as to how they would calculate CO_2 emissions. All State DOTs and MPOs with NHS mileage in their State geographic boundaries and metropolitan planning areas, respectively, would have been required to establish targets and report on progress. A State DOT would have reported annual CO_2 emissions every 2 years to FHWA in its Biennial Performance Report. FHWA would have assessed and determined every 2 years whether a State DOT had made significant progress toward achieving its targets. *See* 82 FR 5974 and 5981.

On October 5, 2017 (82 FR 46427), however, FHWA proposed to repeal the 2017 GHG measure. FHWA requested public comment on whether to retain or revise the 2017 GHG measure. *See* 82 FR 46430. In light of policy direction to review existing regulations to determine whether changes would be appropriate to eliminate duplicative regulations, reduce costs, and streamline regulatory processes, and after considering public comments received, on May 31, 2018 (83 FR 24920), FHWA repealed the GHG measure, effective on July 2, 2018. FHWA identified three main reasons for the repeal: (1) reconsideration of the underlying legal authority; (2) the cost of the GHG measure in relation to the lack of demonstrated benefits; and (3) potential duplication of information produced by the GHG measure and information produced by other initiatives related to measuring CO_2 emissions.

All other performance management measures remained in place and implementation is underway. FHWA continues to expect that State DOTs and MPOs will use the information and data generated in response to part 490 to inform State or local planning and programming decisions. FHWA, in turn, will continue to use the information and data to improve national performance on all of the statutory goals and to assess more reliably the impacts of Federal funding investments.

III. Statement of the Problem, Legal Authority, and Rationale

FHWA believes that establishment of performance management requirements remains a powerful tool for achieving all seven of the statutory national transportation goals, including environmental sustainability. As FHWA acknowledged in the preamble to the PM3 final rule, implementation of the performance management requirements should evolve over time for various reasons, including shifts in national priorities for the focus on a goal area. *See* 82 FR 5974. In light of the Agency's policy emphasis on using its available authorities to confront worsening climate change—as well as the new facts identified in reports issued between 2018 and 2021 that expand our knowledge of the severe consequences of climate change—FHWA reconsidered its legal authority, reexamined the assumptions regarding potential costs and potential duplication that underlay the repeal of the 2017 measure, and proposes adopting a GHG performance measure. Consistent with the purpose and text of the statute, FHWA believes establishing a GHG performance measure could be an effective means for supporting the environmental sustainability of the Federal-aid highway program.

A. Confronting the Climate Crisis

Scientific literature published since the 2018 GHG measure repeal provides greater certainty on the impact of human activities on the earth's current and future climate, as well as the urgency of actions to reduce human GHG emissions. The IPCC Sixth Assessment Report states that it is now unequivocal that human activities have increased atmospheric GHG emissions concentrations and resulted in warming of the atmosphere, ocean, and land, with average surface temperature having increased by approximately 2 degrees Fahrenheit since the 1800s.[8] The IPCC Sixth Assessment Report also points to growing evidence linking human production of GHG emissions to extreme events such as heatwaves, heavy precipitation, droughts, and hurricanes. The report warns that human-produced GHG emissions already in the atmosphere have assured that global surface temperatures will continue to increase until at least the mid-century, even with significant reductions in CO_2 emissions. This warming will result in other changes that are irreversible for centuries to millennia, including the continued melting of mountain and polar glaciers, the loss of ice from the Greenland Ice Sheet, and the continued rise in global mean sea level. The IPCC Sixth Assessment Report further notes that every ton of CO_2 emissions contributes to climate change.

Other research also shows that CO_2 and other GHG emissions have accumulated rapidly as the world has industrialized, with concentrations of atmospheric CO_2 increasing from roughly 278 parts per million in 1750[9] to 414 parts per million in 2020.[10] Human-produced GHG emissions have increased over this time period, with larger absolute increases since 2000 despite a growing number of climate change mitigation policies.[11] Since GHGs, such as CO_2, methane (CH_4), and nitrous oxide (N_2O), have atmospheric lifetimes ranging from a decade to a century or more,[12] atmospheric concentrations have increased every year measurements have been recorded since 1959, even when GHG emissions have decreased on a year-over-year basis.[13] This phenomenon was demonstrated in 2020 when global mean CO_2 concentration increased by 2.7 parts per million (ppm) relative to 2019[14] despite a 5.8 percent decrease in global energy-related CO_2 emissions, which represented the largest percentage decline since World War II.[15]

Scientists have warned that significant and potentially dangerous shifts in climate and weather are possible with climate change of 2 degrees Celsius (3.6 degrees Fahrenheit) beyond preindustrial levels.[16] Stabilizing at this level would likely require atmospheric CO_2 concentrations of approximately 450 ppm or lower;[17] achieving this concentration would likely require a decrease in global net anthropogenic CO_2 emissions of about 25 percent below 2010 levels by 2030, leading to net-zero CO_2 emissions by

[8] See IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, *available at https://www.ipcc.ch/report/ar6/wg1/#SPM.*

[9] Wuebbles, D.J., D.R. Easterling, K. Hayhoe, T. Knutson, R.E. Kopp, J.P. Kossin, K.E. Kunkel, A.N. LeGrande, C. Mears, W.V. Sweet, P.C. Taylor, R.S. Vose, and M.F. Wehner, 2017: Climate Science Special Report: Fourth National Climate Assessment, Volume I [Wuebbles, D.J., D.W. Fahey, K.A. Hibbard, D.J. Dokken, B.C. Stewart, and T.K. Maycock (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, (U.S. GCRP 2017 Climate Science Special Report) pp. 82, doi: 10.7930/J08S4N35, a*vailable at https://science2017.globalchange.gov/.*

[10] National Oceanic and Atmospheric Administration (2021). Trends in Atmospheric Carbon Dioxide (NOAA 2021 Trends in Atmospheric Carbon Dioxide), *available at https://www.esrl.noaa.gov/gmd/ccgg/trends/.*

[11] Intergovernmental Panel on Climate Change. Climate Change 2014 Synthesis Report Summary for Policymakers (IPCC 2014 Report), *available at https://www.ipcc.ch/site/assets/uploads/2018/02/AR5_SYR_FINAL_SPM.pdf.*

[12] U.S. GCRP 2017 Climate Science Special Report at 80.

[13] NOAA 2021 Trends in Atmospheric Carbon Dioxide.

[14] *Id.*

[15] International Energy Agency (2021) Global Energy Review: CO_2 Emissions in 2020.

[16] *See* Intergovernmental Panel on Climate Change (2018) Summary for Policymakers. In Global Warming of 1.5 Deg. C. An IPCC Special Report, *available at https://www.ipcc.ch/sr15/chapter/spm.*

[17] IPCC 2014 Report.

2070.[18] The Paris Agreement goal is to limit global warming well below that level, and preferably to 1.5 degrees Celsius (2.7 degrees Fahrenheit),[19] which the IPCC estimates would likely require decreasing global net anthropogenic CO_2 emissions 45 percent below 2010 levels by 2030, reaching net-zero around 2050.[20] The IPCC Sixth Assessment Report includes new estimates of the likelihood of crossing the 1.5 degree Celsius threshold, concluding that without immediate, rapid and large-scale reductions in GHG emissions, it will no longer be possible to limit warming to 1.5 degrees or even 2 degrees Celsius.[21]

Given the urgency of the climate crisis, several recent Executive orders and other commitments prioritize actions throughout the Government to address climate change. Section 1 of E.O. 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,'' 86 FR 7037 (Jan. 25, 2021), articulates national policy objectives, including listening to the science, improving public health and protecting the environment, reducing GHG emissions, and strengthening resilience to the impacts of climate change. E.O. 14008, ''Tackling the Climate Crisis at Home and Abroad,'' 86 FR 7619 (Feb. 1, 2021), recommits the United States to the Paris Agreement and calls on the United States to begin the process of developing its nationally determined contribution to global GHG reductions with analysis and input from executive departments and agencies and outreach to domestic stakeholders. 86 FR 7620. Under that nationally determined contribution, the U.S. will target reducing emissions by 50 to 52 percent by 2030 compared to 2005 levels.[22]

E.O. 14008 also calls for a Government-wide approach to the climate crisis and acknowledges opportunities to create jobs to build a modern, sustainable infrastructure, to provide an equitable, clean energy future, and to put the United States on a path to achieve net-zero emissions, economywide, no later than 2050. 86 FR 7622. Notably, section 201 of E.O. 14008 calls on the Federal Government to drive assessment, disclosure, and mitigation of climate pollution and envisions Federal actions combined with efforts from every level of government and every economic sector. 86 FR 7622. It also supports the principle set forth in section 213 ''to ensure that Federal infrastructure investment reduces climate pollution.'' 86 FR 7626. This principle affirms that reducing GHGs is part of the expected performance of transportation infrastructure, making it an appropriate and necessary metric for the NHS.

In addition, sections 1 and 2 of E.O. 13990 direct that all agencies immediately review Federal regulations promulgated and other actions taken between January 20, 2017, and January 20, 2021, and, consistent with applicable law, take action to address regulations that conflict with the national objectives stated in section 1 of E.O. 13990 and to begin work immediately to address the climate crisis. 86 FR 7037. In response to this direction, FHWA has reviewed the May 2018 final rule that repealed the 2017 GHG measure and has concluded that the repeal conflicts with those national objectives, which include reducing GHG emissions. Because reducing GHG emissions is clearly established as a national priority and national goal in section 1 of E.O. 13990 and E.O. 14008, FHWA has concluded that it is appropriate to propose to reestablish a GHG performance measure for the reasons set forth in this preamble. The proposed measure is similar to the repealed 2017 GHG measure. However, FHWA is updating analyses and proposing updated requirements associated with the measure. Additionally, FHWA is proposing to require State DOTs and MPOs to set declining targets for reducing tailpipe CO_2 emissions on the NHS that align with the 2030 and 2050 targets set out in the Executive Orders discussed previously in this section.

By establishing the proposed GHG measure, FHWA would be taking action to address the largest source of U.S. CO_2 emissions. In 2019, the transportation sector accounted for 34.6 percent of total U.S. CO_2 emissions, with 83.2 percent of the sector's total CO_2 emissions coming from on-road sources.[23] The transportation sector is expected to remain the largest source of U.S. CO_2 emissions through 2050, increasing at an average annual rate of 0.3 percent per year despite improvements in the energy efficiency of light-duty vehicles, trucks, and aircraft.[24] Factors such as population growth, expansion of urban centers, a growing economy, and increased international trade are expected to result in growing passenger and freight movement. These changes can make GHG reductions and environmental sustainability both more challenging to implement and more important to achieve.[25]

In addition to being the largest source of U.S. CO_2 emissions, the transportation sector is increasingly vulnerable to the effects of climate change. As highlighted in FHWA's 2013 Conditions and Performance Report[26] and in *A Performance-Based Approach to Addressing Greenhouse Gas Emissions through Transportation Planning*,[27] there are two main types of climate change risk affecting transportation infrastructure: continued emissions of GHGs, such as CO_2, that adversely affect the atmosphere, leading to climate change effects; and threats to the transportation system posed by climate change impacts (*e.g.,* damaged

[18] Intergovernmental Panel on Climate Change. Climate Change 2018: Summary for Policymakers. (IPCC 2018 Report), *available at https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf.*

[19] U.S. Department of State (2021). U.S.—China Joint Statement Addressing the Climate Crisis, *available at https://www.state.gov/u-s-china-joint-statement-addressing-the-climate-crisis/.*

[20] Intergovernmental Panel on Climate Change (2018). Special Report: Global Warming of 1.5 Degrees. Summary for Policymakers. *https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf.*

[21] *See* IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, *available at https://www.ipcc.ch/report/ar6/wg1/#SPM.*

[22] White House Fact Sheet: President Biden's Leaders Summit on Climate (Apr. 23, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/fact-sheet-president-bidens-leaders-summit-on-climate/.* In addition, E.O. 14057, ''Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability,'' 86 FR 70935 (Dec. 13, 2021), highlights the Federal Government's role in transforming the ways the Government builds, buys, and manages electricity, vehicles, buildings, and other operations to be clean and sustainable.

[23] U.S. Environmental Protection Agency (2021). Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2019, *available at https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2019.*

[24] U.S. Energy Information Administration (2021). Annual Energy Outlook 2021, *available at https://www.eia.gov/outlooks/aeo/tables_ref.php.*

[25] Jacobs, J.M., M. Culp, L. Cattaneo, P. Chinowsky, A. Choate, S. DesRoches, S. Douglass, and R. Miller, 2018: Transportation. In Impacts, Risks, and Adaption in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Mayock, and B.C. Stewart (eds.)] U.S. Global Change Research Program, Washington, DC, USA, pp. 479–511. doi: 10.7930/NCA4.2018.CH12, *available at https://nca2018.globalchange.gov/chapter/12/.*

[26] FHWA 2013 Conditions and Performance Report (PDF Version), ''Advancing Environmental Sustainability'' at 5–6 through 5–7, *available at https://www.fhwa.dot.gov/policy/2013cpr/pdfs.cfm.*

[27] A Performance-Based Approach to Addressing Greenhouse Gas Emissions through Transportation Planning, FHWA (December 2013) at iii–iv, *available at https://www.fhwa.dot.gov/environment/ climate_change/mitigation/publications/ghg_planning/index.cfm.*

or flooded facilities).[28] In other words, the transportation system both contributes to climate change and suffers from the impacts of climate change.

Transportation infrastructure is increasingly at risk from increased intensity and frequency of precipitation, sea level rise and resulting coastal flooding, heat, wildfires, and other extreme events associated with a changing climate. These impacts threaten to increase the cost of maintaining, repairing, and replacing infrastructure, particularly assets that are approaching or beyond their design life. Climate impacts also threaten the performance of the entire network, as defined by national goals identified in 23 U.S.C. 150(b). Basic mobility and economic needs will be compromised by both short-term and long-term impacts of climate change. Potential consequences include effects on safety, environmental sustainability, economic vitality and mobility, congestion, and system reliability. Given the increased severity of extreme weather events resulting from climate change, ensuring safe and effective emergency evacuation routes will become increasingly difficult. These effects may disproportionately affect vulnerable populations and urban transportation assets.[29]

In the face of these climate challenges, establishing a GHG measure in FHWA's Transportation Performance Management Program would provide a consistent basis for addressing the environmental sustainability of the system and estimating on-road GHG emissions. The measure would aid State DOTs and MPOs in planning GHG emissions reductions and evaluating progress toward national, State, and local GHG targets. Comprehensive transportation planning processes require consideration of strategies that protect and enhance the environment, promote energy conservation, improve the quality of life, and improve the resiliency and reliability of the transportation system. *See* 23 U.S.C 134(h)(1)(E) and (I) and 23 U.S.C 135(d)(1)(E) and (I). Statewide and metropolitan transportation planning processes are required to use a performance-based approach to transportation decision-making to support the national goals described in 23 U.S.C. 150(b). Such an approach includes establishing performance targets that address the performance measures established by FHWA under 23 U.S.C. 150(c), where applicable, to track progress toward attainment of critical outcomes for the State or MPO region. 23 U.S.C. 134(h)(2)(A)–(B) and 135(d)(2)(A)–(B). Further, States and MPOs are required to integrate the goals, objectives, performance measures, and targets into their transportation planning processes, and States consider them when developing policies, programs, and investment priorities reflected in the statewide transportation plan and the Statewide Transportation Improvement Program (STIP). 23 U.S.C. 134(h)(2)(D) and 135(d)(2)(C) and (D); *see* 23 CFR 450.218(q) and 450.326(d).

Establishing a GHG measure also would result in a consistent set of data that could inform the future investment decisions of the Federal Government, State DOTs, and MPOs towards achieving their targets or goals. In addition, an on-road GHG emissions measure would advance the Federal-aid highway program's national goal for environmental sustainability identified under 23 U.S.C. 150(b)(6). In implementing the proposed measure, FHWA intends to consider a wide range of data and tools from EPA, the DOE National Laboratories, and other Federal agencies.

An on-road GHG emissions measure would allow State DOTs, MPOs, and FHWA to analyze transportation GHG trends and could facilitate DOT contributions to the National Climate Task Force established in section 203 of E.O. 14008 to facilitate the organization and deployment of a Government-wide approach to the climate crisis. *See* 86 FR 7623. The proposed GHG measure would inform DOT-wide efforts to engage with domestic stakeholders and to identify U.S. contributions to needed reductions under the Paris Agreement and the U.S. target of reducing emissions by 50 to 52 percent by 2030 compared to 2005 levels, as well. While on-road tailpipe CO_2 emissions on the NHS represent one discrete component of U.S. transportation sector GHG emissions, measuring and reporting on-road tailpipe CO_2 emissions on the NHS under the proposed GHG measure would be useful for all of these reasons.

B. Legal Authority for the Proposed GHG Measure

FHWA is proposing to establish a GHG emissions performance measure under 23 U.S.C. 150(c)(3), which calls for performance measures that the States can use to assess performance of the Interstate and non-Interstate NHS for the purpose of carrying out the NHPP under 23 U.S.C. 119. 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V). Since Congress did not define the term ''performance,'' as used in 23 U.S.C. 150(c)(3), FHWA must interpret this term in the context of the statute. Accordingly, FHWA is interpreting ''performance'' of the Interstate and non-Interstate NHS under 23 U.S.C. 150(c) to include the system's environmental performance, an interpretation that is consistent with the national goals established under 23 U.S.C. 150(b). Assessing environmental performance will further the environmental sustainability national goal to enhance the performance of the transportation system while protecting and enhancing the natural environment. 23 U.S.C. 150(b)(6). This national goal is incorporated into the NHPP under 23 U.S.C. 119(e), which calls for a performance-driven asset management plan that would ''support progress toward the achievement of the national goals identified in section 150(b).'' Assessing environmental performance also provides support for activities to increase the resiliency of the NHS to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters, which is one of the purposes of the NHPP. 23 U.S.C. 119(b)(4). This measure would only apply to the Interstate and non-Interstate NHS. Since 23 U.S.C. 150(c)(3)(IV)–(V) refers only to the performance of the Interstate system and the non-Interstate NHS, FHWA only has authority to apply this measure to the Interstate system and the non-Interstate NHS. This interpretation is also consistent with 23 U.S.C. 150(c)(2), as further described in this preamble.

In the May 2018 final rule repealing the GHG performance requirements in the PM3 rule, FHWA reconsidered its interpretation of the statute and determined that the statute did not

[28] Extreme weather and other impacts related to GHG emissions, such as sea level rise, can harm, disrupt, and damage transportation systems, particularly through flooding, resulting in costly disruptions. For discussions of the potential disruptive effects of climate change on the transportation system, see also Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: The Gulf Coast Phase 2, Task 3.2 Engineering Assessments of Climate Change Impacts and Adaptation Measures (FHWA and DOT Climate Change Center) (August 2014) at 273 (*available as of September 14, 2016, at http://www.fhwa.dot.gov/environment/ climate_change/adaptation/ongoing_and_current_research/gulf_coast_study/phase2_task3/task_3.2/task2phase3.pdf*); and Hampton Roads Climate Impact Quantification Initiative, Baseline Assessment of the Transportation Assets and Overview of Economic Analyses Useful in Quantifying Impacts, DOT (September 13, 2016) (*available as of November 1, 2016 at https://rosap.ntl.bts.gov/view/dot/12379*).

[29] Jacobs, J.M., M. Culp, L. Cattaneo, P. Chinowsky, A. Choate, S. DesRoches, S. Douglass, and R. Miller, 2018: Transportation. In *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 479–511. doi: 10.7930/NCA4.2018.CH12.

specifically direct or require FHWA to adopt a GHG measure. In deciding to repeal the GHG measure in 2018, FHWA adopted a narrow interpretation of the statute. FHWA has reconsidered its interpretation of the statute and believes that adopting a GHG measure is both consistent with the Agency's statutory authority and the implementation of sections 1 and 2 of E.O. 13990.

First, Congress specifically directed FHWA to establish measures for States to use to assess the performance of the Interstate System and the non-Interstate NHS. *See* 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V). Although Congress did not define the meaning of performance under this provision, the statute identifies seven national goals to inform performance management. Environmental sustainability is one of the specifically identified goals, which is defined as ''enhance[ing] the performance of the transportation system while protecting and enhancing the natural environment.'' 23 U.S.C. 150(b)(6). In light of this explicit goal and FHWA's past practice, as described further in this section, FHWA believes that it is appropriate to interpret the meaning of performance of the Interstate System and the NHS under 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V) to include environmental performance. When FHWA enacted a GHG performance measure in the PM3 final rule, the Agency determined that it is appropriate to adopt the measure under 23 U.S.C. 150(c)(3), as that section does not impose any limitation on what type of NHS performance may be measured in rules promulgated under 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V), and because environmental performance is an integral part of the Federal-aid highway program, as reflected by the national goal of environmental sustainability in 23 U.S.C. 150(b)(6), transportation planning provisions in 23 U.S.C. 134 and 135, and environmental provisions in 23 U.S.C. 109(c), (g), (h), (i), and (j). The Agency also noted that this interpretation is supported by the many FHWA actions to treat the environment, and specifically sustainability and climate change, as part of system performance. 82 FR 5970, 5995. When FHWA repealed the GHG performance measure, the Agency took a narrow view and determined that since 23 U.S.C. 150(c)(2)(C) directs FHWA to limit performance measures only to those described in 23 U.S.C. 150(c), FHWA's previous interpretation that performance of the Interstate System and the National Highway System under 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V) includes environmental performance was overly broad.

FHWA has reexamined this determination from the 2018 repeal final rule and is proposing to reassert FHWA's earlier determination in the PM3 final rule that FHWA has authority under 23 U.S.C. 150(c)(3) to establish a GHG performance measure. Congress has not directly addressed the meaning of ''performance'' under the NHPP. Rather, FHWA is proposing that Congress has directed FHWA to determine the nature and scope of the specific performance measures that will fulfill the statutory mandate in 23 U.S.C. 150(c). Accordingly, FHWA is proposing that the performance of the Interstate System and the NHS includes environmental performance. This interpretation is reasonable in light of FHWA's statutory mandate to address the national goal of environmental sustainability under 23 U.S.C. 150(b)(6), as well as resilience under 23 U.S.C. 119, as further described in this preamble. Notably, 23 U.S.C. 150(c)(2)(C) limits performance measures to those described in 23 U.S.C. 150(c). The provision limits FHWA's authority to establish measures States use to assess performance only to the Interstate System and the NHS. However, the provision does not otherwise limit the meaning of ''performance''.

Second, FHWA's proposed adoption of the GHG measure is consistent with other parts of Title 23 of the U.S.C., notably 23 U.S.C. 119. In the PM3 final rule, the Agency identified that 23 U.S.C. 119 provides additional statutory support for the GHG measure. 82 FR 5995. Section 119 of Title 23, U.S.C. sets forth the purposes of the NHPP, eligibilities for NHPP funding, purposes and requirements for State performance management (including asset management, significant progress and reporting requirements for performance measures), Interstate and bridge condition penalty provisions for falling below minimum conditions established by the Secretary, and environmental mitigation. FHWA noted that the performance management provisions in 23 U.S.C. 119(e) call for a performance-driven asset management plan that would ''support progress toward the achievement of the national goals identified in section 150(b).'' The 2017 GHG measure was developed to enhance the performance of the transportation system while protecting and enhancing the natural environment, consistent with the national goal under 23 U.S.C. 150(b)(6). Thus, by supporting the achievement of the national performance goals, the 2017 GHG measure, and by extension this proposed rule, supports FHWA's implementation of 23 U.S.C. 119. Additionally, the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, also known as the ''Bipartisan Infrastructure Law''), amended 23 U.S.C. 119 to indicate that one of the purposes of the NHPP is ''to provide support for activities to increase the resiliency of the National Highway System to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters.'' IIJA Section 11105. By addressing the performance of the transportation system related to the largest source of U.S. CO_2 emissions, FHWA is implementing Congress's express direction regarding NHPP goals. As described in this proposal, measuring environmental performance though the GHG performance measure will assist States to consider CO_2 emissions from transportation in the performance management framework and help frame responses to the growing climate crisis. Reducing GHG emissions that are causing increases in temperature, sea level, extreme weather events, flooding, wildfires, and other natural disasters should then decrease the severity and impact of those conditions in the future. This NPRM will provide support for activities to increase the resilience of the NHS.

When FHWA repealed the 2017 GHG measure, the Agency exercised its discretion to reinterpret the definition of performance to exclude environmental performance due, in part, to the eligibility criteria for projects under the NHPP 23 U.S.C. 119(d). Under 23 U.S.C. 119(d)(1)(A), eligible projects must be ''a project or part of a program of projects supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, or freight movement on the National Highway System.'' FHWA determined that these goals are consistent with an interpretation of ''performance'' that focuses on the physical condition of the system and the efficiency of transportation operations across the system, and do not support FHWA's prior, broader interpretation of ''performance'' under 23 U.S.C. 150(c)(3), which encompassed environmental performance. 83 FR 24924.

FHWA has reexamined the rationale in the May 2018 repeal final rule and has determined that performance measures under 23 U.S.C. 150(c)(3) are not limited only to the national performance goals identified in 23 U.S.C. 119(d)(1). Section 119(d)(1), Title

23, U.S.C., establishes eligibility criteria for using funds apportioned to a State for carrying out the NHPP, but does not set forth all relevant considerations for carrying out the program. For example, 23 U.S.C. 119(d)(2) identifies purposes for eligible projects, including development and implementation of a State DOT's asset management plan for the NHS under 23 U.S.C. 119(e) and environmental mitigation efforts related to projects funded under 23 U.S.C. 119(g). As previously noted, 23 U.S.C. 119(e) calls for a performance-driven asset management plan that would ''support progress toward the achievement of the national goals identified in section 150(b)'', which includes the environmental sustainability national goal under 23 U.S.C. 150(b)(6). Risk-based asset management planning under 23 U.S.C. 119(e) includes consideration of life-cycle costs and risk management, financial planning, and investment strategies. As previously discussed, rapidly changing climate and increased weather extremes due to fossil fuel combustion directly impact the condition and performance of transportation facilities due to increases in heavy precipitation, coastal flooding, heat, wildfires, and other extreme events. Extreme events will lead to increasing transportation challenges, inducing societal and economic consequences. The number of billion-dollar climate disaster events has been much higher over the last five years than the annual average over the last 30 years.[30] Low-income and vulnerable populations are disproportionately affected by the impacts of climate change.[31] These impacts are not attributable to any single action, but are exacerbated by a series of actions, including actions taken under the Federal-aid highway program. Measuring environmental performance though the GHG performance measure will assist States to consider CO_2 emissions from transportation in the performance management framework and help frame responses to the growing climate crisis. Therefore, the GHG performance measure is appropriate in light of 23 U.S.C. 119. FHWA therefore has determined that the Agency's interpretation of ''performance'' to include ''environmental performance'' is consistent with 23 U.S.C. 119.

FHWA also reiterates the Agency's statements in the PM3 final rule that several other provisions in Title 23, U.S.C., support FHWA's proposal to address GHG emissions in this rulemaking:

- 23 U.S.C. 101(b)(3)(G) is a transportation policy declaration that ''. . . transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life . . .''.
- 23 U.S.C. 134(a)(1) is a congressional statement of transportation planning policy that it is in the national interest ''. . . to encourage and promote the safe and efficient management, operation, and development of surface transportation systems . . . while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter . . .''.
- 23 U.S.C. 134(c)(1) requires MPOs to develop long range plans and transportation improvement programs to achieve the objectives in 23 U.S.C. 134(a)(1) through a performance-driven, outcome-based approach to planning.
- 23 U.S.C. 134(h) defines the scope of the metropolitan planning process. Paragraphs (h)(1)(E) and (I), respectively, require consideration of projects and strategies that will ''. . . protect and enhance the environment, promote energy conservation, improve the quality of life . . .'' and ''. . . improve the resiliency and reliability of the transportation system . . .''.
- 23 U.S.C. 135(d)(1) defines the scope of the statewide planning process. Paragraphs (d)(1)(E) and (I), respectively, require consideration of projects, strategies, and services that will ''. . . protect and enhance the environment, promote energy conservation, improve the quality of life . . .'', and ''. . . improve the resiliency and reliability of the transportation system . . .''.
- 23 U.S.C. 135(d)(2) requires the statewide transportation planning process to ''. . . provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title . . .''.

FHWA reaffirms that these Title 23, U.S.C., provisions make it clear that assessing infrastructure performance under 23 U.S.C. 150(c)(3) properly encompasses assessment of environmental performance, including GHG emissions and other climate-related matters. As noted in FHWA's May 2018 repeal of the 2017 GHG measure, nothing in the statute specifically requires FHWA to adopt a GHG emissions measure. 83 FR 24923. However, consistent with all of the statutory provisions cited above, no provision of law prohibits FHWA from adopting a GHG emissions measure.

Third, FHWA's decision to adopt the GHG measure under 23 U.S.C. 150(c)(3) does not conflict with the on-road mobile source emissions provision in 23 U.S.C. 150(c)(5). Section 150(c)(5), Title 23, U.S.C., requires that the Secretary establish performance measures for the purposes to carrying out the CMAQ Program under 23 U.S.C. 149. FHWA has established performance measures pursuant to 23 U.S.C. 150(c)(5) to assess traffic congestion and on-road mobile source emissions under 23 CFR 490.701 through 490.811. In the May 2018 repeal final rule, FHWA stated its belief that because Congress specifically designated a part of 23 U.S.C. 150(c) for on-road mobile source emissions measures, it is reasonable to conclude that Congress did not intend the other parts of 23 U.S.C. 150(c) to be used to address other similar or related performance measures, such as the GHG measure, and that by placing the on-road mobile source emissions provision in 23 U.S.C. 150(c)(5), Congress limited the types of emissions that could be the subject of a performance measure to those listed in the CMAQ statute. 83 FR 23924. FHWA has reexamined this reasoning and has determined that 23 U.S.C. 150(c)(5) is consistent with FHWA's proposal to adopt performance measures related to emissions if they support the achievement of the national performance goals.

Under 23 U.S.C. 150(c), Congress requires FHWA to establish performance measures for a number of programs, including the CMAQ Program under 23 U.S.C. 149. This language indicates congressional intent that FHWA establish a performance measure for on-road mobile source emissions for the purposes of carrying out the CMAQ Program. However, nothing in 23 U.S.C. 150 limits measures that take into account emissions only to measures established for the purposes of carrying out the CMAQ Program. FHWA is proposing that it is appropriate to examine relevant emissions as part of assessing performance of the Interstate and non-Interstate NHS in support of the NHPP.

[30] NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2022). *https://www.ncdc.noaa.gov/billions/,* DOI: 10.25921/stkw-7w73.

[31] Ebi, K.L., J.M. Balbus, G. Luber, A. Bole, A. Crimmins, G. Glass, S. Saha, M.M. Shimamoto, J. Trtanj, and J.L. White-Newsome, 2018: Human Health. In *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 539–571. doi: 10.7930/NCA4.2018.CH14.

Notably, Congress's inclusion of a specific CMAQ measure indicates that Congress was contemplating CMAQ and its coverage in terms of geography and types of emissions when drafting 23 U.S.C. 150. Since Congress did not expressly limit emissions measures to those related to CMAQ, it is reasonable to conclude that Congress intended FHWA to retain the discretion to adopt other emissions measures, such as the GHG measure.

In addition, the measures described in 23 U.S.C. 150(c) inherently include overlapping topics. For example, freight movement in 23 U.S.C. 150(c)(6) (see also 23 CFR part 490, subpart F) clearly involves congestion reduction or management, but CMAQ measures under 23 U.S.C. 150(c)(5) do not foreclose a congestion-related measure. Therefore, the best interpretation of 23 U.S.C. 150 contemplates measures that may overlap to achieve the national goals.

For all of these reasons, upon reexamination of FHWA's repeal of the 2017 GHG measure, FHWA asserts the proposed measure is consistent FHWA's authority under 23 U.S.C. 150(c).

C. Additional Rationale for the Proposed GHG Measure

FHWA is proposing to establish a GHG emissions measure for environmental performance in accordance with 23 U.S.C. 150(c)(3). This measure will incorporate an important environmental aspect of system performance into the set of national performance measures and support the national transportation goal of environmental sustainability in the Federal-aid highway program and the national performance management program established in 23 U.S.C. 150. FHWA has previously identified that a GHG performance measure will help address transportation GHG emissions. In the 2017 PM3 final rule, FHWA noted that reducing GHG emissions involves strategies to reduce the growth in future travel activity, such as the shift of travel to public transportation and non-motorized options, and improve system efficiency, such as optimizing the operation, use, and maintenance of transportation networks. The PM3 final rule noted that these activities are influenced by the planning activities and investment decisions of State DOTs and MPOs. 82 FR 8997. FHWA is reasserting that establishing a GHG measure in FHWA's Transportation Performance Management Program would help implement a national policy to reduce GHG emissions. As discussed in Section III(A) of this NPRM, the GHG performance measure would provide a consistent basis for estimating on-road GHG emissions and would aid States and MPOs in planning GHG emissions reductions and evaluating progress toward national, State, and local GHG goals. In addition, establishing a GHG measure also would inform the future investment decisions of the Federal Government, State DOTs, and MPOs towards achieving their targets or goals.

As discussed in Section III(A) of this NPRM, FHWA anticipates this measure will assist with comprehensive transportation planning. Current performance measures are integrated into the planning process and used to track progress and attainment of critical outcomes of the goals. 23 U.S.C. 135(d)(2) and 23 U.S.C. 134(h)(2). Establishment of the GHG emissions performance measure aligns with current requirements, goals, and processes under the planning requirements. Through these processes, the GHG performance measure would advance the Federal-aid highway program's national goal for environmental sustainability identified under 23 U.S.C. 150(b)(6). In addition, transportation investments advanced to achieve GHG performance measure targets can have co-benefits that would assist States and MPOs make progress towards other performance measures listed in 23 U.S.C. 119(d)(1)(A). For instance, the construction of a new grade-separated transit facility has the potential to reduce travel on neighboring roadways, which in turn would reduce congestion, improve safety, and reduce criteria pollutant emissions in addition to reducing on-road GHG emissions.

FHWA acknowledges that in proposing to establish this measure, FHWA would be largely reestablishing the measure repealed in 2018. 83 FR 24920. FHWA expects that States and MPOs have no reliance interests resulting from the repeal or, for that matter, from the 2017 GHG measure. FHWA repealed the 2017 GHG measure before the respective due dates for target setting or reporting, and FHWA assumes that no State DOTs or MPOs incurred any costs due to the promulgation and prompt repeal of that measure. Nor did the repeal itself impose any compliance costs on State DOTs or MPOs. Accordingly, FHWA does not expect this proposed rule to result in any increased burden on State DOTs or MPOs by virtue of the fact that FHWA previously established a similar measure that was repealed before any State DOTs or MPOs relied on and implemented its target setting and reporting requirements. The proposed measure would be a new one. As a result, FHWA expects that States or MPOs would not have any reliance interests based on the repeal of the 2017 GHG measure. Moreover, it is FHWA's policy judgment that implementation of the proposed GHG measure, which would advance the national policy objectives stated in section 1 of E.O. 13990 and E.O. 14008 and the Department's strategic goal of reducing GHG emissions from transportation and would increase accountability through reporting requirements, would outweigh any minimal reliance interests, to the extent they exist.

1. Costs and Benefits

The May 2018 repeal final rule determined that ''the measure imposes unnecessary regulatory burdens on State DOTs and MPOs with no predictable benefits,'' and stated that ''FHWA does not believe the speculative and uncertain benefits are a sufficient reason to retain the GHG measure, especially given the very definite costs associated with the measure.'' 83 FR 24924–25. FHWA previously noted that since benefits that may possibly flow from the GHG measure came from its potential to influence State DOT and MPO investment decisions, and it is not possible to conclude with certainty the GHG measure would cause State DOTs and MPOs to make decisions that change CO_2 emissions levels. 83 FR 24925. Thus, FHWA concluded that it was not possible to predict, with any reasonable degree of certainty, the extent to which the influence effects of the GHG measure might result in actual changes in emissions levels.

FHWA has reexamined this approach and anticipates that this proposed rule would result in substantial benefits that are neither speculative nor uncertain. This measure would create environmental sustainability benefits by supporting more informed choices about transportation investments and other policies to help achieve net-zero emissions economy-wide by 2050. Reporting GHG emissions and setting GHG emissions targets would increase public awareness of GHG emissions trends, promote the consideration of GHG emissions in transportation planning decisions, and more transparently characterize the impact of these decisions on GHG emissions. These benefits are not easily quantifiable.

Climate change results from the incremental addition of GHG emissions from millions of individual sources, which collectively have a large impact on a global scale. The totality of climate change impacts is not attributable to any single action, but is exacerbated (or

reduced) by a series of actions, including actions taken under the Federal-aid highway program. Policies to reduce GHG pollution from transportation align with environmental performance and are essential to minimize the impacts from climate change discussed in the Fourth National Climate Assessment, which include sea level rise and increased frequency and severity of heat waves and heavy precipitation, coastal flooding, wildfires, and other extreme events.[32]

As stated in section 101 of E.O. 14008, U.S. engagement to address the climate crisis is both necessary and urgent to avoid ''a dangerous, potentially catastrophic, climate trajectory.'' Significant short-term global reductions in GHG emissions and net-zero global emissions by 2050 or before will be important. 86 FR 7619.

Achieving CO_2 reductions of this magnitude will depend on actions such as increasing the adoption of zero emission vehicles, improving system efficiency, and reducing the growth in future on-road travel activity through the shift from single occupant vehicles and other measures that reduce on-road travel demand. Actions such as these are significantly influenced by the planning activities and investment decisions of State DOTs and MPOs. A GHG measure emerged as a leading candidate for measuring the environmental aspect of the performance of the highway system during FHWA and stakeholder discussions in 2009. Subsequently, FHWA initiated a research project to investigate GHG measures that would align with performance-based planning and programming, as well as how State DOTs and MPOs could go about implementing such a measure.[33]

The proposed GHG measure aligns with the national goal of reducing CO_2 emissions 50 to 52 percent below 2005 levels by 2030 in support of the Paris Agreement. The proposed GHG measure could be utilized to drive decisions that help to meet or exceed the national goals under that agreement and create transparency for policy maker decisions to achieve those goals and as a means to measure progress. The process of setting targets creates transparency, allowing stakeholders and the public to see what goals are being set, how they are being pursued, and results produced by the measure. The proposed GHG measure also provides greater visibility and accountability for GHG emissions due to mandatory reporting requirements.

FHWA has also re-evaluated the costs of compliance with the proposed measure and estimated total 10-year costs of $11,022,835 at a 7% discount rate and $12,887,491 at a 3% discount rate. These costs, which reflect 2020 loaded wage rates,[34] are marginally greater than costs calculated in the 2018 repeal final rule, which used 2014 loaded wage rates, and estimated total costs of $10,891,892 at a 7% discount rate and $12,805,709 at a 3% discount rate. FHWA has determined that implementation of a GHG measure would require fewer hours of State DOT and MPO staff time than estimated for the 2018 repeal final rule, primarily since the cost analysis for this proposed rule no longer assumes that MPOs will adjust their targets during mid-performance periods of 2024 and 2028. The reduction in estimated labor hours from this revised assumption is partly offset by additional estimated labor hours that would be required to address the new requirement for joint urbanized area targets.

2. Duplication of Efforts

The 2018 repeal final rule evaluated whether the 2017 GHG measure was potentially duplicative of other government efforts, both at the Federal and State level, based on direction from previously applicable E.O.s to reduce regulatory costs and burdens.[35] FHWA concluded at that time that the data needed to support the 2017 GHG measure was at least somewhat duplicative of the EPA and DOE data on CO_2 emissions, and this duplication was a concern and a factor that supported repeal of the GHG measure. However, FHWA has reexamined this duplication in light of recent E.O.s prioritizing actions to address climate change.[36] FHWA has determined that the GHG measure is appropriate even if DOE and EPA data or other government efforts provide some information about CO_2 emissions trends in the transportation sector, for the reasons discussed below.

Specifically, the 2018 repeal final rule identified that several States and MPOs were already tracking CO_2 emissions voluntarily or to comply with State requirements. However, FHWA has examined a 2018 survey of 52 State DOTs to evaluate whether States are tracking CO_2 emissions. The survey indicates that relatively few State DOTs are currently addressing GHG emissions, and even fewer are using performance measures and quantitative approaches to do so.[37] In response to the survey, nine States reported they ''externally communicate progress regarding plans or projects which contribute to achieving GHG targets or goals'' (Question 8). A smaller subset of this group reported they have established quantitative or performance-based approaches related to GHG emissions, with three States reporting the implementation of quantitative measures with reduction targets, and one reporting the implementation of quantitative measures without a reduction target (Question 5). Similarly, four States indicated that they have developed an inventory and/or forecast specifically to support performance metrics (Question 4). Therefore, FHWA now concludes that the proposed GHG measure would not be duplicative of existing efforts as the majority of State DOTs are not currently tracking and addressing GHG emissions.

In addition, the 2018 repeal final rule asserted that other Federal agencies, such as the EPA and the DOE, had undertaken regulatory and other efforts to address CO_2 emissions, including the annual DOE publication of State-by-State data on CO_2 emissions for the transportation sector, which includes data on CO_2 emissions from all mobile sources (*e.g.,* aviation, highway), not just motor vehicles (although the published table does not break the CO_2 emissions data into subcategories, such as CO_2 emissions on the NHS). The 2018 repeal final rule concluded that this information, while not precisely identical to the information provided by the 2017 GHG measure, provides States with trend information on CO_2 emissions from mobile sources in each State, and the highway component is based on the same fuel sales information used for the GHG measure. However, upon reevaluation, FHWA has determined that the proposed GHG

[32] *See* U.S. GCRP 2017 Climate Science Special Report, at 12–34.

[33] A Performance-Based Approach to Addressing Greenhouse Gas Emissions through Transportation Planning, FHWA 2013, *available at https://www.fhwa.dot.gov/environment/sustainability/energy/publications/ghg_planning/ghg_planning.pdf.*

[34] A loaded wage rate reflects an annual salary, including benefits, that is converted to an hourly wage rate.

[35] *See* E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' E.O. 13777, ''Enforcing the Regulatory Reform Agenda,'' E.O. 13783, ''Promoting Energy Independence and Economic Growth.''

[36] E.O. 13990, ''Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,'' section 1; *see* E.O. 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation'' (revoking E.O. 13771 and E.O. 13777).

[37] National Cooperative Highway Research Program (NCHRP) Report 25–56, Methods for State DOTs to Reduce Greenhouse Gas Emissions from the Transportation Sector. Currently under pre-publication review by the Transportation Research Board.

measure would provide State DOTs with valuable information that is not already covered by other Federal agencies. Data published by DOE and the EPA do not specifically cover the NHS. In addition, while the 2018 repeal final rule identified that DOE publishes State-level CO_2 estimates for the transportation sector, this data is not disaggregated to reflect CO_2 emissions from on-road mobile sources. Sector-level data is not ideal for evaluating CO_2 emissions trends associated with roadways or the NHS, since fluctuations in CO_2 emissions from other transportation sources (such as aircraft, boats and rail) can significantly influence year-over-year changes. Finally, transportation sector CO_2 emissions trends published by DOE and the EPA lag FHWA's publication of fuel use data by up to a year, and accordingly the GHG measure will be more useful for setting targets, identifying CO_2 reduction strategies, and monitoring outcomes. For these reasons, FHWA has determined that the GHG measure would provide a valuable source of data and is not duplicative of the DOE and EPA data discussed in this section of the preamble. Indeed, FHWA believes that the GHG measure is an integral part of the whole-of-Government approach to the climate crisis as described in E.O. 14008.

D. Establishing Targets and Schedule for Implementation

The 2017 rule did not include any language about how the State DOTs and MPOs were to establish GHG performance targets. Since that time, however, the United States has committed to achieving net-zero GHG emissions by 2050 and established an aggressive national goal of reducing CO_2 emissions 50 to 52 percent below 2005 levels by 2030 in support of the Paris Agreement. As noted above, in 2019 the transportation sector accounted for 34.6 percent of total U.S. CO_2 emissions, with 83.2 percent of the sector's total CO_2 emissions coming from on-road sources, and the sector is expected to remain the largest source of U.S. CO_2 emissions through 2050. This proposed measure would require State DOTs and MPOs to establish declining targets for GHG emissions from such sources to achieve the national goals for 2030 and 2050. The declining targets should be consistent with national, State, and local GHG emission reduction goals for 2030 and 2050. However, State DOTs and MPOs would have flexibility in setting targets. For example, a State DOT might set targets that would result in steady, incremental progress toward net-zero emissions, or that achieve aggressive early GHG emissions reductions, or be more gradual at first and become more aggressive later. When setting targets, a State DOT also could draw on any relevant work by State environmental agencies or other State bodies. FHWA is not proposing to prescribe what declining targets would look like in each State. However, the States should be able to demonstrate how their targets fit into a longer timeframe of emissions reductions that will reach the national GHG goals for 2030 and 2050.

In addition, FHWA is proposing to require that MPOs establish a single joint target for each urbanized area that contains NHS mileage and that is overlapped by the boundaries of two or more metropolitan planning areas. This requirement would help ensure a coordinated approach to GHG emission reductions in areas where multiple MPOs serve a single urbanized area. For example, the urbanized area for Boston, Massachusetts-New Hampshire-Rhode Island is overlapped by 11 MPOs, and the urbanized area for Tampa-St Petersburg, Florida, is overlapped by 4 MPOs. Coordinated systems and region-based approaches to reduce GHG emissions are intended to ensure the collaboration necessary to achieve meaningful reductions in GHG emissions. FHWA has not proposed joint targets with State DOTs because State DOTs and MPOs are already required to coordinate on the establishment of targets to the maximum extent practicable. 23 CFR 450.206(c) and 450.306(d)(2)(ii); *see also* 23 CFR 490.105(f)(2). As discussed in Part V of this preamble, FHWA is seeking comment on the efficacy of the proposed approach and how it could best be implemented.

As the recent IPCC report emphasizes, time is of the essence in addressing GHG emissions, including those from the transportation sector. FHWA also anticipates that States should have adequate time to establish targets for the proposed GHG measure before targets are reported in the State Biennial Performance Report due to FHWA by October 1, 2022. This expedited schedule is proposed to allow this new measure to be in place at the start of TPM's 4-year reporting period, represented by the baseline performance period report due by October 1, 2022. FHWA recognizes that it is possible the due date to report State DOT initial targets for the proposed GHG measure may need to be adjusted. FHWA requests comment on what the due date should be in the event a final rule is not effective in advance of the October 1, 2022, reporting date. As stated elsewhere in this proposal, FHWA also will consider public comments to establish a GHG measure for States and MPOs in a final rule based on this proposed rule.

For the proposed measure, State DOTs would be required to establish 2- and 4-year targets, and report on progress biennially. MPOs would be required to establish 4-year targets for their metropolitan planning area. MPOs would establish additional 4-year targets for select urbanized areas. MPOs would report progress toward the achievement of targets every 4 years to the State DOT in a manner that is documented and mutually agreed upon. Pursuant to 23 U.S.C. 135(d)(2)(B)(i)(II), the proposed measure would be subject to 23 CFR 490.105(e)(2), which requires State DOTs to coordinate with relevant MPOs to establish targets, to the maximum extent practicable. The coordination would be accomplished in accordance with the transportation planning process set forth in 23 CFR part 450. FHWA recognizes the need for State DOTs and MPOs to have a shared vision on expectations for future condition/performance and target establishment process, one that is consistent with national, State, and local policies and targets for total GHG emission reductions.

IV. Section-by-Section Discussion of the Proposed Changes

FHWA proposes changes to two subparts of 23 CFR part 490: Subpart A—General Information, which applies to all of the regulations throughout part 490; and Subpart E—National Performance Management Measures to Assess Performance of the National Highway System, where FHWA proposes to locate the GHG measure. This section of the preamble describes the proposed changes and the reasons behind them. The proposed rule would apply to the 50 States, the District of Columbia, and Puerto Rico consistent with the definition of the term ''State'' in 23 U.S.C. 101(a). FHWA also invites comments on the proposed changes and identifies areas where comments may be particularly useful in facilitating implementation of the GHG measure.

Subpart A—General Information

Section 490.101 Definitions

FHWA proposes to amend § 490.101 by adding a new definition of the term *Fuels and Financial Analysis System-Highways (FUELS/FASH)* for purposes of part 490. The term refers to FHWA's system of record for motor fuel, highway program funding, licensed drivers, and registered vehicles data. The FUELS/

FASH system is used to facilitate the collection, validation, review, analysis, and finalization of data reported by State agencies. Currently, FHWA uses the FUELS/FASH data to respond to legislative requests or prepare reports to the Congress; analyze existing and proposed Federal-aid funding methods and levels and the assignment of user cost responsibility; maintain a critical information base on fuel availability, use, and revenues generated; and calculate apportionment factors. The system is used to facilitate the collection, validation, review, analysis, and finalization of data reported by State agencies on an annual or monthly basis. Including the definition in § 490.101 is consistent with the inclusion in this section of definitions of other systems and databases used in performance management reporting, including *Highway Performance Monitoring System (HPMS)* and *National Bridge Inventory (NBI).*

Section 490.105 Establishment of Performance Targets

FHWA proposes to add five new paragraphs to § 490.105 regarding the establishment of performance targets and proposes adjustments to five existing paragraphs due to the proposed GHG measure. First, proposed new § 490.105(c)(5) would add a reference to proposed § 490.507(b) for the GHG performance measure to the existing list of applicable performance measures for State DOTs and MPOs that include, within their respective geographic boundaries, any portion of the applicable transportation network (*i.e.,* for the GHG measure, all mainline highways on the Interstate and non-Interstate NHS). Second, proposed changes would affect the target scope provisions of § 490.105(d). Proposed new § 490.105(d)(1)(v) would require that State DOTs and MPOs establish statewide and metropolitan planning area wide targets, respectively, that represent the condition/performance of the NHS as specified in proposed § 490.503(a)(2) for the GHG measure for the NHS specified in proposed § 490.507(b). Proposed new § 490.105(d)(4) would require that certain MPOs also establish joint targets for the GHG measure for select urbanized areas specified in proposed new § 490.105(f)(10). Additionally, FHWA proposes to revise the introductory text of § 490.105(d) to include the scope of urbanized areas, consistent with proposed § 490.105(d)(4). In Part V of this preamble, FHWA encourages submission of comments on the type of target setting requirements that would best help MPOs improve the environmental performance of their transportation systems with respect to GHG emissions.

Furthermore, FHWA proposes changes to § 490.105(e) regarding the establishment of targets. FHWA proposes to revise existing § 490.105(e)(1), which addresses the schedule by which States are required to establish performance targets. The proposed revisions would clarify that State DOTs are required to establish initial targets for the GHG measure identified in proposed § 490.507(b) no later than October 1, 2022. The structure of the paragraph also would change to clarify the distinct deadline for performance targets for the GHG measure.

In addition, the proposed revisions would clarify the existing requirement that State DOTs were to establish initial targets for all other performance measures no later than February 20, 2018, by correcting the date to May 20, 2018. Under 23 U.S.C. 150(d)(1), State DOTs are required to establish such targets not later than one year after the promulgation of FHWA's final rule establishing performance measures. As discussed previously, FHWA promulgated the PM3 final rule establishing NHPP performance measures on January 18, 2017 (82 FR 5970), with an effective date of February 17, 2017. That effective date corresponds to the February 20, 2018, deadline for target establishment in the current regulations. However, FHWA later delayed the effective date of the PM3 final rule until May 20, 2017 (82 FR 14438), which corresponds to an initial date of May 20, 2018, for establishing targets for NHPP performance measures other than the proposed GHG measure. The proposed rule would codify the May 20, 2018, date in § 490.105(e)(1) for accuracy, even though the date has passed.

FHWA proposes to require that State DOTs establish initial targets for the GHG measure no later than October 1, 2022, to facilitate implementation of the GHG measure on the same schedule as the other NHPP performance measures. The proposed initial target establishment date is expected to synchronize this new GHG measure with the reporting cycle in part 490 for NHPP measures. FHWA believes that such a schedule will increase the potential for efficiencies and ease administrative efforts on the part of State DOTs and MPOs. FHWA anticipates that State DOTs would be able to establish targets to be reported in the State DOT's Biennial Performance Report due to FHWA by October 1, 2022. However, the proposed GHG measure is important to advancing the national policies discussed in the ''Statement of the Problem, Legal Authority, and Rationale'' section of this preamble to confront the climate crisis. FHWA encourages State DOTs to consider preparing for implementation of the proposed GHG measure to help advance those national policies.

Proposed new § 490.105(e)(10) would require declining targets for reductions in tailpipe CO_2 emissions on the NHS that align with the 2030 and net-zero by 2050 emissions reduction targets discussed earlier. In addition, FHWA proposes revising § 490.105(f)(1)(i) to include the requirement that the targets established by an MPO for the GHG measure will also be declining targets for reducing tailpipe CO_2 emissions on the NHS.

FHWA also proposes revisions to § 490.105(f) regarding MPO establishment of targets. FHWA proposes to revise § 490.105(f)(3) to clarify that the existing target establishment options for MPOs apply to the targets established for the metropolitan planning area. Specifically, FHWA proposes to add language clarifying that the MPOs shall establish targets ''for the metropolitan planning area'' by either of the two options described. No other changes to § 490.105(f)(3) are proposed, but the entire provision is included for convenience. In Part V(A) of this preamble, FHWA encourages submission of comments on the important issue of how targets established by State DOTs and MPOs for reduced emissions might be implemented in order to lead to improved environmental performance.

Proposed new § 490.105(f)(10) would require that certain MPOs establish joint targets for the GHG measure for select urbanized areas. These targets would be in addition to the targets for the metropolitan planning area required in § 490.105(f)(1)(i). FHWA proposes that when an urbanized area that contains mainline highways on the Interstate or non-Interstate NHS, and any portion of that urbanized area is overlapped by the metropolitan planning area boundaries of two or more MPOs, those MPOs would need to coordinate to establish a single, joint target for that urbanized area. FHWA proposes to require a joint target for select urbanized areas in recognition of the importance of all MPOs that serve the same urbanized area working together regionally to solve common transportation problems in order to address GHG emissions.

FHWA proposes in § 490.105(f)(10)(i) that NHS designations and urbanized

areas shall be determined from the data, contained in HPMS, one year before the State DOT Baseline Performance Period Report is due to FHWA. This is consistent with existing requirements in § 490.105(f)(5)(iii)(E) and would not add additional burden. FHWA proposes to specify in § 490.105(f)(10)(ii) that only one target shall be established for the entire urbanized area regardless of roadway ownership and that each MPO shall report the joint target for the urbanized area. In § 490.105(f)(10)(iii), FHWA proposes that any joint target established for an urbanized area would be a quantifiable target. This is different than the existing options in § 490.105(f)(3) that allow MPOs to agree to plan and program projects so that they contribute toward the accomplishment of the relevant State DOT target. For the MPOs' joint urbanized area targets, MPOs would need to establish a quantifiable value for the joint target. Under the proposed rule, that value could be the same as the State DOT's target. MPOs would not be required to adjust their joint target if the State DOT adjusts its target.

Section 490.107 Reporting on Performance Targets

The proposed GHG measure would be subject to the biennial reporting requirements in § 490.107, which includes reporting targets and performance. Proposed § 490.107 would revise existing regulations governing biennial performance period progress reporting to provide the date for State DOTs to submit initial reports to FHWA that contain the GHG measure information, and would add references to the GHG measure identified in § 490.507(b). Proposed § 490.107 would add metric reporting requirements as part of the biennial reports State DOTs submit to FHWA that would be unique to the GHG measure. In addition, proposed § 490.107 would add that MPOs report to the State DOT their metric calculation method, along with the calculation of tailpipe CO_2 emissions for the NHS (the metric used in calculating the measure) and all public roads within the MPO (the step before calculating the metric).

As proposed, revised § 490.107(b)(1) would update the existing requirement that State DOTs submit their first Baseline Performance Period Report (Baseline PPR) to FHWA by October 1, 2018, by providing that for the GHG measure, State DOTs are required to submit their first Baseline PPR containing information for the proposed GHG measure by October 1, 2022. This provision also would require State DOTs to submit subsequent Baseline PPRs to FHWA by October 1 every 4 years thereafter, which is consistent with other measures in 23 CFR part 490. FHWA proposes corresponding revisions to § 490.107(b)(2) and (3) to provide the first time information for the GHG measure would be included in the Mid Performance Period Progress Report (Mid PPPR) would be October 1, 2024, and October 1, 2026, for the Full Performance Period Progress Report (Full PPPR). These additions would fold performance reporting for the proposed GHG measure into the existing reporting requirement and schedule for other performance measures in 23 CFR part 490.

Proposed new § 490.107(b)(1)(ii)(H) would revise the existing regulations governing the content of Baseline PPRs to include a requirement that the State DOT report the GHG metric for the GHG measure and tailpipe CO_2 emissions on all public roads in each Baseline PPR. Specifically, such reporting would cover tailpipe CO_2 emissions on the NHS for the reference year and the two calendar years preceding the Baseline PPR and tailpipe CO_2 emissions on all public roads for the same time periods. Similarly, proposed § 490.107(b)(2) would amend the existing regulations governing Mid PPPRs to provide the schedule for State DOTs to submit the first such reports to FHWA for the proposed GHG measure and to include information pertaining to the proposed GHG measure in the required content of such reports. First, proposed revisions to the second sentence of § 490.107(b)(2)(i) would update the existing requirement that State DOTs submit their first Mid PPPR to FHWA by October 1, 2020, to require that the first Mid PPPR containing the proposed GHG measure information be submitted to FHWA by October 1, 2024. This provision also would require State DOTs to submit subsequent Mid PPPRs containing the proposed GHG measure information to FHWA by October 1 every 4 years thereafter, which is consistent with other measures in 23 CFR part 490.

Proposed new § 490.107(b)(2)(ii)(J) would revise the requirements for the content of Mid PPPRs to include the GHG metric for the GHG measure and tailpipe CO_2 emissions for all public roads in each Mid PPPR. Such reporting would cover tailpipe CO_2 emissions for the NHS and all public roads for the two calendar years preceding the Mid PPPR.

Proposed § 490.107(b)(3) would amend the existing regulations governing Full PPPRs to provide the schedule for State DOTs to submit the first such reports to FHWA containing the proposed GHG measure and to include information pertaining to the proposed GHG measure in the required content of such reports. Proposed revisions to the second sentence of § 490.107(b)(3)(i) would update the existing schedule requiring that State DOTs submit their first Full PPPR to FHWA by October 1, 2022, to require that the first Full PPPR containing the proposed GHG measure information be submitted to FHWA by October 1, 2026. This provision also would require State DOTs to submit subsequent Full PPPRs containing the proposed GHG measure information to FHWA by October 1 every 4 years thereafter, which is consistent with other measures in part 490.

Proposed new § 490.107(b)(3)(ii)(I) would revise the content requirements for the Full PPPRs to include the GHG metric for the GHG measure and tailpipe CO_2 emissions for all public roads in each Full PPPR. Such reporting would cover tailpipe CO_2 emissions for the NHS and all public roads for the two calendar years preceding the Full PPPR.

Finally, proposed revisions to § 490.107(c)(1) would require each MPO to report in the system performance report in the metropolitan transportation plan, a description of its GHG metric calculation method, described in § 490.511(d), including the calculation of tailpipe CO_2 emissions for the NHS and all public roads. FHWA considers documenting the method used to calculate the metric used in calculating the measure itself important for achieving consistency, providing transparency, and maintaining quality control in the reported measure calculations. FHWA also expects that MPO reporting of tailpipe CO_2 emissions on the NHS would provide useful information for State DOTs since these estimates would be expressed in absolute terms and could be easily summed to evaluate progress across MPOs. FHWA requests comment on whether MPOs should be required to provide the metric calculation method and their tailpipe CO_2 emissions to the State DOT outside of the system performance report to provide for more frequent information sharing. FHWA also requests comment on whether to specify a uniform metric calculation method for MPOs, as opposed to allowing a range of approaches that are referenced in the description of § 490.511.

Section 490.109 Assessing Significant Progress Toward Achieving the Performance Targets for the National Highway Performance Program and the National Highway Freight Program

FHWA proposes to amend § 490.109 to update the sources of information that FHWA will use to assess NHPP target achievement and condition/performance progress for the GHG measure.[38] First, FHWA proposes to add new § 490.109(d)(1)(v), to provide that FHWA will extract data contained within FUELS/FASH on August 15 of the year in which the significant progress determination is made. This data would account for fuel use from the prior calendar year and the reference year. FUELS/FASH is proposed as the source of this information because it is a national, established, and validated data source for total fuel use as reported annually to FHWA by the States, Washington, DC, and Puerto Rico. FUELS/FASH is also the most accurate and up-to-date source known for this sort of information.

FHWA desires to use national datasets in a consistent manner as a basis for making its significant progress determinations. Thus, consistent with existing § 490.109(d), FHWA proposes to use specific data sources that could be accessed by State DOTs and others if they choose to replicate FHWA's determinations.

For consistency with existing requirements in part 490 that use August 15 as the date data will be extracted, FHWA is proposing to establish August 15 as the date on which FHWA will extract data from the HPMS and FUELS/FASH related to the proposed GHG measure. Providing a specific as-of-date related to the data used will create an incentive to ensure the data is submitted correctly and accurate information is available on that date. The August 15 date is considered the earliest time data reasonably would be available in a national data source. This proposed date considers the time State DOTs typically need to submit the relevant data to HPMS and FUELS/FASH, to process raw data, and to address missing or incorrect data that may be identified as a result of quality assessments conducted by the State DOT or FHWA. The proposed date also is necessary for FHWA to make the significant progress determination for the proposed GHG measure in a timely manner.

FHWA additionally proposes to revise § 490.109(d)(1)(vi), which would provide that baseline condition/performance data contained in FUELS/FASH, HPMS, and NBI of the year in which the Baseline PPR is due to FHWA represents baseline conditions/performances for the performance period for the measures in § 490.105(c)(1) through (5).

Finally, FHWA proposes to add § 490.109(d)(1)(vii) to indicate that FHWA will extract data contained within the HPMS, on August 15 of the year in which the significant progress determination is made. These data would account for VMT from the prior calendar year and the reference year.

FHWA proposes to add a new § 490.109(e)(4)(iv) to specify that in order for the FUELS/FASH data to be sufficient for FHWA's significant progress determination, it must be cleared by August 15th. The requirement for data submitted by a State DOT to be cleared prior to use in the significant progress determination is consistent with the requirements for other such data sets in 23 CFR part 490.

In addition, FHWA proposes to revise the existing regulations governing performance achievement by adding § 490.109(f)(1)(v) to require that if significant progress is not made for the target established for the GHG measure in § 490.507(b), the State DOT must document the actions it will take to achieve that target in its next biennial report. This provision would apply the same approach to the proposed GHG measure that the existing regulations use for other NHPP performance measures.[39]

Subpart E—National Performance Management Measures to Assess Performance of the National Highway System

In addition, FHWA proposes to amend several sections of 23 CFR part 490, subpart E, to incorporate the GHG measure into existing regulations on NHPP performance measures.

Section 490.503 Applicability

FHWA proposes to amend § 490.503 by adding a new paragraph (a)(2) providing that the GHG measure specified in § 490.507(b) is applicable to all mainline highways on the Interstate and non-Interstate NHS. FHWA believes this applicability is appropriate because the measure, which is limited to CO_2 emissions on the NHS, aims to assess the performance of the NHS. *See* 23 U.S.C. 150(c)(3)(A)(ii)(IV) and (V) (concerning measures to assess the performance of the Interstate System and the performance of the NHS (excluding the Interstate System), respectively).

Section 490.505 Definitions

Proposed § 490.505 would add two new definitions to the Definitions section of the National Performance Management Measures to Assess Performance of the National Highway System. First, FHWA proposes to define the term *greenhouse gas (GHG)* as any gas that absorbs infrared radiation (traps heat) in the atmosphere. The proposed definition further notes that 97 percent of on-road GHG emissions are CO_2 from burning fossil fuels, and that other transportation GHGs are methane (CH_4), nitrous oxide (N_2O), and hydrofluorocarbons (HFCs). This information comes from EPA's Inventory of U.S. Greenhouse Gas Emissions and Sinks.[40] This information supports that CO_2 is the appropriate pollutant to examine in the GHG measure. The proposed definition also establishes the acronym, ''GHG,'' that FHWA uses throughout the section to refer to greenhouse gas.

Second, FHWA proposes to define the term *reference year* as calendar year 2021 for the purpose of the GHG measure. As explained later in this preamble, under the proposed rule, the reference year would be used in calculating the GHG measure. FHWA proposes to use calendar year 2021 for the reference year for the GHG measure because it is the most recent year for which data will be complete and available.

Section 490.507 National Performance Management Measures for System Performance

FHWA proposes to revise the introductory text of § 490.507 to refer to ''three'' performance measures to assess the performance of the Interstate System and the performance of the non-

[38] FHWA regulations at 23 CFR 490.109 describe the method FHWA uses to determine if State DOTs have achieved or have made significant progress toward the achievement of their NHPP targets. Under the existing regulation, progress toward the achievement of an NHPP target would be considered ''significant'' when either of the following occur: the actual condition/performance level is equal to or better than the State DOT established target; or actual condition/performance is better than the State DOT identified baseline condition/performance. If a State DOT fails to achieve significant progress, the State DOT must document in its next report the actions it would take to achieve the targets.

[39] See 23 CFR 490.109 (regulations governing FHWA's assessment of significant progress toward achieving NHPP performance targets, among others). FHWA is not proposing specific penalties for failure to achieve performance targets. Failure to comply with Federal requirements, including requirements to set performance targets, may be subject to penalties under 23 CFR 1.36.

[40] *See* EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, *available at https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2019.*

Interstate NHS for purposes of carrying out the NHPP. The three measures would include the proposed GHG measure in addition to the two Travel Time Reliability measures in the existing regulations. In addition, FHWA proposes to add a new § 490.507(b) to describe the GHG measure as the percent change in tailpipe CO_2 emissions on the NHS compared to the reference year. FHWA proposes a GHG measure that uses existing data sources in order to minimize the burden on transportation agencies. Because FHWA is establishing this measure under 23 U.S.C. 150(c)(3), it applies to the NHS in all States and metropolitan planning areas. The measure would be calculated by multiplying motor fuel sales volumes already reported by State DOTs to FHWA though the FUELS/FASH system by FHWA-supplied emissions factors for the CO_2 per gallon of fuel, and the percentage of VMT on the NHS. The percent change from the current year to the reference year would then be calculated. As defined in proposed § 490.505, the reference year would be calendar year 2021.

Section 490.509 Data Requirements

FHWA proposes to revise § 490.509 to add three new paragraphs regarding the GHG measure. Proposed § 490.509(f) would provide that FHWA plans to post on the FHWA website the CO_2 emissions factors for each on-road fuel type. The emissions factors are needed to calculate the GHG metric for the GHG measure in § 490.105(c)(5). FHWA would post this information in order to ensure that a consistent factor is used by all DOTs and MPOs for each fuel type. For these factors, FHWA is considering using information from EPA's MOVES[41] model, Argonne National Laboratory's GREET[42] model, CO_2 coefficients published by the Energy Information Administration, or other U.S. Government published data sources. FHWA requests comments on any U.S. Government emissions factors or calculation methods that may be useful.

Proposed § 490.509(g) would establish a data source for total fuel use by fuel type, which is needed for the calculation of the GHG measure, as described in § 490.513. The proposed data source is FHWA's FUELS/FASH system, which reports gallons of fuel used by State across multiple fuel types.

Proposed § 490.509(h) would require that VMT data used come from HPMS. This data would include estimates of both NHS VMT and total VMT developed from HPMS data available as of August 15 and would represent the previous calendar year.

Section 490.511 Calculation of National Highway System Performance Metrics

FHWA proposes to include in § 490.511 new provisions for the calculation of a ''GHG metric,'' the annual total tailpipe CO_2 emissions on the NHS, for the GHG measure. Under the existing performance management regulations, the term ''metric'' means a quantifiable indicator of performance or condition. 23 CFR 490.101. Proposed § 490.511(a)(2) would add a reference to the ''GHG metric'' to the existing regulations that describe the performance metrics that are required for the NHS performance measures specified in § 490.507. The proposed rule uses ''NHS'' to mean the mainline highways of the NHS, consistent with the applicability of the measure described in proposed § 490.503(a)(2). The definition of the term ''mainline highways'' specifically excludes ramps, shoulders, turn lanes, crossovers, rest areas, and other pavement surfaces that are not part of the roadway normally traveled by through traffic. 23 CFR 490.101.

In addition, FHWA proposes to add a new § 490.511(c) to require that tailpipe CO_2 emissions on the NHS for a given calendar year be estimated millions of metric tons (mmt) and rounded to the nearest hundredth mmt using a formula set forth in the proposed regulation. Specifically, the calculation is based on State reported fuel use by fuel type (such as gasoline and diesel), as reported to FHWA. These fuel use values are then multiplied by a corresponding CO_2 emissions factor (amount of CO_2 per gallon of each fuel type). The CO_2 emissions factor would be posted on FHWA's website no later than August 15 each year. These values are then summed and multiplied by the NHS VMT relative to the total VMT. A key assumption in using the proportion of NHS VMT to total VMT, is that there is a similar rate of GHG emissions on NHS and non-NHS facilities per VMT.

FHWA also proposes to add a new § 490.511(d) to address the expectations for MPOs in implementing the GHG measure. Proposed § 490.511(d) would state that MPOs have additional flexibility, compared to State DOTs, in how they calculate the GHG metric, since MPOs may employ various models and data collection methods that can be used to estimate CO_2 emissions. Proposed § 490.511(d) would allow an MPO to use a range of approaches, including: the MPO share of the State's VMT as a proxy for the MPO share of CO_2 emissions; VMT estimates along with emissions factors from EPA MOVES model EMFAC;[43] or FHWA's Energy and Emissions Reduction Policy Analysis Tool (EERPAT) model. Alternatively, proposed § 490.511(d) would also allow an MPO to use another method if the MPO can demonstrate to its State DOT that it has a technically valid and useful approach to estimating CO_2 emissions.

Finally, FHWA proposes § 490.511(f) to require the reporting of two related CO_2 emissions calculations in State DOT's Biennial Performance Reports for the reference year and the 2 years preceding each reporting year. The first of these is a calculation of total tailpipe CO_2 emissions from on-road sources travelling on all roadways, which represents a component of the calculation of the metric, as described in § 490.511(a)(2). The second of these is a calculation of the metric itself. FHWA is proposing to require the reporting of total tailpipe CO_2 emissions on all roadways to ensure a consistent basis for monitoring tailpipe CO_2 emissions trends, since year-over-year variation in NHS mileage would impact the calculation of the metric. Reporting on this data is not believed to add burden since State DOTs would need to perform this calculation as part of calculating the metric.

Section 490.513 Calculation of National Highway System Performance Measures

The existing performance management regulations define the term ''measure'' as an expression based on a metric that is used to establish targets and to assess progress toward achieving them. 23 CFR 490.101. In proposed § 490.513, FHWA would add a new § 490.513(d) to require computation of the GHG measure, specified in proposed § 490.507(b), to the nearest tenth of a percent according to a formula that would be set forth in the regulation. The computation would involve: (1) determining the difference between tailpipe CO_2 emissions on the NHS in the calendar year and tailpipe CO_2 emissions on the NHS in the reference year (calendar year 2021); (2) dividing that amount by tailpipe CO_2 emissions on the NHS in the reference year (calendar year 2021); and (3) multiplying the total by 100 so that the result is expressed as a percent change from the reference year (calendar year

[41] Motor Vehicle Emissions Simulator.

[42] Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies.

[43] The California Air Resources Board (CARB) maintains the EMission FACtor (EMFAC) model, which is approved by EPA for developing on-road motor vehicle emission inventories and analyses in California.

2021). As noted, the proposed rule uses ''NHS'' to mean the mainline highways of the NHS, as defined in § 490.101, consistent with the applicability of the measure described in proposed § 490.503(a)(2).

FHWA has provided an example of the metric and measure computation in the rulemaking docket (Docket No. FHWA–2001–0004) and invites comments on the proposed method.

V. Additional Requests for Comments

A. Establishing Targets That Lead to Improved Environmental Performance

The proposed measure is intended to support the national policy established under section 1 of E.O. 13990 and E.O. 14008 and at the Leaders Summit on Climate. This policy calls for GHG emissions reductions of 50 to 52 percent below 2005 levels by 2030 and for the U.S. to achieve net-zero emissions by 2050. FHWA encourages comments that address whether the proposed measure would support those national policies, the ways in which the proposed measure would do so or why it would not, and whether the final rule should contain any other provisions to better support those national policies.

FHWA is proposing to require declining targets for reducing tailpipe CO_2 emissions compared to the reference year. State DOTs would establish 2- and 4-year statewide targets, and MPOs would establish 4-year targets for the metropolitan planning area. In addition, MPOs would establish 4-year targets for select urbanized areas jointly with other applicable MPOs.

However, it may be appropriate to implement improving targets that are structured to support longer-term GHG reduction goals. FHWA encourages comments on how to structure improving targets for the GHG measure, as well as the associated reporting and significant progress requirements in 23 CFR part 490, subpart A.

For example, FHWA seeks comment on potentially introducing a new requirement for State DOTs and MPOs to establish 8- and 20-year targets at the beginning of each 4-year performance period. These targets could inform decision-making to support of longer-term GHG reduction goals. The 8- and 20-year improving targets established as part of the first 4-year performance period would indicate a reduction as compared to the reference year, while subsequent 8- and 20-year targets would indicate a reduction as compared to previous 8- and 20-year targets. These targets could inform decision-making to support of longer-term GHG reduction goals. FHWA also seeks comments on how these targets could align with and inform existing transportation planning and programming processes.

Additionally, FHWA invites comments on the following:

- Besides requiring targets that reduce GHGs over time, are there any specific ways the proposed GHG measure could be implemented within the framework of TPM to better support emissions reductions to achieve national policies for reductions in total U.S. GHG emissions?
- What changes to the proposed measure or its implementation in TPM could better the impact of transportation decisions on CO_2 emissions, and enable States to achieve tailpipe CO_2 emissions reductions necessary to achieve national targets?

Finally, this NPRM proposes that when there are two or more MPOs with metropolitan planning area boundaries that overlap any portion of an urbanized area, and the urbanized area contains NHS mileage, the MPOs would be required to establish a joint urbanized area target in addition to metropolitan planning area targets. FHWA invites comments on the following questions:

- In instances that MPOs are establishing a joint urbanized area target, should FHWA require that the individual MPO-wide targets be the same as the jointly established urbanized area target?
- Should MPOs that establish a joint urbanized area target be exempt from establishing individual MPO-level targets, and instead only be required to adopt and support the joint urbanized area target?
- In cases where there are multiple MPOs with boundaries that overlap any portion of an urbanized area, and that urbanized area contains NHS mileage, should each of those MPOs establish their own targets, with no requirement for a joint urbanized area target?
- Are there other approaches to target setting in urbanized areas served by multiple MPOs that would better help MPOs reach net-zero emissions?

B. Summary of and Request for Comments on the Regulatory Impact Analysis

The Regulatory Impact Analysis (RIA) for the proposed rule estimates the costs associated with establishing the GHG measure, which are derived from the costs of implementing the GHG measure for certain components of the rule. The sections of part 490 amended by this proposed rule for which FHWA assumes associated costs in the RIA are target establishment by State DOTs and MPOs (23 CFR 490.105), reporting by State DOTs and MPOs (23 CFR 490.107), FHWA's assessment of significant progress toward State DOT targets and action plans by State DOTs that do not make significant progress (23 CFR 490.109), calculating the GHG metric (23 CFR 490.511), and calculating the GHG measure (23 CFR 490.513). To estimate the costs of this proposed rule, FHWA assessed the level of effort that would be needed to comply with each applicable section in part 490 with respect to the proposed GHG measure, including labor hours by labor category. The level of effort by labor category was monetized with loaded wage rates to estimate total costs. The RIA covers a 10-year study period (2022–2031). Total costs over this period are estimated to be $11.0 million, discounted at 7 percent, and $12.9 million discounted at 3 percent.

Benefits of the rule are not quantified since FHWA is unable to reasonably forecast the number and extent of actions of State DOTs and MPOs in response to this rule. However, it is anticipated that the measure will influence transportation decisions and result in significant reductions in GHG emissions. Office of Management and Budget (OMB) Circular A–4 (Regulatory Analysis) provides guidance on implementing a break-even analysis when benefits of a rule cannot be fully quantified. The RIA estimates the break-even threshold for tons of transportation-related CO_2 emissions reduced, since it is reasonable to assume the GHG performance measure will influence tons of transportation-related CO_2 emissions. At a discount rate of 7 percent, the number of tons of CO_2 emissions reduction that would be required for the proposed rule to be cost-beneficial range from 75,669 to 835,044 over the total 10-year analysis period, representing 0.0004 percent to 0.005 percent of total transportation CO_2 emissions. Similarly, at a discount rate of 3 percent, the total number of tons of CO_2 emissions reduction that would be required for the proposed rule to be cost-beneficial range from 88,772 to 983,896 over the total 10-year analysis period, representing 0.0005 percent to 0.006 percent of total transportation CO_2 emissions. These estimates were developed using interim estimated values of the social cost of CO_2 published by the Interagency Working Group on Social Cost of Greenhouse Gases, as FHWA has reviewed those estimates and determined that they are appropriate for use in this kind of break-even analysis. The break-even estimates are not intended justify the proposed rule, but are provided as context to illustrate the magnitude of CO_2

reductions required to equal estimated compliance costs. The RIA also notes a range of potential benefits, including more informed decision-making, more comprehensive performance and practices, greater accountability and progress on national transportation goals.[44]

FHWA is seeking comment on assumptions that were developed as part of the RIA, as well as information on other benefits or costs that would result from implementation of the rule.

- The RIA includes assumptions regarding the applicability, level of effort and frequency of activities under proposed §§ 490.105, 490.107, 490.109, 490.511, and 490.513. Are these assumptions reasonable? Are there circumstances that may result in greater or lesser burden relative to the RIA assumptions?
- Would the staff time spent implementing this measure reduce the burden of carrying out other aspects of State DOT and MPO missions, such as forecasting fuel tax revenues? If so, please describe and provide any information on programs that would benefit from this measure and estimate any costs that would be reduced by implementing this measure.
- Would the proposed rule result in economies of scale or other efficiencies, such as the development of consulting services or specialized tools that would lower the cost of implementation? If so, please describe such efficiencies and provide any information on potential cost savings.
- Would the proposed rule result in the qualitative benefits identified in the RIA, including more informed decision-making, greater accountability, and progress on National Transportation Goals identified in MAP–21? Would the proposed rule result in other benefits or costs? Would the proposed measure change transportation investment decisions and if so, in what ways? For State DOTs and MPOs that have already implemented their own GHG measure(s), FHWA welcomes information on the impact and effectiveness of their GHG emissions measure(s).

[44] The potential benefits that may flow from the proposed GHG measure stem from its potential to support more informed choices about transportation investments and other policies to help achieve net zero emissions economy-wide by 2050, including projects eligible under the Carbon Reduction Program and the National Electric Vehicle Infrastructure Program, both established under the Bipartisan Infrastructure Law.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The Office of Management and Budget (OMB) has determined that the proposed rule would be a significant regulatory action within the meaning of E.O. 12866 because it may raise novel legal or policy issues arising out of the President's priorities. However, it is anticipated that the proposed rule would not be economically significant for purposes of E.O. 12866. The proposed rule would not have an annual effect on the economy of $100 million or more. The proposed rule would not adversely affect in a material way the economy, any sector of the economy, productivity, competition, or jobs. In addition, the proposed changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. As described above, FHWA estimates that total costs associated with this proposed rule would be $11.0 million, discounted at 7 percent, and $12.9 million discounted at 3 percent. While FHWA is unable to quantify the benefits of the proposed rulemaking, FHWA describes the expected benefits qualitatively in the preamble and the regulatory impact analysis. These benefits include potentially significant reductions in GHG emissions resulting from greater consideration of GHG emissions in transportation planning, public awareness of GHG emissions trends, and better information on the impact of transportation decisions on GHG emissions. FHWA also performed a break-even analysis to analyze the relationship between the costs and potential benefits of the proposed rule. The full regulatory impact analysis is available in the docket.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this proposed rule on small entities and has determined that it is not anticipated to have a significant economic impact on a substantial number of small entities. The proposed rule would affect two types of entities: State governments and MPOs. State governments are not included in the definition of small entity set forth in 5 U.S.C. 601. The MPOs are considered governmental jurisdictions, and to qualify as a small entity they would need to serve fewer than 50,000 people. The MPOs are designated to serve urbanized areas with populations of 50,000 or more. *See* 23 U.S.C. 134(d)(1). Therefore, FHWA certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $168 million or more in any one year (2 U.S.C. 1532). In addition, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

D. Executive Order 13132 (Federalism Assessment)

This proposed rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132, and FHWA has determined that this proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism assessment. FHWA also has determined that this proposed rule would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FHWA has determined that this proposal contains collection of information requirements for the purposes of the PRA. This proposed rule introduces a GHG performance measure that would be implemented as part of the overarching TPM regulations in 23 CFR part 490, which includes State DOT reporting on performance. The collection of biennial report information in support of 23 CFR 490.107 is covered by OMB Control No. 2125–0656.

FHWA has analyzed this proposed rule under the PRA and has determined the following:

Respondents: 52 State DOTs.

Frequency: Biennial reporting.

Estimated Average Burden per Response: Approximately 88 hours to complete and submit the biennial report, or 44 hours annually.

Estimated Total Annual Burden Hours: Approximately 2,288 hours annually.

In addition, MPO coordination and reporting activities are covered by OMB Control No. 2132–0529, Metropolitan and Statewide and Nonmetropolitan Transportation Planning. FHWA invites interested persons to submit comments on any aspect of the information collection in this NPRM. FHWA anticipates updating the burden estimates for the applicable OMB control numbers to reflect the final rule.

F. National Environmental Policy Act

FHWA has analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. This proposed rule would establish in FHWA regulations a performance measure for on-road CO_2 emissions on the NHS for use by States and MPOs in measuring transportation performance. FHWA does not anticipate any adverse environmental impacts from this proposed rule, the purpose of which is to inform decisionmaking about the transportation sector's contribution to GHG emissions, and thereby contribute to environmental sustainability; no unusual circumstances are present under 23 CFR 771.117(b).

G. Executive Order 13175 (Tribal Consultation)

FHWA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The proposed rule would implement statutory requirements under 23 U.S.C. 150(c)(3)(A)(ii)(IV)–(V) to establish measures for States to assess the performance of the Interstate and non-Interstate NHS, which FHWA interprets to include environmental performance. This measure applies to States that receive Title 23 Federal-aid highway funds, and it would not have substantial direct effects on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal laws. Accordingly, the funding and consultation requirements of E.O. 13175 do not apply and a Tribal summary impact statement is not required.

I. Executive Order 12898 (Environmental Justice)

E.O. 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. FHWA has determined that this proposed rule does not raise any environmental justice issues.

J. Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 490

Bridges, Highway safety, Highways and roads, Reporting and recordkeeping requirements.

Issued under authority delegated in 49 CFR 1.81 and 1.85.

Stephanie Pollack,

Deputy Administrator, Federal Highway Administration.

In consideration of the foregoing, FHWA proposes to amend title 23, Code of Federal Regulations, part 490, as set forth below:

PART 490—NATIONAL PERFORMANCE MANAGEMENT MEASURES

■ 1. The authority citation for part 490 continues to read as follows:

Authority: 23 U.S.C. 134, 135, 148(i) and 150; 49 CFR 1.85.

Subpart A—General Information

■ 2. Amend § 490.101 by adding the definitions of ''Fuels and Financial Analysis System-Highways (FUELS/FASH)'' and ''Net-zero'' in alphabetical order to read as follows:

§ 490.101 Definitions.

* * * * *

Fuels and Financial Analysis System-Highways (FUELS/FASH), as used in this part, means the FHWA's system of record for motor fuel, highway program funding, licensed drivers, and registered vehicles data.

* * * * *

Net-zero, as used in this part, means that human activities produce no more greenhouse gases than they remove from the atmosphere.

* * * * *

■ 3. Amend § 490.105 by adding paragraph (c)(5), revising the introductory text of paragraph (d), adding paragraphs (d)(1)(v) and (d)(4), revising paragraph (e)(1), adding paragraph (e)(10), revising paragraphs (f)(1)(i) and (f)(3), and adding paragraph (f)(10) to read as follows:

§ 490.105 Establishment of performance targets.

* * * * *

(c) * * *

(5) 490.507(b) for the greenhouse gas (GHG) performance for the NHS;

* * * * *

(d) *Target scope.* Targets established by State DOTs and MPOs shall, regardless of ownership, represent the transportation network or geographic area, including bridges that cross State borders, that are applicable to the measures as specified in paragraphs (d)(1), (2), and (4) of this section.

(1) * * *

(v) 490.503(a)(2) for the GHG measure specified in § 490.507(b);

* * * * *

(4) MPOs shall establish targets for the GHG measure specified in § 490.507(b) that represent performance of the transportation network specified in § 490.503(a)(2), for urbanized areas meeting the criteria specified in paragraph (f)(10) of this section.

(e) * * *

(1) *Schedule.* State DOTs shall establish targets not later than the due dates provided in paragraphs (e)(1)(i) and (ii) of this section, and for each performance period thereafter, in a manner that allows for the time needed to meet the requirements specified in this section and so that the final targets are submitted to FHWA by the due date provided in § 490.107(b).

(i) State DOTs shall establish initial targets not later than May 20, 2018, except as provided in paragraph (e)(1)(ii) of this section.

(ii) State DOTs shall establish initial targets for the GHG measure identified in § 490.507(b) not later than October 1, 2022.

* * * * *

(10) *Targets for the GHG measure.* Targets established for the GHG measure in paragraph (c)(5) of this section shall

be declining targets for reducing tailpipe CO_2 emissions on the NHS, that demonstrate reductions toward net-zero targets.

(f) * * *

(1) * * *

(i) The MPOs shall establish 4-year targets, described in paragraph (e)(4)(iv) of this section, for all applicable measures, described in paragraphs (c) and (d) of this section. For the GHG measure described in paragraph (c)(5) of this section, the targets established shall be declining targets for reducing tailpipe CO_2 emissions on the NHS.

* * * * *

(3) *Target establishment options.* For each performance measure identified in paragraph (c) of this section, except the CMAQ Traffic Congestion measures in paragraph (f)(5) of this section, MPOs meeting the criteria under paragraph (f)(6)(iii) of this section for Total Emissions Reduction measure, the MPOs shall establish targets for the metropolitan planning area by either:

(i) Agreeing to plan and program projects so that they contribute toward the accomplishment of the relevant State DOT target for that performance measure; or

(ii) Committing to a quantifiable target for that performance measure for their metropolitan planning area.

* * * * *

(10) *Joint targets for the GHG measure.* Where an urbanized area contains mainline highways on the NHS, and any portion of that urbanized area is overlapped by the metropolitan planning area boundaries of two or more MPOs, those MPOs shall collectively establish a single joint 4-year target for that urbanized area, described in paragraph (e)(4)(iv) of this section. This joint target is in addition to the targets for the metropolitan planning area required in paragraph (f)(1)(i) of this section.

(i) NHS designations and urbanized areas shall be determined from the data, contained in HPMS, 1 year before the State DOT Baseline Performance Period Report is due to FHWA.

(ii) Only one target shall be established for the entire urbanized area regardless of roadway ownership. In accordance with paragraph (f)(9) of this section, each MPO shall report the joint target for the urbanized area.

(iii) The target established for each urbanized area shall represent a quantifiable target for that urbanized area.

■ 4. Amend § 490.107 by revising the second sentence of paragraph (b)(1)(i), adding paragraph (b)(1)(ii)(H), revising the second sentence of paragraph (b)(2)(i), adding paragraph (b)(2)(ii)(J), revising the second sentence of paragraph (b)(3)(i), and adding paragraph (b)(3)(ii)(I), and adding a second sentence in paragraph (c)(2) to read as follows:

§ 490.107 Reporting on performance targets.

* * * * *

(b) * * *

(1) * * *

(i) * * * State DOTs shall submit their first Baseline Performance Period Report to FHWA by October 1, 2018, and subsequent Baseline Performance Period Reports to FHWA by October 1st every 4 years thereafter, except for the GHG measure specified in § 490.105(c)(5), State DOTs shall submit their first Baseline Performance Period Report to FHWA by October 1, 2022, and subsequent Baseline Performance Period Reports to FHWA by October 1st every 4 years thereafter.

(ii) * * *

(H) *GHG metric for the GHG measure.* Tailpipe CO_2 emissions on the NHS, as described in § 490.511(f), for the reference year and the 2 calendar years preceding the Baseline Performance Period Report, and tailpipe CO_2 emissions on all public roads for the reference year and the 2 calendar years preceding the Baseline Performance Period Report; and

* * * * *

(2) * * *

(i) * * * State DOTs shall submit their first Mid Performance Period Progress Report to FHWA by October 1, 2020, and subsequent Mid Performance Period Progress Reports to FHWA by October 1st every 4 years thereafter, except for the GHG measure specified in § 490.105(c)(5), State DOTs shall submit their first Mid Performance Period Progress Report to FHWA by October 1, 2024, and subsequent Mid Performance Period Progress Reports to FHWA by October 1st every 4 years thereafter.

(ii) * * *

(J) *GHG metric for the GHG measure.* Tailpipe CO_2 emissions for the NHS and all public roads, as described in § 490.511(f), for the 2 calendar years preceding the Mid Performance Period Progress Report for the GHG measure in § 490.105(c)(5).

* * * * *

(3) * * *

(i) * * * State DOTs shall submit their first Full Performance Period Progress Report to FHWA by October 1, 2022, and subsequent Full Performance Period Progress Reports to FHWA by October 1st every 4 years thereafter, except for the GHG measure specified in § 490.105(c)(5), State DOTs shall submit their first Full Performance Period Progress Report to FHWA by October 1, 2026, and subsequent Full Performance Period Progress Reports to FHWA by October 1st every 4 years thereafter.

(ii) * * *

(I) *GHG metric for the GHG measure.* Tailpipe CO_2 emissions for the NHS and all public roads, as described in § 490.511(f), for the 2 calendar years preceding the Full Performance Period Progress Report for the GHG measure in § 490.105(c)(5).

(c) * * *

(2) * * * For the GHG measure in § 490.105(c)(5), the MPO shall report a description of its metric calculation method, as described in § 490.511(d), and the calculation of tailpipe CO_2 emissions for the NHS and all public roads.

* * * * *

■ 5. Amend § 490.109 by:

■ a. Adding paragraph (d)(1)(v);

■ b. Revising paragraph (d)(1)(vi);

■ c. Adding paragraph (d)(1)(vii);

■ d. In paragraph (e)(4)(iv), removing the word ''or'';

■ e. In paragraph (e)(4)(v), removing the period at the end of the paragraph and adding ''; or'' in its place; and

■ f. Adding paragraphs (e)(4)(vi) and (f)(1)(v).

The additions and revision read as follows:

§ 490.109 Assessing significant progress toward achieving the performance targets for the National Highway Performance Program and the National Highway Freight Program.

* * * * *

(d) * * *

(1) * * *

(v) Data contained within FUELS/FASH on August 15th of the year in which the significant progress determination is made that represents performance from the prior year and for the reference year for targets established for the GHG measure in § 490.105(c)(5);

(vi) Baseline condition/performance data contained in FUELS/FASH, HPMS, and NBI of the year in which the Baseline Period Performance Report is due to FHWA that represents baseline conditions/performances for the performance period for the measures in § 490.105(c)(1) through (5); and

(vii) Data contained within the HPMS on August 15th of the year in which the significant progress determination is made that represents performance from the prior year and for the reference year for targets established for the GHG measure specified in § 490.105(c)(5).

* * * * *

(e) * * *

(4) * * *

(vi) A State DOT reported data are not cleared in the FUELS/FASH by the data extraction date specified in paragraph (d)(1) of this section for the GHG measure in § 490.105(c)(5).

* * * * *

(f) * * *

(1) * * *

(v) If significant progress is not made for the target established for the GHG measure in § 490.105(c)(5), then the State DOT shall document the actions it will take to achieve the target for the GHG measure.

* * * * *

Subpart E—National Performance Management Measures to Assess Performance of the National Highway System

■ 6. Amend § 490.503 by adding paragraph (a)(2) to read as follows:

§ 490.503 Applicability.

(a) * * *

(2) The greenhouse gas (GHG) measure in § 490.507(b) is applicable to all mainline highways on the Interstate and non-Interstate NHS.

* * * * *

■ 7. Amend § 490.505 by adding the definitions ''Greenhouse gas (GHG)'' and ''Reference year'' in alphabetical order to read as follows:

§ 490.505 Definitions.

* * * * *

Greenhouse gas (GHG) is any gas that absorbs infrared radiation (traps heat) in the atmosphere. Ninety-seven percent of on-road GHG emissions are carbon dioxide (CO_2) from burning fossil fuel. Other transportation GHGs are methane (CH_4), nitrous oxide (N_2O), and hydrofluorocarbons (HFCs).

* * * * *

Reference year is calendar year 2021 for the purpose of the GHG measure.

* * * * *

■ 8. Amend § 490.507 by revising the introductory text and adding paragraph (b) to read as follows:

§ 490.507 National performance management measures for system performance.

There are three performance measures to assess the performance of the Interstate System and the performance of the non-Interstate NHS for the purpose of carrying out the National Highway Performance Program (referred to collectively as the NHS Performance measures).

* * * * *

(b) One measure is used to assess GHG emissions, which is the percent change in tailpipe CO_2 emissions on the NHS compared to the reference year (referred to as the GHG measure).

■ 9. Amend § 490.509 by adding paragraphs (f) through (h) to read as follows:

§ 490.509 Data requirements.

* * * * *

(f) The FHWA will post on the FHWA website, no later than August 15th each year, the CO_2 factor for each on-road fuel type that will be used to calculate the GHG metric for the GHG measure in § 490.105(c)(5).

(g) Fuel sales information needed to calculate the fuel consumed for the GHG measure in § 490.507(b) shall:

(1) Represent the total number of gallons of fuel consumed by fuel type; and

(2) Be based on fuels sales data for the previous calendar year, and reported to FUELS/FASH.

(h) Annual total vehicle-miles traveled (VMT) needed to calculate the GHG measure in § 490.507(b) shall come from HPMS data as of August 15, for the prior calendar year.

■ 10. Amend § 490.511 by adding paragraphs (a)(2), (c), (d), and (f) to read as follows:

§ 490.511 Calculation of National Highway System performance metrics.

(a) * * *

(2) Annual Total Tailpipe CO_2 Emissions on the NHS for the GHG measure in § 490.507(b) (referred to as the GHG metric).

* * * * *

(c) Tailpipe CO_2 emissions on the NHS for a given year shall be computed in million metric tons (mmt) and rounded to the nearest hundredth as follows:

$$(\text{Tailpipe } CO_2 \text{ Emissions on NHS})_{CY} = \left(\sum_{t=1}^{T} (\text{Fuel Consumed})_t \times (CO_2 \text{ Factor})_t\right) \times \left(\frac{\text{NHS VMT}}{\text{Total VMT}}\right)$$

Where:

$(\text{Tailpipe } CO_2 \text{ Emissions on NHS})_{CY}$ = Total tailpipe CO_2 emissions on the NHS in a calendar year (expressed in mmt, and rounded to the nearest hundredth);

T = the total number of on-road fuel types;

t = an on-road fuel type;

$(\text{Fuel Consumed})_t$ = the quantity of total annual fuel consumed for on-road fuel type ''*t*'' (to the nearest thousand gallons);

$(CO_2 \text{ Factor})_t$ = is the amount of CO_2 released per unit of fuel consumed for on-road fuel type ''*t*'';

NHS VMT = annual total vehicle-miles traveled on NHS (to the nearest one million vehicle-miles); and

Total VMT = annual total vehicle-miles traveled on all public roads (to the nearest one million vehicle-miles).

(d) For the GHG measure specified in § 490.507(b), MPOs are granted additional flexibility in how they calculate the GHG metric, described in paragraph (a)(2) of this section. MPOs may use the MPO share of the State's VMT as a proxy for the MPO share of CO_2 emissions in the State, VMT estimates along with MOVES [1] emissions factors, FHWA's Energy and Emissions Reduction Policy Analysis Tool (EERPAT) model, or other method the MPO can demonstrate has valid and useful results for CO_2 measurement. The metric calculation method shall be mutually agreed upon by both the State DOT and the MPO.

* * * * *

(f) Tailpipe CO_2 emissions generated by on-road sources travelling on the NHS (the GHG metric), and generated by on-road sources travelling on all roadways (the step in the calculation prior to computing the GHG metric) shall be calculated as specified in paragraph (c) of this section. The calculations shall be reported in the State Biennial Performance Reports, as required in § 490.107, and shall address the following time periods.

(1) The reference year, as required in § 490.107(b)(1)(ii)(H); and

(2) The 2 years preceding the reporting years, as required in § 490.107(b)(1)(ii)(H), (b)(2)(ii)(J), and (b)(3)(ii)(I).

■ 10. Amend § 490.513 by adding paragraph (d) to read as follows:

§ 490.513 Calculation of National Highway System performance measures.

* * * * *

(d) The GHG measure specified in § 490.507(b) shall be computed to the nearest tenth of a percent as follows:

[1] MOVES (Motor Vehicle Emission Simulator) is EPA's emission modeling system that estimates emissions for mobile sources at the national, county, and project level for criteria air pollutants, greenhouse gases, and air toxics. See *https://www.epa.gov/moves.* The EMission FACtor (EMFAC) model is used in California for emissions analysis.

$$\frac{(\text{Tailpipe } CO_2 \text{Emissions on NHS})_{CY} - (\text{Tailpipe } CO_2 \text{Emissions on NHS})_{\text{reference year}}}{(\text{Tailpipe } CO_2 \text{Emissions on NHS})_{\text{reference year}}} \times 100$$

Where:

(Tailpipe CO_2 Emissions on NHS)$_{CY}$ = total tailpipe CO_2 emissions on the NHS in a calendar year (expressed in million metric tons (mmt), and rounded to the nearest hundredth); and

(Tailpipe CO_2 Emissions on NHS)$_{\text{reference year}}$ = total tailpipe CO_2 emissions on the NHS in calendar year 2021 (expressed in million metric tons (mmt), and rounded to the nearest hundredth).

[FR Doc. 2022–14679 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0923; FRL–9882–01–R9]

Air Plan Approval; California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Mojave Desert Air Quality Management District (MDAQMD or ''District'') portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) from Portland cement kilns. We are proposing to approve a local rule to regulate these emission sources under 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–2021–0923 at *https://www.regulations.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.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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: Elijah Gordon, EPA Region IX, 75 Hawthorne St. (AIR–3–2), San Francisco, CA 94105. By phone: (415) 972–3158 or by email at *gordon.elijah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule #	Rule title	Amended	Submitted
MDAQMD	1161	Portland Cement Kilns	01/22/2018	05/23/2018

On November 23, 2018, pursuant to CAA section 110(k)(1)(B) and 40 CFR part 51, appendix V, the submittal for the MDAQMD Rule 1161 was deemed complete by operation of law.

B. Are there other versions of this rule?

We approved an earlier version of Rule 1161 into the SIP on February 27, 2003 (68 FR 9015). The MDAQMD adopted revisions to the SIP-approved version on January 22, 2018, and CARB submitted them to us on May 23, 2018. If we take final action to approve the January 22, 2018 version of Rule 1161, this version will replace the previously approved version of the rule in the SIP.

C. What is the purpose of the rule revision?

Emissions of NO_X contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit plans that provide for implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS). SIP-approved Rule 1161 established NO_X emission limits for Portland cement kilns within the District.

On November 17, 2017 (82 FR 54309), the EPA proposed to conditionally approve the MDAQMD's reasonably available control technology (RACT) demonstrations for the 1997 8-hour ozone NAAQS and the 2008 8-hour ozone NAAQS (referred to as the 2006 and 2015 RACT SIPs) based on deficiencies in several rules. One of the rules noted was Rule 1161, which did not meet current RACT based on comparisons of NO_X emission limits in ozone nonattainment areas located in other states deemed to meet or exceed RACT. The conditional approval, finalized on February 12, 2018 (83 FR 5921), was based on commitments from

the MDAQMD to revise and submit amendments to Rule 1161 that would meet current RACT. Revisions to Rule 1161, submitted to the EPA on May 23, 2018, addressed this deficiency by establishing a more stringent NO_X limit for Portland cement kilns. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and 182(f)) are required to submit SIP revisions containing rules requiring RACT for each major source of NO_X. The MDAQMD regulates an ozone nonattainment area classified as Severe-15 for the 2008 8-hr ozone NAAQS (40 CFR 81.305). Therefore, in order for the MDAQMD to fulfill the commitments in its 2006 and 2015 RACT SIP conditional approval commitment letter, this proposed rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutant include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.
5. ''NO_X Emissions from Cement Manufacturing,'' EPA–453/R–94–004, March 1994.
6. ''NO_X Control Technologies for the Cement Industry: Final Report,'' EPA 457/R–00–002, September 2000.
7. The Texas Commission on Environmental Quality in Section 117.3110—Cement Kilns, Emissions Specifications, May 23, 2007.
8. State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,'' 80 FR 33839, June 12, 2015.
9. ''Guidance Memorandum: Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,'' September 30, 2021.

B. Does the rule meet the evaluation criteria?

This proposed rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. We find that the District has fulfilled the requirements in its commitment letter for the 2006 and 2015 RACT SIP conditional approval (83 FR 5921, February 12, 2018) to revise the rule by lowering the NO_X emission limits for Portland cement kilns in order to meet current RACT. NO_X emission limits during all periods not labeled Startup and Shutdown for Preheater-Precalciner Kilns are reduced from 6.4 to 2.8 pounds per ton of clinker produced when averaged over any 30 consecutive day period, increasing the stringency of the rule. Additionally, provisions clearly laid out in Sections (F), (I), and (J) of the rule establish applicability criteria, monitoring, recordkeeping, and reporting that can be consistently evaluated to determine compliance. Startup and shutdown emissions limits (*e.g.,* 17,616 pounds of NO_X per day for Preheater-Precalciner Kilns manufactured by Allis Chalmers, whose construction was completed in 1982), duration time limits (*i.e.,* 36 hours), and recordkeeping requirements are found in Rule 1161. These and other alternative emission limitations (AEL) provisions, consistent with our 2015 SSM Policy (80 FR 33839, June 12, 2015), are found in Sections (C) and (F). Finally, the retention of all produced and maintained on-site records increased from two years to five years, further enhancing the stringency of the rule. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted proposed rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until August 15, 2022. If we take final action to approve the submitted proposed rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this proposed 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 MDAQMD Rule 1161, which regulates NO_X emission limits for Portland cement kilns, as listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address 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 proposed 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, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–15130 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0947; FRL–9640–01–R4]

Air Plan Approval; Mississippi; Infrastructure Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve in part, and conditionally approve in part, a State Implementation Plan (SIP) submission provided by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), through a letter dated January 25, 2021. This proposal pertains to certain infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 8-hour ozone national ambient air quality standards (NAAQS or standards). Whenever EPA promulgates a new or revised NAAQS, the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of that NAAQS. The January 25, 2021, SIP submission addresses all infrastructure elements except for those pertaining to the contribution to nonattainment or interference with maintenance in other states. EPA is proposing to approve the January 25, 2021, SIP revision with the exception of the prevention of significant deterioration (PSD) infrastructure elements, the air quality modeling element, and the visibility protection element. EPA is proposing to conditionally approve the portions of the submittal related to the prevention of significant deterioration (PSD) infrastructure elements and the air quality modeling element. EPA will act on the visibility protection element in a separate rulemaking.

DATES: Comments must be received on or before August 15, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0947 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz Borrero can also be reached via electronic mail at *ortizborrero.josue@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background and Overview

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an ''infrastructure SIP'' or ''iSIP.'' States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.[1]

With the exception of the visibility protection provisions of section 110(a)(2)(D)(i)(II), the prevention of significant deterioration (PSD) provisions related to major sources under sections 110(a)(2)(C),

[1] In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

110(a)(2)(D)(i)(II), and 110(a)(2)(J), and the air quality modeling element of 110(a)(2)(K), EPA is proposing to approve Mississippi's January 25, 2021, SIP revision provided to EPA through the MDEQ for the applicable requirements of the 2015 8-hour ozone NAAQS.[2] EPA will consider the portion of Mississippi's January 25, 2021, SIP revision that addresses the visibility protection provisions of section 110(a)(2)(D)(i)(II) in a separate rulemaking.

As part of the January 25, 2021, SIP submission, Mississippi requested conditional approval of the PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J), and the air quality modeling elements under 110(a)(2)(K).[3] Related to its request for conditional approval, Mississippi provided a written commitment under section 110(k)(4) of the CAA to take action to meet the requirements of the PSD and air quality modeling elements for its 2015 ozone iSIP by adopting a rule revision no later than one year after EPA's conditional approval of these portions of Mississippi's ozone iSIP. Specifically, MDEQ intends to amend 11 Mississippi Administrative Code (MAC), Part 2, Chapter 2, as well as 11 MAC, Part 2, Chapter 5, to cite to the current version of 40 CFR part 51, Appendix W, *Guideline on Air Quality Models,* and submit a revision containing the revised regulations to EPA within one year of EPA conditional approval to meet its conditional approval commitment to EPA. For this reason, in this notice of proposed rulemaking EPA is proposing to conditionally approve the portions of Mississippi's 2015 8-hour ozone NAAQS iSIP for Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K) of the CAA, related to the PSD program and air quality modeling. With the exceptions noted, EPA is proposing to fully approve the other infrastructure elements for the 2015 Ozone iSIP addressed in the January 25, 2021, submission.

[2] On September 6, 2019, Mississippi provided a SIP submission addressing the interstate transport provisions of section 110(a)(2)(D)(i)(I) pertaining to contribution to nonattainment or interference with maintenance in other states. EPA will address the interstate transport provisions of section 110(a)(2)(D)(i)(I) through a separate rulemaking.

[3] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval and EPA will issue a finding of disapproval.

II. What elements are required under Sections 110(a)(1) and 110(a)(2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements of section 110(a)(2) are listed below and are described in EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' (2013 Guidance).[4]

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport (broken down into four separate Prongs)
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
- 110(a)(2)(H): SIP Revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and Prevention of Significant Deterioration (PSD) and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting Fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

[4] Two elements identified in section 110(a)(2) are not governed by the three-year submission deadline of section 110(a)(1) for infrastructure SIPs because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These elements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the major source nonattainment permitting requirements of 110(a)(2)(C).

III. What is EPA's approach to the review of infrastructure SIP submissions?

As discussed above, whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to submit infrastructure SIPs that meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[5]

Unless otherwise noted below, EPA is following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's implementation plan for facial compliance with statutory and regulatory requirements, not for the

[5] EPA explains and elaborates on these ambiguities and its approach to address them in its 2013 Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions including EPA's prior actions on Mississippi infrastructure SIPs such as the action to address the 2012 PM2.5 NAAQS. *See* 81 FR 36848 (June 8, 2016).

state's implementation of its SIP.[6] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

IV. What is EPA's analysis of how Mississippi addressed the elements of Section 110(a)(1) and (2)?

1. 110(a)(2)(A) Emission Limits and Other Control Measures

Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements.

Several regulations within Mississippi's SIP are relevant to emission limits and other air quality control measures. These include SIP-approved regulations 11 MAC, Part 2, Chapter 1, Chapter 3, and Chapter 5. Collectively, these regulations establish enforceable emissions limitations and other control measures, means, or techniques for activities that contribute to ozone concentrations in the ambient air. Additionally, Mississippi Code Title 49, section 49–17–17(h)[7] provides MDEQ the authority to adopt, modify, or repeal and promulgate ambient air quality standards and emission standards for the state under such conditions as the Mississippi Commission on Environmental Quality (Commission) may prescribe for the prevention, control, and abatement of pollution.

EPA has made the preliminary determination that the provisions contained in Mississippi's state statutes and SIP-approved state regulations are adequate for enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance to satisfy the requirements of section 110(a)(2(A) for the 2015 8-hour ozone NAAQS.

2. 110(a)(2)(B) Ambient Air Quality Monitoring/Data System

Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator. To meet the requirements of element B, Mississippi's January 25, 2021, submission cites to State Code Title 49, specifically section 49–17–17(g), which gives MDEQ authority to collect and disseminate information relating to air quality and pollution and the prevention, control, supervision, and abatement thereof. Additionally, annually, states develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58.[8] The annual network plan involves an evaluation of any proposed changes to the monitoring network and includes the annual ambient monitoring network design plan and a certified evaluation of the state's ambient monitors and auxiliary support equipment. On June 28, 2021, Mississippi submitted its monitoring network plan to EPA. On August 26, 2021, EPA approved the monitoring network plan for Mississippi. EPA's approval of Mississippi's monitoring network plan is available in the docket for this proposed action.

EPA has made the preliminary determination that Mississippi's SIP submission is adequate for the ambient air quality monitoring and data system requirements related to the 2015 8-hour ozone NAAQS.

3. Section 110(a)(2)(C) Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

This element consists of three sub-elements: enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for a NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). Mississippi's 2015 8-hour ozone NAAQS infrastructure SIP submission cites to a number of SIP-approved provisions to address these requirements. EPA's rationale for its proposed action regarding each sub-element is described below.

Enforcement: Mississippi regulation 11 MAC Part 2, Chapter 2, *Permit Regulation for the Construction and/or Operation of Air Emissions Equipment,* Rule 2.6 provides for the enforcement of ozone precursors emissions limitations and control measures through construction permitting for new or modified stationary sources. Furthermore, under Mississippi Code Title 49, Chapter 17, MDEQ has enforcement authority to seek penalties and injunctive relief for violations of emission limits and other control measures and violations of permits.

Regulation of Minor Sources and Modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source program that regulates emissions that contribute to ozone concentrations related to the 2015 8-hour ozone NAAQS. MDEQ cites to 11 MAC, Part 2, Chapter 2, Rule 2.5. for its minor source construction permitting. EPA notes that other SIP-approved provisions in 11 MAC Part 2, Chapter 2 apply to minor source construction permitting such as Rule 2.1.D, which requires any new or modified stationary source to have a permit to construct prior to construction. EPA has made the preliminary determination that Mississippi's SIP is adequate for program enforcement of control measures, and regulation of minor sources and modifications related to the 2015 8-hour ozone NAAQS.

Preconstruction PSD Permitting for Major Sources: For the major source PSD program sub-element of section 110(a)(2)(C), EPA interprets the CAA to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has an up-to-date PSD permitting program in place covering the PSD requirements for all regulated NSR pollutants.[9] A state's PSD permitting program is complete for this sub-element (as well as prong 3 of D(i)(II), and J related to PSD) if EPA has already approved or is simultaneously approving the state's implementation plan with respect to all PSD requirements that are due under EPA regulations or the CAA on or before the date of EPA's action on the infrastructure SIP submission. Mississippi's 2015 8-hour ozone NAAQS infrastructure SIP submission cites to a number of SIP-approved provisions to address the major source PSD program sub-element of section 110(a)(2)(C) as described below.

Mississippi's January 25, 2021, iSIP submission cites to two separate SIP-approved regulations. Specifically, Mississippi cites to 11 MAC, Part 2, Chapter 5 and portions of Chapter 2. These SIP-approved regulations provide that new major sources and major

[6] *See Mont. Envtl. Info. Ctr.* v. *Thomas,* 902 F.3d 971 (9th Cir. 2018).

[7] Mississippi Code Title 49 is referenced in the State's infrastructure SIP submissions as ''Appendix A–9.'' Unless otherwise indicated herein, portions of the Mississippi Code referenced in this proposal are not incorporated into the SIP.

[8] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

[9] *See* EPA's 2013 Guidance.

modifications in areas of the State designated attainment or unclassifiable for any given NAAQS are subject to a federally-approved PSD permitting program under part C of title I of the CAA. However, the most current version of Mississippi's SIP-approved PSD regulations cited above do not reference the most updated version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W.[10]

EPA's PSD regulations at 40 CFR 51.166(l) require that modeling be conducted in accordance with Appendix W. As detailed in EPA's 2013 Guidance, approval of element C requires a fully approved and up-to-date PSD permitting program, which requires application of Appendix W consistent with EPA's PSD implementing regulations, (approval of PSD elements D(i)(II), and J is also contingent on an up-to-date PSD program). As noted, Mississippi's PSD program does not meet these updated modeling requirements and, for this reason, the State has committed to update its PSD regulations to reference the most current version of Appendix W and submit a SIP revision containing the revised regulations within one year of EPA's conditional approval. In this notice of proposed rulemaking, EPA is proposing to conditionally approve Mississippi's January 25, 2021, submission related to the PSD element of 110(a)(2)(C).

4. 110(a)(2)(D)(i)(I) and (II) Interstate Pollution Transport

Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1'') and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

[10] EPA approved the most recent version of Appendix W on January 17, 2017, at 82 FR 5182.

110(a)(2)(D)(i)(I)—prongs 1, 2, and 4: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) or the visibility protection provisions (prong 4). EPA will consider these requirements in relation to Mississippi's 2015 8-hour ozone NAAQS infrastructure in a separate rulemaking.

110(a)(2)(D)(i)(II)—prong 3: Section 110(a)(2)(D)(i)(II) requires that the SIP contain adequate provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state. With regards to prong 3 of section 110(a)(2)(D)(i)(II), a state may meet this requirement by a confirmation in its infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting current structural requirements of part C, or (if the state contains a nonattainment area that has the potential to impact PSD in another state) a nonattainment NSR program.

To meet prong 3, Mississippi's January 25, 2021, iSIP submission cites to SIP-approved regulation 11 MAC, Part 2, Chapter 5. This regulation provides that new major sources and major modifications in areas of the State designated attainment or unclassifiable for any given NAAQS are subject to a federally-approved PSD permitting program under part C of title I of the CAA.

However, as described in section IV.3. concerning 110(a)(2)(C) above, the most current version of Mississippi's SIP-approved PSD regulations do not reference the most updated version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W. For this reason, Mississippi's January 25, 2021, iSIP submission includes a request for conditional approval of prong 3 and a commitment to update its PSD regulations to reference the most current version of Appendix W and submit a SIP revision containing the revised regulations to EPA, within one year of EPA conditional approval.

EPA has made the preliminary determination that Mississippi's SIP and practices are adequate to meet the prong 3 requirements related to the 2015 8-hour ozone NAAQS, with the exception of the citation to an outdated version of Appendix W. Accordingly, EPA is proposing to conditionally approve Mississippi's infrastructure SIP submission with respect to the PSD provisions for section 110(a)(2)(D)(II)[prong 3].

5. 110(a)(2)(D)(ii) Interstate Pollution Abatement and International Air Pollution

Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126(b) of the Act, relating to interstate and international pollution abatement. Mississippi's January 25, 2021, iSIP submission cites to SIP-approved 11 MAC, Part 2, Chapter 5. This regulation provides where 40 CFR 51.166 was adopted by reference into the SIP and requires notification of potential impacts from new or modified sources to state and local agencies of neighboring states. Additionally, Mississippi has no pending obligations under sections 115 or 126 of the CAA. EPA has made the preliminary determination that Mississippi's and practices are adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2015 8-hour ozone NAAQS.

6. 110(a)(2)(E) Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies

Section 110(a)(2)(E) requires that each implementation plan provide: (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA's rationale respecting each sub-element for which EPA is proposing action in this rulemaking is described below.

In support of sub-element 110(a)(2)(E)(i), Mississippi's SIP submission demonstrates that it has adequate authority to carry out its SIP. Specifically related to sub-element 110(a)(2)(E)(i), Mississippi's infrastructure SIP submission cites to Mississippi Code Title 49 section 49–17–17(d), which gives MDEQ authority to accept and administer loans and grants from the federal government, and from other sources, public and private, for carrying out any of its functions. Additionally, MDEQ cites to Mississippi Code Title 49 section 49–17–17(h), which gives authority under State law to

carry out its SIP and related issues. For section 110(a)(2)(E)(iii), Mississippi's January 25, 2021, submission establishes that the State does not rely on any local or regional government, agency, or instrumentality for the implementation of any plan provision, and so the State has sole responsibility for ensuring adequate implementation of such plan provisions, as established in Mississippi Code Title 49 section 49–17–17(h).

As further evidence of the adequacy of MDEQ's resources, EPA submitted a letter to Mississippi on November 4, 2021, outlining CAA section 105 grant commitments and the current status of these commitments for fiscal year 2022. The letter EPA submitted to Mississippi can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2021–0947. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Mississippi satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2022. Collectively, these rules and commitments provide evidence that MDEQ has adequate personnel, funding, and legal authority to carry out the State's implementation plan and related issues. EPA has made the preliminary determination that Mississippi has adequate resources and authority to satisfy sections 110(a)(2)(E)(i) and (iii) of the 2015 8-hour ozone NAAQS.

Section 110(a)(2)(E)(ii) requires that the State comply with section 128 of the CAA. Section 128 requires that the SIP contain requirements providing that: (a)(1) The majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (a)(2) any potential conflicts of interest by such board or body, or the head of an executive agency with similar powers be adequately disclosed.

On April 8, 2013, EPA incorporated Article 4, Section 109 of the Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –101, –103, and –105 into the Mississippi SIP to meet the CAA section 128(a)(1) public interest requirements for state boards and the conflict of interest disclosure requirement of section 128(a)(2). *See* 78 FR 20793. On October 4, 2018, (83 FR 50014), EPA approved additional revisions to the Mississippi SIP to incorporate provisions to address remaining CAA section 128 requirements and strengthen the SIP's conflict of interest requirements.

First, Mississippi Code section 49–2–5 was incorporated into the SIP to address conflicts of interest for the Mississippi Commission on Environmental Quality, which has CAA enforcement order approval authority. This provision addresses the requirement in CAA section 128(a)(1) by prohibiting a majority of the members of the Commission from deriving any significant portion of their income from persons subject to permits under the Federal Clean Air Act or enforcement order under the Federal Clean Air Act. In addition, this provision also addresses any potential conflict of interest by a member of the Commission by requiring such member to disclose potential conflicts and recuse himself or herself from participating in or voting on any matter related to such conflict of interest.

Next, EPA approved SIP revisions to address section 128 requirements for the MDEQ Permit Board. Specifically, EPA approved ''Air Emissions Regulations for the Prevention, Abatement, and Control of Air Contaminants'' Title 11, Part 2, Chapter 1, Rule 1.1. Chapter 1, Rule 1.1, which ensures that at least a majority of the members of the Permit Board shall represent the public interest and shall not derive any significant portion of their income from persons subject to permits or enforcement orders under the Clean Air Act.

Additionally, EPA approved revisions to the MDEQ Permit Board procedural rules, ''Regulations Regarding Administrative Procedures Pursuant to the Mississippi Administrative Procedures Act'', Title 11, Part 1 Chapter 5, Rule 5.1. This rule describes the composition of the MDEQ Permit Board and provides that a majority of board members represent the public interest and not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA. It also provides for annual certification as to whether each member derives a significant portion of income from persons subject to permits or enforcement orders under the CAA and a process for replacing members as needed to ensure that a majority does derive a significant portion of income from regulated entities.

EPA has made the preliminary determination that Mississippi's SIP has adequately addressed the requirements of section 128(a), and accordingly have met the requirements of section 110(a)(2)(E)(ii). EPA is proposing to approve Mississippi's infrastructure SIP submission as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii), and (iii).

7. 110(a)(2)(F) Stationary Source Monitoring and Reporting

Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. EPA's rules regarding how SIPs need to address source monitoring requirements at 40 CFR 51.212 require SIPs to exclude any provision that would prevent the use of credible evidence of noncompliance.

Additionally, states are required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI), pursuant to Subpart A to 40 CFR part 51—''Air Emissions Reporting Requirements.'' The NEI is EPA's central repository for air emissions data. All states are required to submit a comprehensive emission inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for criteria pollutants and the precursors that form them including nitrogen oxides and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Mississippi most recently published triennial compiled emissions information as part of the 2017 NEI. EPA compiles the emissions data, supplementing it where necessary, and releases it to the public through the website: *https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data*.

MDEQ's January 25, 2021, infrastructure SIP submission identifies that Mississippi Code Title 49 section 49–17–21, states that the Mississippi Commission on Environmental Quality may require the installation, maintenance, and use of such monitoring equipment and methods at such locations and intervals as the Commission deems necessary. In addition, MDEQ cites to SIP-approved rule 11 MAC, Part 2, Chapter 2, Rule 2.6, which lists the requirements for compliance testing and reporting that

must be included in any MDEQ air pollution permit.

Further, MDEQ cites to Mississippi Code Title 49 section 49–17–21, which states that MDEQ has the authority to require the maintenance of records related to the operation of air contaminant sources and that any authorized representative of the Commission may examine and copy any such records or memoranda pertaining to the operation of such contaminant source. Finally, Mississippi cited to SIP-approved 11 MAC, Part 2, Chapter 2, Rule 2.9, which requires that copies of records relating to the operation of air contamination sources be submitted to the Permit Board, as required by the permit, or upon request.

Also note that Section 11 MAC, Part 2, Chapter 1, *Air Emission Regulations For The Prevention, Abatement, and Control of Air Contaminants,* authorizes the use of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of establishing whether or not a source has violated or is in violation of any standard or applicable requirement. EPA is unaware of any provision preventing the use of credible evidence in the Mississippi SIP.

EPA has made the preliminary determination that Mississippi's SIP submission and practices adequately provide for the stationary source monitoring systems related to the 2015 8-hour ozone NAAQS. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(F).

8. 110(a)(2)(G) Emergency Powers

Section 110(a)(2)(G) of the Act requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Mississippi's January 25, 2021, submission cites to Mississippi Code Title 49 section 49–17–27, stating that in the event an emergency is found to exist by the Commission, it may issue an emergency order as the circumstances may require. Additionally, Mississippi cites to SIP-approved regulation 11 MAC, Part 2, Chapter 3, which states that the MDEQ Director may determine that an Air Pollution Emergency Episode condition exists at one or more monitoring sites solely because of emissions from a limited number of sources, and that he may order such source or sources to put into effect the emission control programs which are applicable for each episode stage. Further, 11 MAC, Part 2, Chapter 3 lists regulations that prevent the excessive buildup of air pollutants during air pollution episodes.

EPA has made the preliminary determination that Mississippi's SIP submission adequately addresses emergency powers related to the 2015 8-hour ozone NAAQS. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(G).

9. 110(a)(2)(H) SIP Revisions

Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan: (i) As may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements.

To comply with the requirements of section 110(a)(2)(H)(i), Mississippi's January 25, 2021, infrastructure SIP submission cites to Mississippi Code Title 49 section 49–17–17(h), which provides MDEQ with the necessary statutory authority to revise the SIP to accommodate changes to the NAAQS. Mississippi Code Title 49 section 49–17–17(h) also provides MDEQ with the necessary statutory authority to revise the SIP if the Administrator finds the plan to be substantially inadequate to attain the NAAQS to comply with the requirements of section 110(a)(2)(H)(ii).

EPA has made the preliminary determination that Mississippi's SIP submission adequately demonstrates a commitment and authority to provide future SIP revisions related to the 2015 8-hour ozone NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(H).

10. 110(a)(2)(J) Consultation With Government Officials, Public Notification, and PSD and Visibility Protection

Section 110(a)(2)(J) has four components related to: (1) consultation with government officials, (2) public notification, (3) PSD, and (4) visibility protection.

Consultation with Government Officials: With regard to consultation, section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations, and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements pursuant to the consultation provisions section 121. To meet the consultation requirements of element J, Mississippi's iSIP submission cites to SIP-approved regulation 11 MAC, Part 2, Chapter 5, which provides for continued consultation with government officials. Additionally, SIP submission Appendix A–9, Mississippi Code Title 49 section 49–17–17(c), provides MDEQ with the necessary statutory authority to advise, consult, cooperate, or enter into contracts, grants, and cooperative agreements with any federal or state agency or subdivision.

EPA has made the preliminary determination that Mississippi's SIP submission adequately demonstrates that the State meets applicable requirements related to consultation with government officials for the 2015 8-hour ozone NAAQS. Thus, EPA is proposing to approve Mississippi's infrastructure SIPs for the 2015 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(J) for this provision.

Public Notification: With respect to public notification, section 110(a)(2)(J) of the CAA requires states to notify the public of NAAQS exceedances and associated health hazards, and to enhance public awareness of measures that can prevent such exceedances in accordance with the public notice requirements of CAA section 127. To meet these requirements of element J, Mississippi's iSIP submission cites to SIP-approved regulation 11 MAC, Part 2, Chapter 3, which requires MDEQ to notify the public of any air pollution alert, warning, or emergency. To notify the public regarding ozone, MDEQ has a public notice mechanism in place. One of the mechanisms is the MDEQ website where changes in regulations, air quality summary data, and daily Air Quality Index reports can be found. Additionally, certain regulatory actions may also be published in newspapers and/or addressed at public hearings.

EPA has made the preliminary determination that Mississippi's SIP submission adequately demonstrates that the State meets applicable requirements related to the ability to provide public notification of section 110(a)(2)(J) for the 2015 8-hour ozone NAAQS. Thus, EPA is proposing to approve Mississippi's infrastructure SIPs for the 2015 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(J) for this provision.

PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement is met (similarly to 110(a)(2)(C)) by a state's confirmation, in an infrastructure

SIP submission, that the state has a SIP-approved PSD program meeting all the current requirements of part C of title I of the CAA for all NSR regulated pollutants. To meet the requirements of element J, Mississippi's January 25, 2021, iSIP submission cites to SIP-approved regulation 11 MAC, Part 2, Chapter 5, which provides that new major sources and major modifications in areas of the State designated attainment or unclassifiable for any given NAAQS are subject to a federally-approved PSD permitting program under part C of title I of the CAA.

However, as described in section IV.3. concerning 110(a)(2)(C) above, the most current version of Mississippi's SIP-approved PSD regulations do not reference the most updated version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W. For this reason, Mississippi's January 25, 2021, iSIP submission includes a request for conditional approval of element J and a commitment to update its PSD regulations to reference the most current version of Appendix W, and submit a SIP revision containing the revised regulations to EPA, within one year of EPA conditional approval.

Visibility Protection: With regard to the visibility protection element of section 110(a)(2)(J), EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that Mississippi is subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. As such, Mississippi's infrastructure SIP submission related to the 2015 8-hour ozone NAAQS does not address the visibility protection element of section 110(a)(2)(J).

11. 110(a)(2)(K) Air Quality Modeling and Submission of Modeling Data

Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to EPA can be made. 110(a)(2)(K) has two components related to: (1) the performance of air quality modeling, and (2) the submission of data related to such air quality modeling to the Administrator.

Mississippi's January 25, 2021, iSIP submission cites to two separate SIP-approved regulations to meet the modeling requirement of element K. Specifically, Mississippi cites to 11 MAC, Part 2, Chapter 2 and 11 MAC, Part 2, Chapter 5. These SIP-approved regulations include requirements for air quality modeling and reporting for the PSD permitting program. However, as described in section IV.3 concerning 110(a)(2)(C) above, the most current version of Mississippi's SIP-approved PSD regulations cited above do not reference the most updated version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W. For this reason, Mississippi's January 25, 2021, iSIP submission includes a request for conditional approval of element K and a commitment to update its PSD regulations to reference the most current version of Appendix W, and submit a SIP revision containing the revised regulations to EPA, within one year of EPA conditional approval.

Because of the outdated reference to Appendix W modeling, EPA is proposing to conditionally approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(K).

12. 110(a)(2)(L) Permitting Fees

Section 110(a)(2)(L) requires that the owner or operator of each major stationary source pay the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover: (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Mississippi January 25, 2021, infrastructure SIP submission cites to Mississippi Code Title 49 section 49–17–30, which provides for the assessment of Title V permit fees to cover these costs. The State notes that these title V operating program fees cover the reasonable cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Mississippi adequately provides for permitting fees related to the 2015 8-hour ozone NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(L).

13. 110(a)(2)(M) Consultation/ Participation by Affected Local Entities

Section 110(a)(2)(M) of the Act requires states to provide for the consultation with, and the participation of, local political subdivisions affected by the SIP, during the SIP development process. To meet this requirement, MDEQ cites to Mississippi Code Title 49 section 49–17–17(c), which gives the Commission the statutory authority to advise and consult with any political subdivisions in the State. Additionally, Mississippi Code Title 49 section 49–17–19(b), requires that the Commission conduct public hearings in accordance with EPA regulations prior to establishing, amending, or repealing standards of air quality. Furthermore, MDEQ has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the development of its Transportation Conformity SIP and has worked with the Federal Land Managers as a requirement of the regional haze rule. EPA has made the preliminary determination that Mississippi's SIP submission and practices adequately demonstrate consultation with affected local entities related to the 2015 8-hour ozone NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(M).

V. Proposed Action

With the exception of the visibility provisions of section 110(a)(2)(D)(i)(II) and PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J), and the modeling provision of 110(a)(2)(K), EPA is proposing to approve Mississippi's January 25, 2021, SIP submission for the 2015 8-hour ozone NAAQS for the above described infrastructure SIP requirements. Further, EPA is proposing to conditionally approve the portions of the 2015 8-hour Ozone NAAQS iSIP that address the PSD related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J), and the modeling requirements of 110(a)(2)(K). Mississippi submitted a separate submittal to address CAA section 110(a)(2)(D)(i)(I)[prongs 1 and 2], and EPA is addressing that revision in a separate rulemaking.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 11, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–15124 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 620

RIN 3145–AA64

NSF Federal Cyber Scholarship-for-Service Program (CyberCorps® SFS)

AGENCY: National Science Foundation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Science Foundation (NSF), in consultation with the Secretary of Education, is proposing standards for how a CyberCorps® SFS scholarship would be repaid if a scholarship recipient fails to meet the program requirements, as well as the process to discharge the repayment obligation, in whole or in part, in certain circumstances.

DATES: Interested parties should submit written comments on or before September 13, 2022 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to this proposed rule to the Federal eRulemaking portal at *https://www.regulations.gov.* Follow the instructions provided on the ''Comment Now'' screen. If your comment cannot be submitted using *Regulations.gov,* email the point of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Comments submitted in response to this document will be made publicly available and are subject to disclosure under NSF's Freedom of Information Act regulations at 45 CFR part 612. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information, or any information that you would not want publicly disclosed. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: William Grant, Assistant General Counsel, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; telephone: 703–292–8060; email: *wgrant@nsf.gov.*

SUPPLEMENTARY INFORMATION:

Background and Authority for This Proposed Rule

The Cybersecurity Enhancement Act of 2014 (15 U.S.C. 7442), as amended by the National Defense Authorization Acts for 2018 and 2021, authorized NSF, in coordination with the U.S. Office of Personnel Management (OPM) and the U.S. Department of Homeland Security (DHS), to implement the CyberCorps® SFS scholarship program to recruit and train the next generation of information technology professionals, industrial control system security professionals, and security managers to meet the needs of the cybersecurity mission for Federal, state, local, and tribal governments.

Finding cybersecurity talent can be challenging for government organizations. This program helps hiring managers by providing scholarships to candidates from institutions with some of the top cybersecurity programs in the country. Special hiring authorities in 15 U.S.C. 7442(e) allow Federal organizations, without regard to any provision of chapter 33 of title 5 governing appointments in the competitive service, to noncompetitively appoint SFS graduates. In addition, upon fulfillment of their service term, they may be converted noncompetitively to a term, career-conditional, or career appointment. If converted to a term appointment, an agency may later noncompetitively convert such employee to a career-conditional or career appointment before the term appointment expires.

The CyberCorps® SFS program is led and managed by NSF in coordination with OPM and DHS. National Science Foundation oversees all aspects of the program, including:

- Program solicitations, merit review process, site visits, grant awards, assessing progress via annual and final reports, managing financial functions, representing the program in interactions with Federal agencies and other organizations within the academic/scientific communities;
- Outreach to current and prospective CyberCorps® SFS grantee institutions and principal investigators (PIs);
- Coordination with OPM via an annual reimbursable Inter-Agency Agreement (IAA) for student management;

- Coordination with DHS on connecting students with government agencies via CyberCorps® SFS Job Fairs;
- Implementing contracts for independent continuous program monitoring and program-level evaluation;
- Coordination with the U.S. Department of the Treasury (Treasury) and/or Department of Education on collections and repayments for the small number of students who do not fulfill their service obligations; and
- Processing requests for partial or complete releases from the service obligation under appropriate circumstances.

The OPM Program Management Office is supported by a reimbursable Interagency Agreement with NSF and manages the operational aspects of CyberCorps® SFS student scholarships including:

- Creating and distributing Student Service Agreements, policy, guidance and other program documents;
- Tracking CyberCorps® SFS students from entry into the program until eight years following the completion of their post-graduation service obligation;
- Facilitating the registration of new CyberCorps® SFS students and monitoring their academic status with participating institutions during the Scholarship Phase;
- Reviewing and approving student job offers and monitoring the service obligations reported by students;
- Coordinating collection of information for repayments and waiver requests to NSF; and
- Maintaining the CyberCorps® SFS program website (*https://sfs.opm.gov/*) that allows students to access CyberCorps® SFS program information and post their resumes online, so they become available to registered and approved organizations.

DHS serves as a strategic partner to promote cybersecurity education and workforce development; helps strengthen partnerships between CyberCorps® SFS institutions and Federal, state, local, and tribal governments; serves as a technical advisor; sponsors annual CyberCorps® SFS Job Fairs; and organizes and maintains the CyberCorps® SFS Hall of Fame website. In addition, DHS partners with the National Security Agency on the National Centers of Academic Excellence in Cybersecurity (NCAE) initiative to:

- Establish standards for cybersecurity curricula and academic excellence;
- Include competency development among students and faculty;
- Value community outreach and leadership in professional development;
- Integrate cybersecurity practice within the institution across academic disciplines; and
- Actively engage in solutions to challenges facing cybersecurity education.

Agencies may recruit SFS students for internships during their academic term and permanent placement after graduation. Agencies interested in recruiting from the pool of SFS Scholars can gain access to these candidates by registering as an agency official at the OPM SFS Portal to browse the SFS student pool. In addition, closed hiring events specifically for the SFS students are held twice a year to give agencies an opportunity to interview and even hire SFS students on the spot. The Winter and Summer CyberCorps® Job Fairs usually occur in January and September, respectively. The Winter CyberCorps® Job Fair, sponsored jointly by NSF and DHS, is typically held at a hotel in the Washington, DC metro over a three-day period. Students visit agency booths and interview rooms to speak with representatives about internship and hiring opportunities and to gain a better understanding of what it would be like to work at a particular agency and in government. The 2021 and 2022 Winter Job Fairs were held virtually due to COVID–19 restrictions. The Summer Virtual Job Fair allows SFS students to visit participating agencies' virtual booths to search for possible employers. Each agency booth includes a representative for students to connect with and talk online regarding potential employment during a one-day period. At each virtual booth, students can view current job postings and submit resumes to apply for jobs.

The first cohort of 31 students was enrolled in Fall 2001 and the first nine students graduated the following year. As of December 2021, 3,842 students have graduated from the program and a total of 4,773 students have been enrolled in the program since its inception. There are 91 institutions of higher education with active projects. In addition, there are 28 community colleges that participate as a partner with a CyberCorps® SFS university, and eight community colleges in the CyberCorps® SFS Community College Cyber Pilot (C3P) program. A list of participating institutions and additional information on this program can be found at *https://sfs.opm.gov.*

Changes Proposed by NSF With This Proposed Rule

This program provides funds to institutions of higher education that award scholarships to students who agree to work after graduation for a Federal, state, local, or tribal government organization in a position related to cybersecurity for a period equal to the duration of the scholarship, to be started within 18 months and to be completed within five years of entering the commitment phase of the program. Failure to satisfy the academic requirements of the program or to complete the service obligation would result in forfeiture of the scholarship award, which must either be repaid, or be treated as a Direct Unsubsidized Loan to be repaid, together with any accrued interest and fees. The statute further permits the Director to waive, in whole or in part, the service obligation or the obligation to repay the scholarship under certain conditions.

Currently, in the event that a scholarship recipient is required to repay the scholarship award, the academic institution providing the scholarship collects the repayment amounts within a period of time, or the repayment amounts are treated as Direct Unsubsidized Loan. Unfortunately, in many cases, the participating CyberCorps® SFS institution is neither able to collect a repayment nor convert it to a loan due to lack of cooperation from a scholarship recipient, closing an NSF award at an institution, or the amounts exceeding annual or aggregate loan limits under 34 CFR 685.203. It results with participants being required to submit a one-time payment to NSF or being sent to Treasury for collection action. See 31 U.S.C. 3711(g); 3716(c); 3720A(a).

After discussions with the Department of Education, NSF is proposing that the conversion of the scholarship to a Direct Unsubsidized Loan will be done by NSF in collaboration with the Department of Education rather than by an academic institution. Historically, the group of scholars who need the repayment processing has been small, but it requires unproportionally time-intensive efforts by OPM, NSF, Treasury, as well as by the academic institutions. Each of the almost 100 participating academic institutions individually may have not more than one case every five years. This paucity of cases at the individual institution level nevertheless generates a large volume of questions in the aggregate to be handled by NSF and OPM. In addition, there may be significant process differences between different institutions, resulting in students being treated inconsistently across institutions, with some receiving relief while others are put into repayment.

Finally, in many cases an institution concludes that it is not able to treat the scholarship as the Direct Unsubsidized Loan due to the lack of cooperation from a scholarship recipient or other factors such as an amount exceeding allowable limits, forcing the scholarship recipient to make a lump sum payment or be transferred for Treasury collection action. This proposed rule lays out a single, centralized process for NSF and the Department of Education to convert the repayments amounts to Direct Unsubsidized Loans for the benefit of individual scholars, SFS institutions, and Federal agencies. The Direct Unsubsidized Loans, sometimes called Unsubsidized Stafford Loans, are low-cost, fixed-rate Federal student loans available to both undergraduate and graduate students. The key benefits to the student include

- Fixed interest rate of 3.73% for undergraduate students for the 2021–2022 academic year (interest rates are fixed on July 1st of each year for new loans after that date)
- Fixed interest rate of 5.28% for graduate and professional students for the 2021–2022 academic year
- No payments while enrolled in school
- Eligibility not based on demonstrated financial need or credit
- Multiple repayment plans (including income-based) available

Also, once converted the interest rates on Direct Unsubsidized Loans are fixed and do not change over the life of the loan.

After consultation with the Department of Education, the proposed rule also specifies that scholarships converted to a Direct Unsubsidized Loan by the Secretary of Education are not counted against the scholarship recipient's annual or aggregate loan limits under 34 CFR 685.203, similar to the Teacher Education Assistance for College and Higher Education (TEACH) scholarship. After conversion, the Direct Unsubsidized Loan will be subject to the Department of Education's normal processes and procedures for those loans, including repayment, discharge, or waiver of the repayment obligation. Once a scholarship has been converted to a Direct Unsubsidized Loan, it may not be reconverted back to a CyberCorps® SFS scholarship, NSF will have no further authority to discharge or waive the repayment obligation, and borrowers will have to follow the Department of Education's normal student loan rules for that program. That is, the obligation will convert from one that is owed to NSF to one that is owed to Education.

Considering that the proposed rule provides a benefit to the scholarship recipients by ensuring a successful conversion to a Federal Unsubsidized Loan rather than requiring a one-time payment or a payment agreement with the Treasury, this option will be provided not only to new scholarship recipients but also to student who are already in the program via an optional amendment to their agreement to serve or repay.

In addition to the process of conversion of the scholarship to a Direct Unsubsidized Loan, NSF proposes standards to govern the process to discharge the repayment obligation where ''compliance by the [scholarship recipient] with the obligation is impossible or would involve extreme hardship to the [scholarship recipient], or if enforcement of such obligation with respect to the [scholarship recipient] would be unconscionable.'' (15 U.S.C. 7442(*l*)). However, the statute does not explain or define what would be considered ''impossible'', ''extreme hardship,'' or an ''unconscionable'' enforcement of the service obligation that would justify a partial or complete waiver of the repayment obligation, therefore NSF must use its discretion and judgment to define these terms for waiver requests made prior to conversion to a Direct Unsubsidized Loan.

For the purposes of this proposed rule, NSF has determined the circumstances for discharge include death, total and permanent disability, or extreme hardship, as evidenced in a written request to be provided to and approved by the Director. This set of circumstances has been selected in consultation with other Federal agencies and modeled on the TEACH scholarship program as well as the definition of the total and permanent disability in § 620.5 of this proposed rule. Also, an interagency management board, consisting of representatives from NSF, OPM, and DHS, would discuss each request and make a recommendation to the Director. The management board meets 12 times a year and considers requests for deferral of obligation, discharge of agreement to serve, as well as cases that need to be recommended for a repayment or collection.

The proposed rule lays out definitions to describe elements of the SFS program and clarifies the requirement to document the scholarship recipient's service obligation. It formalizes a process for deferral of the service obligation where a scholarship recipient is continuing with advanced study or professional development, for medical reasons, military service, or other exceptional circumstances. Because there is no current, standard process for deferral and up to now each individual institution has had to set up their own policies, the proposed rule establishes a consistent process across all participating institutions. This process is modeled on the Department of Education's TEACH program and, based on historical data, would affect about 40 scholarship recipients a year. If a scholarship recipient does not qualify for a deferral or discharge, and does not meet their service obligation, under the statute they may repay the scholarship, or it will be converted to a Direct Unsubsidized Loan. NSF and OPM will send information collected on the Agreement to Serve or Repay together with the loan amount to the Department of Education.

Regulatory Analysis

Expected Impact of the Proposed Rule

There are three main reasons that the proposed rule is needed. First, the Federal Unsubsidized Loan, resulting from the scholarship conversion is subject to repayment in accordance with terms and conditions specified by the Director of the National Science Foundation (in consultation with the Secretary of Education) in regulations promulgated to carry out the subsection (j) of 15 U.S.C. 7442. Second, the lack of flexibility in current practice creates inefficiencies for students and agencies in administering the program. In many cases, the participating CyberCorps® SFS institution is neither able to collect a repayment nor convert it to a loan due to lack of cooperation from a scholarship recipient, closing an NSF award at an institution, or the amounts exceeding annual or aggregate loan limits under 34 CFR 685.203. It results in participants being required to submit a one-time payment to NSF or being sent to Treasury for a payment agreement. There is inefficiency and significant administration cost for institutions and agencies due to the lack of an automatic and uniform way to handle repayment and loan conversion. Lastly, the lack of flexibility in current practice prevents students from receiving any benefits from a Direct Unsubsidized Loan if the conversion by an institution is impossible.

Three groups will be affected by the proposed rule: Students (SFS scholars), universities (SFS institutions), and Federal agencies. The Table 1, Table 2, and Table 3 summarize expected impacts on those three groups.

TABLE 1—EXPECTED IMPACT OF THE PROPOSED RULE ON STUDENTS

	Number per year	Current practice	Expected impact of proposed rule
Students fulfilling obligation through service.	300	Students report completion to OPM	None for future students; current participants will have the option to convert to loan.
Students fulfilling through lump-sum payment.	5	Repay to SFS institution or NSF	Participants could pay a lump sum or convert to loan.
Students cooperating with the SFS institution and OPM, but not paying lump sum.	8	Converted to a loan by Institution if possible, or transferred to Treasury for collection action.	Transfer to the Department of Education for loan conversion (eligible for related benefits), without the need for the student's further cooperation or consent.
Students not cooperating and not paying lump sum.	5	Transferred to Treasury for collection action.	Same as above.

TABLE 2—EXPECTED IMPACT OF THE PROPOSED RULE ON UNIVERSITIES

[SFS institutions]

	Number per year	Current practice	Expected impact of proposed rule
Universities	15	Currently SFS institutions must convert to a loan which may be impossible due to loan limits or lack of student cooperation.	Automatic conversion to loan will mean less effort for students/less administration time for universities.

TABLE 3—EXPECTED IMPACT OF THE PROPOSED RULE ON FEDERAL AGENCIES

	Number of cases per year	Current practice	Expected impact of proposed rule
NSF	18	Work with institutions to find a way to create payments or loan conversion. If impossible, refer to Treasury for collection action.	Standardized transfer to the Department of Education for automatic loan conversion.
OPM	18	Work with institutions to find a way to create payments or loan conversion. If impossible, work with NSF to transfer to Treasury for collection action.	Provide the cases to NSF for conversion to the loan.
Treasury	5	Handle repayment or collection; appeals; requests for additional evidence etc.	No transfers to Treasury, unless the student defaults on their loan.
Education	20	Not involved	Loan conversion.

Costs

The vast majority of students who enroll in the CyberCorps® SFS program will complete their studies and will move into Federal, state, local, or tribal government service, where the vast majority will complete their service obligations. Table 4 below summarizes the number of students released from obligations (granted a waiver or have a request pending) as of November 1, 2021.

TABLE 4—THE NUMBER OF SFS SCHOLARS RELEASED FROM THE SERVICE OBLIGATIONS FROM 2001–2021

	Scholarships awarded	Full waiver: academic phase	Partial waiver: academic phase	Full waiver: employment phase	Partial waiver: employment phase	Waiver request pending decision	Total waivers
2001	31	0	0	6	0	0	6
2002	115	2	0	16	0	0	18
2003	219	1	0	16	0	0	17
2004	185	0	0	3	0	0	3
2005	182	4	0	2	0	0	6
2006	133	1	0	0	0	0	1
2007	111	1	0	0	0	0	1
2008	94	0	0	0	0	0	0
2009	133	4	0	1	0	0	5
2010	181	2	0	1	0	0	3
2011	195	2	0	1	0	1	4
2012	186	2	0	0	0	0	2
2013	268	1	0	1	0	0	2
2014	277	0	0	2	0	1	3
2015	277	0	0	0	0	0	0
2016	313	0	0	0	0	3	3
2017	357	0	0	0	2	0	2

TABLE 4—THE NUMBER OF SFS SCHOLARS RELEASED FROM THE SERVICE OBLIGATIONS FROM 2001–2021—Continued

	Scholarships awarded	Full waiver: academic phase	Partial waiver: academic phase	Full waiver: employment phase	Partial waiver: employment phase	Waiver request pending decision	Total waivers
2018	339	0	0	0	1	1	2
2019	384	1	0	0	0	1	2
2020	375	0	0	0	0	0	0
2021	354	0	0	0	0	0	0
Total	4,709	21	0	49	3	7	80

The costs resulting from the notice of proposed rulemaking (NPRM) includes one-time costs and recurring costs. The one-time costs consist of time needed to read and understand the proposed rule from universities and affected students and time for current students to learn about, decide, and complete paperwork to opt-into loan conversion when the option is available. The recurring costs consist of time to complete any additional paperwork to agree on loan conversion and new cost for the Department of Education to handle loan conversion.

SFS scholars (students), SFS institutions (universities), and three Federal agencies (NSF, OPM, and Treasury) will benefit from the NPRM. First, SFS institutions will save their time from responding to SFS scholars seeking information when they are not completing the service obligation. The estimated saving will be 20 hours per year. The total estimated saving will be $24,000 if the estimated number of cases is 20 per year with $60- per hour as a wage rate.[1] Second, SFS scholars who will not fulfill their obligation by service, will save their time from communicating with SFS institutions and OPM about options before being transferred to the Treasury. The estimated time saving is 30 hours per case per year. The SFS scholars who will not fulfill their obligations by service will be eligible for benefits available to Direct Unsubsidized Loan borrowers. The benefits include: (1) Entering a six-month grace period prior to entering repayment, and (2) Eligiblity for all the benefits of the Direct Loan Program. These benefits are not currently available to individuals whose repayments are handled by Treasury. Three Federal agencies will save time from handling repayment cases. The estimated time saving for NSF is 30 hours per case for about 20 cases per year for personnel whose wage rate is estimated at $84.48 [2] per hour, based on OPM 2022 salary and wages. The estimated saving for NSF is $50,688. The estimated time savings for OPM is 15 hours per case for about 20 cases per year for personnel whose wage rate is estimated at $56.30 per hour, based on OPM 2022 salary and wages.[3] The Treasury will save time for handling at least five cases per year because they will not handle payment agreement or student information. There is no direct benefit for the Department of Education.

Alternatives of this NPRM could be continuing with the current practice of an ad-hoc payment plan that could happen at SFS institutions or being transferred to the U.S. Treasury. This alternative would not provide the benefits to scholarship recipients, SFS institutions, and agencies that the proposed rule is intended to address. Another alternative is to extend the window for government service (*e.g.,* allowing up to ten years) and track SFS scholars for an extended time period before the loan conversion. This alternative would likely result in a larger share of SFS scholars fulfilling their service obligations. However, this action would not eliminate the need to improve the efficiency of the process for SFS scholars who do not fulfill their service obligations, and it may also delay government service for some SFS scholars given the extended window to complete service obligations. As a result, we believe the chosen proposal best addresses the administrative difficulties resulting from a scholarship recipient failing to meet the program requirements.

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

These Executive orders direct agencies to assess all costs, benefits and available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety effects, distributive impacts, and equity). These Executive orders emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' as supplemented by Executive Order 13563, ''Improving Regulation and Regulatory Review.'' Accordingly, the Office of Management and Budget has reviewed this proposed rule.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed rule does not have any federalism implications, as described above.

Congressional Review Act

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed rule is not anticipated to be a major rule under 5 U.S.C. 801.

Paperwork Reduction Act

This proposed rule implicates several information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On behalf of NSF, OPM as the program management office currently maintains a collection under OMB Control Number 3206–0246, *Scholarship for Service Program internet Site.* This collection covers the registration of students, agency officials, principal investigators, and program administrators; provides the ability for students to create and maintain online resumes; provides Federal agency officials access to student resumes for placement opportunities; and provides placement status reports. No changes in

[1] Computer Science Professor Salary (June 2022)—Zippia | Average Computer Science Professor Salaries Hourly And Annual.

[2] GS–15 Step 10: Pay & Leave: Salaries & Wages—*OPM.gov.*

[3] GS–13 Step 4: Pay & Leave: Salaries & Wages—*OPM.gov.*

burden or data elements or other aspects of this collection are expected to change based on this proposed rule.

In addition, this proposed rule contains a new information collection requirement. As discussed in this proposed rule, this information collection will provide contact information for the participants in the program and will allow NSF to work with the Department of Education to convert the scholarship to Direct Unsubsidized Loan.

Title of Collection: CyberCorps® SFS Scholarship Agreement to Serve or Repay.

OMB Control No.: 3145–XXXX.

Type of Review: New.

Respondents: Individual participants in the CyberCorps Scholarships for Service Program.

Estimated Number of Annual Respondents: 20.

Estimated Total Annual Burden Hours: 30 minutes per respondent.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the program, 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 methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notification will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), NSF certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, state, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

List of Subjects in 45 CFR Part 620

Administrative practice and procedure, Colleges and universities, Grant programs, Reporting and recordkeeping, Scholarships and fellowships.

■ For reasons set forth in the preamble, NSF proposes to add part 620 to 45 CFR chapter VI to read as follows:

PART 620—CYBERCORPS® SCHOLARSHIP FOR SERVICE (SFS) PROGRAM

Sec.

Authority: 42 U.S.C. 1870.

§ 620.1 Scope and purpose.

The CyberCorps SFS Scholarship for Service (SFS) program provides funds to institutions of higher education that award scholarships to students who agree to work after graduation for a Federal, state, local, or tribal government organization in a position related to cybersecurity for a period equal to the duration of the scholarship, to be started within 18 months and to be completed within five years of entering the Commitment Phase of the SFS program. Failure to satisfy the academic requirements of the program or to complete the service obligation results in forfeiture of the scholarship award, which must either be repaid or converted to a Direct Unsubsidized Loan. If converted, the loan, together with any accrued interest and fees, is subject to repayment to the Secretary of Education and may not be reconverted to a scholarship.

§ 620.2 Definitions.

Agreement to serve or repay means an agreement under which the individual receiving a CyberCorps SFS scholarship commits to meet the service or repay the loan as describe in § 620.6 and to comply with notification and other provisions of the agreement.

Commitment Phase means a period following the completion, or otherwise cessation of the Scholarship Phase, within which the SFS recipient must complete their obligation requirement. The Commitment Phase must begin within 18 months and must be completed within 5 years. The Commitment Phase is limited to a maximum of five years.

CyberCorps SFS scholarship recipient (scholarship recipient) means a student who is selected by an SFS institution for CyberCorps SFS scholarship and agrees to work after graduation for a Federal, state, local, or tribal government organization in a position related to cybersecurity.

Deferral means an approved extension of the Commitment Phase.

Director means the Director of the National Science Foundation (NSF) or an official or employee of the National Science Foundation acting for the Director under a delegation of authority.

Monitoring Phase means a period following the completion of the Commitment Phase during which the scholarship recipient must maintain current contact information and complete periodic (usually annual) surveys as requested by the SFS Program office. The period of time is set by the NSF Director in consultation with OPM following the completion of the Commitment Phase.

Payment data means an electronic record that is provided to the Director of NSF by an institution showing student disbursement information.

Scholarship Phase means a period when scholarship recipients are enrolled in an approved SFS academic program in cybersecurity.

Service obligation means the time period the recipient is required to work as an employee of a Federal, state, local, or tribal government organization in a position related to cybersecurity. All time at the agency that the recipient is considered an employee of the agency counts toward the service obligation.

SFS institution means a higher education institution that receives SFS grant from the National Science Foundation to recruit, train, and graduate scholarship recipients.

SFS program office means an office managing the SFS program through partnership between the National Science Foundation (NSF) and the Office of Personnel Management (OPM).

§ 620.3 Documenting the service obligation.

If a scholarship recipient is performing service in accordance with the agreement to serve or repay, the scholarship recipient must, within 30 days of the beginning of the service and upon completion of each year of service obligation, provide to the Director documentation of that service on a form approved by the SFS program office with all required information and certifications as defined on the form.

§ 620.4 Deferral of obligation.

(a) A scholarship recipient who has completed, or who has otherwise ceased

enrollment in a CyberCorps SFS Scholarship Phase, may request, from the Director, a deferral of the five-year Commitment Phase for completion of the service obligation based on—

(1) Enrollment in a program of study or engagement in approved professional activity which would contribute to further professional development and/or cybersecurity workforce readiness for the scholarship recipient;

(2) A condition that is a qualifying reason for leave under the Family and Medical Leave Act (FMLA);

(3) A call to order to Federal or state active duty or active service as a member of a Reserve Component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5); or

(4) Other exceptional circumstances significantly affecting the scholarship recipient's ability to serve as determined by the Director.

(b) A scholarship recipient must apply for a deferral prior to being subject to any of the conditions under § 620.6 that would cause the CyberCorps SFS scholarship to be converted to a Direct Unsubsidized Loan.

(c) A scholarship recipient who applies for deferral must provide the Director with documentation supporting the request as well as current contact information including home address, email address, and telephone number.

(d) The Director notifies the scholarship recipient on the outcome of the application for deferral.

§ 620.5 Discharge of agreement to serve or repay.

(a) *Discharge conditions.* The Director may provide for the partial or total waiver or suspension of any service or payment obligation by a scholarship recipient under the SFS program, including but not limited to the following circumstances:

(1) *Death.* If a scholarship recipient dies, the Director discharges the obligation to complete the agreement to serve or repay based on a certified copy of the death certificate or verification of the scholarship recipient's death through an authoritative Federal or state electronic database approved for use by the Director.

(2) *Total and permanent disability.* A scholarship recipient's agreement to serve or repay is discharged if the scholarship recipient becomes totally and permanently disabled. This is the condition of an individual who:

(i) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—

(A) Can be expected to result in death;

(B) Has lasted for a continuous period of not less than 60 months; or

(C) Can be expected to last for a continuous period of not less than 60 months; or

(ii) Has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

(3) *Extreme hardship.* Whenever compliance by the scholarship recipient with the obligation is impossible or would involve extreme hardship to the scholarship recipient, or if enforcement of such obligation with respect to the scholarship recipient would be unconscionable. Extreme hardship could include but is not limited to financial/economic burden, medical situations, or other situations as determined by the Director of NSF.

(b) *Written request.* (1) A scholarship recipient must submit a written application for a discharge in accordance with this section prior to being subject to any of the conditions under § 620.6 that would cause the CyberCorps SFS scholarship to be converted to a Direct Unsubsidized Loan.

(2) A scholarship recipient who applies for discharge must provide the Director with documentation supporting the request as well as current contact information including home address, email address, and telephone number.

(3) The Director notifies the scholarship recipient on the outcome of the application for discharge.

§ 620.6 Obligation to repay the CyberCorps SFS scholarship.

(a) A scholarship recipient who fails to complete their obligation, as evidenced by documentation of that service with all required information and certifications, must repay to the United States the amount of the scholarship award received. Such repayment amounts must be repaid on terms as determined by the Director.

(b) If not repaid, the CyberCorps SFS scholarship amounts paid to the scholarship recipient, together with any accrued interest and fees, will be converted into a Direct Unsubsidized Loan and subject to repayment to the Secretary of Education, if the scholarship recipient does not submit required documentation to prove the qualified employment within the timeframe required by the agreement to serve or repay.

(c) A CyberCorps SFS scholarship that is converted to a Direct Unsubsidized Loan is not counted against the scholarship recipient's annual or aggregate loan limits under 34 CFR 685.203.

(d) On or about 90 days before the date that a scholarship recipient's CyberCorps SFS scholarship would be converted to a Direct Unsubsidized Loan, the Director notifies the scholarship recipient of the date by which they must submit documentation showing that they are satisfying the obligation.

(e) At least annually during the service obligation period, the Director notifies the scholarship recipient of—

(1) The terms and conditions that the scholarship recipient must meet to satisfy the service obligation;

(2) The requirement for the scholarship recipient to provide to the Director, upon completion of each of the required service year, documentation of that service on a form approved by the Director and emphasizes the necessity to keep copies of this information and copies of the scholarship recipient's own employment documentation; and

(3) The conditions under which the scholarship recipient may request a deferral of the period for completing the service obligation or the discharge of the service obligation.

(f) A scholarship recipient remains obligated to meet all requirements of the service obligation, even if the recipient does not receive the notices from the Director as described in paragraph (e) of this section.

(g) A scholarship recipient whose CyberCorps Scholarship has been converted to a Direct Unsubsidized Loan—

(1) Enters a six-month grace period prior to entering repayment, and

(2) Is eligible for all of the benefits of the Direct Loan Program.

(h) Once converted to a Direct Unsubsidized Loan under this part, the loan may not be converted back to a CyberCorps Scholarship.

§ 620.7 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice shall not be affected thereby.

Dated: June 30, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–14328 Filed 7–14–22; 8:45 am]

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Notices

Federal Register
Vol. 87, No. 135
Friday, July 15, 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

Forest Service

Final Record of Decision for the Cibola National Forest Land Management Plan

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of Approval of the Revised Land Management Plan for the Cibola National Forest.

SUMMARY: Steve Hattenbach, the Forest Supervisor for the Cibola National Forest, Southwestern Region, signed the record of decision (ROD) for the Cibola National Forest Land Management Plan (LMP). The final ROD documents the rationale for approving the LMP and is consistent with the Reviewing Officer's responses to objections and instructions.

DATES: The revised LMP for the Cibola National Forest will become effective August 15, 2022 (36 CFR 219.17(a)(1)).

ADDRESSES: To view the signed ROD, Final Environmental Impact Statement (FEIS), LMP, and other related documents, please visit the Cibola National Forest Plan Revision website at: *https://www.fs.usda.gov/main/cibola/landmanagement/planning.* A legal notice of approval is also being published in the Cibola National Forest's newspaper of record, *The Albuquerque Journal.* A copy of this legal notice will be posted on the Cibola National Forest website listed above.

FOR FURTHER INFORMATION CONTACT: Jay Turner, Staff Officer, Cibola National Forest at *James.Turner1@usda.gov* or 505–346–3814.

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 24 hours a day, every day of the year, including holidays. Written requests for information may be sent to Cibola National Forest, Attn: Plan Revision, 2113 Osuna Rd. NE, Albuquerque, NM 87113.

SUPPLEMENTARY INFORMATION: The Cibola National Forest covers four ranger districts and more than 1.6 million acres across 10 counties in central New Mexico. The LMP was developed pursuant to the 2012 Forest Service Planning Rule (36 CFR 219) and will replace the 1985 LMP. The LMP describes desired conditions, objectives, standards, guidelines, and land suitability for project and activity decision-making and will guide all resource management activities on the Forest. The Cibola National Forest plays a unique role supporting and partnering with communities in central New Mexico, as well as throughout the southwestern United States, by providing economic benefits including fuelwood and livestock grazing, and abundant recreational opportunities. The development of the LMP was shaped by the best available scientific information, current laws, and public input.

The Cibola National Forest initiated the plan revision in 2012, engaging with the public frequently and innovatively throughout the planning process. This effort has included conventional public meetings, collaborative work sessions, information sharing via social media, and the development of self-convening collaborative groups. The public, cooperating agencies, district collaboratives, and Tribes contributed well over 3,500 comments throughout the plan revision process from 2012 to 2019. The Cibola National Forest engaged in government-to-government consultation with 17 tribes during the LMP revision, ensuring tribal-related plan direction accurately reflects the Cibola National Forest's trust responsibilities and government-to-government relationship with the tribes.

A draft ROD, LMP, and FEIS were released in September 2021, initiating a 60-day objection filing period that closed November 2, 2021. The Cibola National Forest received six eligible objections. Through a comprehensive review of each objection, the Forest Service identified a variety of issues. Following the objection review, the Reviewing Officer held objection resolution meetings with objectors and interested persons. Based on these meetings, the Reviewing Officer issued a written response on May 24, 2022. The Cibola National Forest addressed instructions from the Reviewing Officer in the ROD, LMP, and FEIS.

Responsible Official

The Responsible Official for approving the LMP is Steve Hattenbach, Forest Supervisor, Cibola National Forest. The Responsible Official approving the list of species of conservation concern is Michiko Martin, Regional Forester, Southwestern Region.

Dated: July 12, 2022.

Deborah Hollen,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–15195 Filed 7–14–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent to Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Annual Organic Survey. USDA's Risk Management Agency (RMA) typically funds an organic production and practices survey in years where the Census of Agriculture Special Study for Organics isn't conducted. The next Special Study is planned for 2025 (enumerated in early 2026), so this request will include only the surveys that are funded by USDA–RMA for crop years 2022 to 2024. A minor revision to burden hours will be needed to account for the anticipated data collection plan for the upcoming surveys along with adding some cognitive interviews to test requested changes to the annual surveys.

DATES: Comments on this notice must be received by September 13, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0249,

Organic Survey, by any of the following methods:

- *Email: omboffice@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202)720–2707. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS—OMB Clearance Officer, at (202)720–2206 or at *omboffice@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Organic Survey.

OMB Control Number: 0535–0249.

Type of Request: Intent to Seek Renewal of an Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture.

Originally, the Organic Survey was designed to be conducted once every five years as a mandatory, follow-on-survey to the 2007 Census of Agriculture and then every five years after that. In 2011, the docket was renewed to include that the survey was changed to accommodate a cooperative agreement between NASS and the USDA Risk Management Agency (RMA). Specifically, the survey was changed to a voluntary survey that was to be conducted annually if funding permitted, and it would allow for a rotation of target crops each year. With the completion of the 2012 Census of Agriculture, NASS renewed the Organic Survey again and returned it to its' original scope of questions and the mandatory reporting requirement. After the completion of the 2014 Organic Survey, NASS renewed its' cooperative agreement with RMA to conduct the shorter questionnaire on an annual basis.

The sample will consist of all certified organic operations, operations exempt from organic certification (value of sales < $5,000), and operations with acres transitioning into organic certification from the most recent published Census of Agriculture as well as organic operations currently on the NASS list frame. The survey will be conducted in all States. Some operation level data will be collected to use in classifying each operation for summary purposes. The majority of the questions will involve production data (acres planted, acres harvested, quantity harvested, quantity sold, livestock produced and sold, value of sale, etc.), and marketing and production practices.

Depending on annual funding, approximately 26,000 operations will be contacted by mail in early January, with a second mailing later in the month to non-respondents. Respondents will be able to complete the questionnaire by use of the internet, if they so choose. Telephone and personal enumeration will be used for remaining non-response follow-up. If the survey is funded, the National Agricultural Statistics Service will publish summaries in December at both the State level and for each major organic commodity when possible. Due to confidentiality rules, some State level data may be combined and published at the regional or national level to prevent disclosure of individual operation's data.

This collection of data will support requirements within the Agricultural Act of 2014. Under Section 11023 some of the duties of the Federal Crop Insurance Corporation (FCIC) are defined as ''(i) IN GENERAL—As soon as possible, but not later than the 2015 reinsurance year, the Corporation shall offer producers of organic crops price elections for all organic crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 *et seq.*) that reflect the actual retail or wholesale prices, as appropriate, received by producers for organic crops, as determined by the Secretary using all relevant sources of information. ''(ii) ANNUAL REPORT.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—''(I) the numbers and varieties of organic crops insured; ''(II) the progress of implementing the price elections required under this subparagraph, including the rate at which additional price elections are adopted for organic crops; ''(III) the development of new insurance approaches relevant to organic producers; and ''(IV) any recommendations the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops''.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. Ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 40 minutes per response.

Respondents: Farmers and Ranchers.

Estimated Number of Respondents: 26,000.

Estimated Total Annual Burden on Respondents: 18,000 hours (based on an estimated 80% response rate, using 2 mail attempts, 2 postcard mailings, followed by phone and personal enumeration for non-respondents).

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical,

technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, July 5, 2022.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2022–15139 Filed 7–14–22; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, July 22, 2022, 12:00 p.m. EST.

ADDRESSES: Meeting to take place virtually and is open to the public via livestream on the Commission's YouTube page: *https://www.youtube.com/user/USCCR/videos.*

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–8371; *publicaffairs@usccr.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, July 22, 2022, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
  A. Presentations by State Advisory Committee Chairs on Released Reports and Memorandums
  B. Discussion and Vote on Advisory Committee Appointments
  C. Discussion and Vote on 2023 and 2024 Topics for USCCR Reports
  D. Management and Operations
  • Staff Director's Report
III. Adjourn Meeting

Dated: July 13, 2022.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2022–15240 Filed 7–13–22; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Annual Survey of School System Finances

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 28, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Annual Survey of School System Finances.

OMB Control Number: 0607–0700.

Form Number(s): F–33, Supplemental forms: F–33–L1, F–33–L2 and F–33–L3.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: F–33: 51, Supplemental: 3,630.

Average Hours per Response: F–33: 70 hours, 45 minutes, Supplemental: 15 minutes.

Burden Hours: 4,465.

Needs and Uses: The U. S. Census Bureau plans to continue the current Office of Management and Budget clearance for the Annual Survey of School System Finances with revisions. The Annual Survey of School System Finances is the only comprehensive source of pre-kindergarten through 12th grade public elementary-secondary school system finance data collected on a nationwide scale using uniform definitions, concepts, and procedures. The collection covers the revenues, expenditures, debt, and assets of all public elementary-secondary school systems. This data collection has been cosponsored by and coordinated with the National Center for Education Statistics (NCES). The NCES uses this collection to satisfy its need for school finance data.

Fiscal data provided by respondents aid data users in measuring the effectiveness of resource allocation. The products of this data collection make it possible for data users to search a single database to obtain information on such things as per pupil expenditures and the percent of state, local, and federal funding for each school system. Elementary-secondary education related spending is the single largest financial activity of state and local governments. Education finance statistics provided by the Census Bureau allow for analyses of how public elementary-secondary school systems receive their funding and how they are spending their funds.

The Annual Survey of School System Finances was revised for the fiscal year (FY) 2020 collection to include 12 new data items in response to the COVID–19 pandemic. Six revenue data items and six expenditure items were added to the survey to collect financial information from school systems concerning the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The survey was then revised again for the FY 2021 collection in response to new legislation passed due to the COVID–19 pandemic, including the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) and the American Rescue Plan (ARP). Four new revenue items were added to the survey to collect financial data based on these two new legislative acts and two obsolete revenue items added in FY 2020 in response to the COVID–19 pandemic were removed from the survey. Two new expenditure items were also added to expand the scope of financial data collected concerning COVID–19 federal assistance funds.

This proposed revision to the Annual Survey of School System Finances is to further expand the collection of expenditure data for COVID–19 federal assistance funds. The CARES Act of 2020 established several relief funds that would be made available to school systems, including the Elementary and Secondary School Emergency Relief (ESSER) Fund, the Governor's Emergency Education Relief (GEER) Fund, and the Coronavirus Relief Fund (CRF). Subsequent legislation such as the CRRSA and the ARP further funded these sources and established additional funds made available to school systems, including the ARP Act Coronavirus State and Local Fiscal Recovery Funds. In response to these various funds being established and utilized by school systems, 21 new data items will be added to the survey to collect data on expenditures from these funding sources. Three data items collecting data for current expenditures, instructional expenditures, and capital outlay expenditures will be added for seven

different sources of funds for a total of 21 new data items.

As a result of these 21 new data items being added to the survey, an increase in the total burden hours and estimated time per response for the primary survey form (F–33) is expected compared to prior survey collections. A slight decrease in the number of supplemental respondents is also expected in future collections due to school system consolidations, mergers, and other factors affecting the composition of school systems in states where supplemental debt and asset data is collected. This will partially offset some of the increase in total burden hours as a result of the 21 new items collected on the survey; however, an overall increase in total burden hours is still expected.

Affected Public: State and local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Census: Title 13 U.S.C. Sections 8(b), 161, and 182. NCES: Title 20 U.S.C. Sections 9543–44.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0700.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–15137 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–807]

Certain Uncoated Paper From Portugal: Final Results of Antidumping Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that The Navigator Company, S.A. (Navigator) made sales of certain uncoated paper (uncoated paper) from Portugal in the United States at less than normal value during the period of review (POR) March 1, 2020, through February 28, 2021.

DATES: Applicable July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–1988.

SUPPLEMENTARY INFORMATION:

Background

On April 4, 2022, Commerce published the *Preliminary Results* covering one producer/exporter, Navigator.[1] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this order are certain uncoated paper from Portugal. For a full description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties, we have made no changes to *Preliminary Results.*

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for the period March 1, 2020, through February 28, 2021:

Exporter/producer	Weighted-average dumping margin (percent)
The Navigator Company, S.A	5.81

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with the final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because there are no changes from the *Preliminary Results,* there are no new calculations to disclose.

Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.

Because Navigator's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. Where an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Navigator for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3]

[1] *See Certain Uncoated Paper from Portugal: Preliminary Results of the Administrative Review of the Antidumping Duty Order; 2020–2021,* 87 FR 19480 (April 4, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order: Certain Uncoated Paper from Portugal; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings:*

Continued

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Navigator will be the rate established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.80 percent, the all-others rate established in the LTFV investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

[4] *See Certain Uncoated Paper from Portugal: Final Determination of Sales at Less than Fair Value and Final Negative Determination of Critical Circumstances,* 81 FR 3105 (January 20, 2016).

Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: July 8, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–15141 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC176]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Thursday, August 4, 2022, beginning at 9 a.m. Webinar registration information: *https://attendee.gotowebinar.com/register/3655609405233935632.*

Call in information: +1 (631) 992–3221, Access Code: 484–371–473.

ADDRESSES: Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to provide feedback to the Council's Groundfish Plan Development Team (PDT) on possible rebuilding approaches for Gulf of Maine cod and on the basis for the range of alternative rebuilding strategies under development. They will receive an update on the development of Acceptable Biological Catch control rule alternatives under consideration for the Northeast Multispecies Fishery Management Plan. They will review information provided by the Council's Herring PDT and the results of recent Atlantic herring management track stock assessment. Using the Council's ABC control rule and rebuilding plan, recommend the OFLs and the ABCs for Atlantic herring for fishing years 2023, 2024, and 2025. Also on the agenda, their plans to recommend an approach for setting the discard deduction from the annual catch target during specifications setting for the monkfish fishery, considering information provided by the Monkfish Plan Development Team. They will consider other business as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: July 12, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–15150 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC151]

Magnuson-Stevens Fishery Conservation and Management Act; Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application modification from Blue Planet Strategies contains all of the required information and warrants further consideration. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notice to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: You may submit written comments by the following method:

- *Email: NMFS.GAR.EFP@noaa.gov.* Include in the subject line ''Comments on Blue Planet Strategies EFP.'' If you cannot submit a comment through this method, please contact Allison Murphy at (978) 281–9122, or email at *allison.murphy@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, 978–281–9122, *allison.murphy@noaa.gov.*

SUPPLEMENTARY INFORMATION: Blue Planet Strategies was issued an exempted fishing permit (EFP) request on September 7, 2021. The purpose of this project is to test technologies for sub-surface gear marking and gear tracking technologies and prototypes for acoustic release of bottom stowed lift bags or vertical lines for retrieving fishing gear used in the New England groundfish, monkfish, and American lobster and Jonah crab fisheries for the purpose of reducing buoy line interactions with marine mammals. For 2022, this EFP authorized up to 12 participating vessels in 2022 to test ropeless systems in the Gulf of Maine Regulated Mesh Area (gillnet) and Lobster Management Areas 1 and 3 (lobster trap/pot). Blue Planet Strategies was granted exemptions from the following requirements:

1. Gear marking requirements at 50 CFR 697.21(b)(2) to allow for the use of a single buoy marker on a trawl of more than three traps; and

2. Gear marking requirements at § 648.84(b) to allow for the use of a single buoy marker on a gillnet.

One end of both the gillnet and lobster trap gear is required to be marked according to regulations, the other end will test a lift bag system or a stowed rope system, or a spooled rope system. Both gillnet and lobster gear will test either acoustic or modem gear marking technology. A maximum of 140 gillnet deployments were expected in 2022, with a soak time of 96 hours. A maximum of 800 lobster trap deployments were expected in 2022, with a maximum soak time of 4–8 days. Sampling is expected to largely occur from June through October in both 2021 and 2022, though the permit is approved through December 2022.

Blue Planet Strategies submitted a request to revise the EFP on June 21, 2022. Investigators wish to add one additional vessel that operates out of Chatham, Massachusetts and fishes in the Georges Bank Regulated Mesh Area (statistical area 521) and Southern New England Regulated Mesh Area (statistical area 538). Therefore, investigators have requested a geographic expansion of the gillnet effort. No additional gear deployments are expected.

Investigators also request to modify the exemption from gear marking requirements at 50 CFR 697.21(b)(2) to allow for the use of no surface markings within a discrete portion of Area 1. Investigators wish to test the feasibility of using fully on-demand gear within the shipping channel known as the ''Southern Channel'' or ''Southern Route'' in Frenchman Bay (Downeast Maine). This new work is expected to account for approximately 100 of the 800 deployments approved in 2022 (*i.e.,* no new effort will result from this modification). In addition to informing work to reduce the potential for entanglements, this research could help determine whether ropeless gear could allow fishermen to prosecute the fishery in shipping channels that are presently kept clear of fishing gear that uses vertical lines and buoys, minimizing the risk of gear conflict.

If approved, Blue Planet Strategies may request minor modifications and extensions to the EFP throughout the study. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: July 11, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–15186 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC146]

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of a joint public meeting.

SUMMARY: The South Atlantic Fishery Management Council's (SAFMC) and Gulf of Mexico Fishery Management Council's (GMFMC) will hold a joint meeting of their Scientific and Statistical Committees (SSC) via webinar.

DATES: The joint SSC meeting will take place Thursday, August 4, 2022, from 9 a.m. to 5 p.m., EDT.

ADDRESSES: The meeting will be held via webinar.

Council addresses: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; Gulf of Mexico Fishery Management Council, 4107 West Spruce Street, Suite 200, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public via webinar as it occurs. Webinar registration is required. Information regarding webinar registration will be posted to the SAFMC's website at: *https://safmc.net/scientific-and-statistical-committee-meeting/.* The meeting agenda, briefing book materials, and online comment form will be posted to the SAFMC's website two weeks prior to the meeting. Written comment on SSC agenda topics is to be distributed to the Committees through the Council office, similar to all other briefing materials. For this meeting, the deadline for submission of written comment is 9 a.m. EDT, Thursday, August 4, 2022.

The following agenda items will be addressed by the SSCs during the meeting:

1. Review, discuss, and provide feedback on the southeastern yellowtail snapper interim analysis projections and uncertainties. Provide fishing level recommendations using the previously reviewed Southeast Data, Assessment, and Review (SEDAR) 64 assessment and recent interim analysis for southeastern yellowtail snapper. (Joint South Atlantic and Gulf of Mexico SSCs)

2. Review, discuss, and provide feedback on the operational assessment for South Atlantic Spanish mackerel projections and uncertainties, and provide fishing level recommendations. (South Atlantic SSC only)

The SSCs will provide guidance to staff and recommendations for Council consideration as appropriate.

Multiple opportunities for comment on agenda items will be provided during SSC meeting. Open comment periods will be provided at the start of the meeting and near the conclusion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. Additional opportunities for comment on specific agenda items will be provided, as each item is discussed, between initial presentations and SSC discussion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

Although non-emergency issues not contained in the meeting agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 12, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–15152 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC171]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; Issuance of 51 scientific research permits.

SUMMARY: Notice is hereby given that NMFS has issued 51 scientific research permits under the Endangered Species Act (ESA) to the individuals and organizations listed in Table 1. The research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

ADDRESSES: The permits and related documents are available for review upon written request via email to *nmfs.wcr-apps@noaa.gov* (please include the permit number in the subject line of the email).

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*).

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** on the dates listed below that requests for permits and permit modifications had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the applications and a complete description of the research, go to *www.federalregister.gov* and search on the permit number and **Federal Register** notice information provided in the table below.

TABLE 1—ISSUED PERMITS AND PERMIT MODIFICATIONS

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
1127–6M	0648–XB812 ..	Shoshone-Bannock Tribes Fisheries Department; P.O. Box 306, Fort Hall, ID 83203 (Responsible Party: Kurt Tardy).	87 FR 8788; February 16, 2022.	April 18, 2022.
1135–11R	0648–XB812 ..	U.S. Geological Survey, Western Fisheries Research Center; Columbia River Research Laboratory, 5501–A Cook-Underwood Rd.; Cook, WA 98605 (Responsible party: Amy C. Hansen).	87 FR 8788; February 16, 2022.	April 15, 2022.
1175–10R	0648–XB812 ..	U.S. Forest Service, Gifford Pinchot National Forest; 10600 NE 51st Circle Drive, Vancouver, WA 98682 (Responsible Party: Dave F. Olson).	87 FR 8788; February 16, 2022.	April 18, 2022.

TABLE 1—ISSUED PERMITS AND PERMIT MODIFICATIONS—Continued

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
1339–6R	0648–XB812 ..	Columbia River Inter-Tribal Fish Commission, PR1; 729 NE Oregon Street, Suite 200, Portland, OR 97232–2107 (Responsible Party: Robert Lothrop).	87 FR 8788; February 16, 2022.	May 17, 2022.
1341–6R	0648–XB812 ..	Shoshone-Bannock Tribes Fisheries Department; Post Office Box 306, Fort Hall, ID 83203 (Responsible Party: Kurt Tardy).	87 FR 8788; February 16, 2022.	April 18, 2022.
1345–10R	0648–XB812 ..	Washington Department of Fish and Wildlife; 600 Capitol Way N, Olympia, WA 98501 (Responsible Party: Steve Caromile).	87 FR 8788; February 16, 2022.	April 15, 2022.
1379–8R	0648–XB812 ..	Columbia River Inter-Tribal Fish Commission, PR1; 729 NE Oregon Street, Suite 200, Portland, OR 97232–2107 (Responsible Party: Robert Lothrop).	87 FR 8788; February 16, 2022.	June 14, 2022.
1386–10R	0648–XB812 ..	Washington Department of Ecology; 300 Desmond Dr., Lacey, WA 98504 (Responsible Party: Annette Hoffmann).	87 FR 8788; February 16, 2022.	April 29, 2022.
1410–13M	0648–XB812 ..	NMFS Northwest Fisheries Science Center; 2725 Montlake Blvd. East, Seattle, WA 98112–2097 (Responsible Party: Brian J. Burke).	87 FR 8788; February 16, 2022.	April 19, 2022.
1465–5R	0648–XB812 ..	Idaho Department of Environmental Quality, Surface and Wastewater; 1410 N Hilton, Boise, ID 83706 (Responsible Party: Jason Pappani).	87 FR 8788; February 16, 2022.	April 15, 2022.
1564–6R	0648–XB812 ..	University of Washington, School of Aquatic and Fishery Sciences; University of Washington/SAFS, Box 355020, Seattle, WA 98195 (Responsible Party: Jason Toft).	87 FR 8788; February 16, 2022.	April 21, 2022.
1586–5R	0648–XB812 ..	NMFS Northwest Fisheries Science Center; 2725 Montlake Blvd. East, Seattle, WA 98112–2097 (Responsible Party: Anna Kagley).	87 FR 8788; February 16, 2022.	April 22, 2022.
1587–7R	0648–XB812 ..	U.S. Geological Survey, Western Fisheries Research Center; 6505 NE 65th Street, Seattle, WA 98115 (Responsible Party: Stephen Rubin).	87 FR 8788; February 16, 2022.	May 5, 2022.
1598–5R	0648–XB812 ..	Washington Department of Transportation; 310 Maple Park Avenue SE, Olympia, WA 98504–7331 (Responsible Party: Jeffrey Scott Dreier)..	87 FR 8788; February 16, 2022.	April 25, 2022.
10093–3R	0648–XB812 ..	California Department of Fish and Wildlife, Region 1/Northern Region; 601 Locust Street, Redding, CA 96001 (Responsible Party: Tina Bartlett).	87 FR 8788; February 16, 2022.	April 14, 2022.
13381–4R	0648–XB812 ..	NMFS Northwest Fisheries Science Center, FE; 3305 E Commerce Street, Pasco, WA 99301 (Responsible Party: Gordon Axel).	87 FR 8788; February 16, 2022.	April 15, 2022.
13382–4R	0648–XB812 ..	NMFS Northwest Fisheries Science Center; 2725 Montlake Blvd. East, Seattle, WA 98112–2097 (Responsible Party: Ewann Berntson).	87 FR 8788; February 16, 2022.	April 15, 2022.
14419–4R	0648–XB812 ..	Sonoma County Water Agency; 404 Aviation Blvd., Santa Rosa, CA 95403 (Responsible Party: Grant Davis).	87 FR 8788; February 16, 2022.	April 14, 2022.
15542–6R	0648–XB812 ..	TRPA Fish Biologists; 890 L Street, Arcata, CA 95521 (Responsible Party: Kathleen Salamunovich).	87 FR 8788; February 16, 2022.	April 14, 2022.
15548–2R	0648–XB812 ..	TRPA Fish Biologists; 890 L Street, Arcata, CA 95521 (Responsible Party: Kathleen Salamunovich).	87 FR 8788; February 16, 2022.	February 23, 2022.
15848–3R	0648–XB812 ..	Washington Department of Fish and Wildlife; 600 Capitol Way N, Olympia, WA 98501 (Responsible Party: Kathryn Meyer)..	87 FR 8788; February 16, 2022.	April 21, 2022.
15890–3R	0648–XB812 ..	Washington Department of Fish and Wildlife; 600 Capitol Way N, Olympia, WA 98501 (Responsible Party: Todd Sandell).	87 FR 8788; February 16, 2022.	May 5, 2022.
16021–3R	0648–XB812 ..	Washington Department of Fish and Wildlife; 600 Capitol Way N, Olympia, WA 98501 (Responsible Party: Kathryn Meyer).	87 FR 8788; February 16, 2022.	April 22, 2022.
16069–4R	0648–XB812 ..	City of Portland; 1120 SW 5th Ave., 6th Floor, Portland, OR 97204 (Responsible Party: Chad T. Smith).	87 FR 8788; February 16, 2022.	April 27, 2022.
16091–3R	0648–XB812 ..	Washington Department of Fish and Wildlife; 600 Capitol Way N, Olympia, WA 98501 (Responsible Party: James West).	87 FR 8788; February 16, 2022.	May 5, 2022.
16318–4R	0648–XB812 ..	Hagar Environmental Science; 6523 Claremont Avenue, Richmond, CA 94805 (Responsible Party: Jeff Hagar).	87 FR 8788; February 16, 2022.	April 14, 2022.
16521–3R	0648–XB812 ..	Washington Department of Fish and Wildlife; 2620 N Commercial Ave., Pasco, WA 99301 (Responsible Party: Paul Hoffarth).	87 FR 8788; February 16, 2022.	April 15, 2022.
16702–4R	0648–XB812 ..	NMFS Northwest Fisheries Science Center; 2725 Montlake Blvd. East, Seattle, WA 98112–2097 (Responsible Party: Joshua W. Chamberlin).	87 FR 8788; February 16, 2022.	June 2, 2022.

TABLE 1—ISSUED PERMITS AND PERMIT MODIFICATIONS—Continued

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
17292–3R	0648–XB812 ..	NMFS Southwest Fisheries Science Center, Fisheries Ecology Division; 110 McAllister Way, Santa Cruz, CA 95060–5730 (Responsible Party: Steve Lindley).	87 FR 8788; February 16, 2022.	April 14, 2022.
17299–4R	0648–XB812 ..	NMFS Southwest Fisheries Science Center, Fisheries Ecology Division; 110 McAllister Way, Santa Cruz, CA 95060–5730 (Responsible Party: Steve Lindley).	87 FR 8788; February 16, 2022.	April 14, 2022.
17306–3R	0648–XB812 ..	Oregon Department of Fish and Wildlife; 4034 Fairview Industrial Drive SE, Salem, OR 97302 (Responsible Party: Gerald George).	87 FR 8788; February 16, 2022.	April 15, 2022.
17916–2R	0648–XB812 ..	Bureau of Land Management, Arcata; 1695 Heindon Road, Arcata, CA 95501 (Responsible Party: Zane Ruddy).	87 FR 8788; February 16, 2022.	April 14, 2022.
18012–3R	0648–XB812 ..	California Department Fish and Wildlife, Bay Delta Region; 2825 Cordelia Road, Suite 100, Fairfield, CA 94534 (Responsible Party: Erin Chappell).	87 FR 8788; February 16, 2022.	April 14, 2022.
19820–3R	0648–XB812 ..	UC Davis Biogeochemistry & Fish Ecology Lab; Wildlife, Fish and Conservation Biology Department, Davis, CA 95616 (Responsible Party: Levi S. Lewis).	87 FR 8788; February 16, 2022.	April 14, 2022.
20104–3R	0648–XB812 ..	Pacific Shellfish Institute; 509 12th Ave. SE, #14, Olympia, WA 98501 (Responsible Party: Andrew D. Suhrbier).	87 FR 8788; February 16, 2022.	April 19, 2022.
20492–3R	0648–XB812 ..	Oregon Dept. of Fish and Wildlife, Fish Division; 4034 Fairview Industrial Drive SE, Salem, OR 97302 (Responsible Party: Michele Hughes Weaver).	87 FR 8788; February 16, 2022.	April 15, 2022.
21185–2R	0648–XB812 ..	Wild Fish Conservancy; PO Box 402, Duvall, WA 98019 (Responsible Party: Kurt Beardslee).	87 FR 8788; February 16, 2022.	April 21, 2022.
21220–2R	0648–XB812 ..	Battelle Memorial (NEON Program); 1685 38th St., Suite 100, Boulder, CO 80301 (Responsible Party: Michael Kuhlman).	87 FR 8788; February 16, 2022.	June 1, 2022.
21330–4R	0648–XB812 ..	U.S. Fish and Wildlife Service, Western Wash. Fish and Wildlife Conservation Office; 510 Desmond Drive SE, Suite 102, Lacey, WA 98503 (Responsible Party: Roger Peters).	87 FR 8788; February 16, 2022.	January 28, 2022.
22369–2M	0648–XB812 ..	NMFS Northwest Fisheries Science Center; 520 Heceta Place, Hammond, OR 97121 (Responsible Party: Joe M. Smith).	87 FR 8788; February 16, 2022.	April 20, 2022.
23798	0648–XB812 ..	River Partners; 580 Vallombrosa Ave., Chico, CA 95926 (Responsible Party: Michael Rogner)..	87 FR 8788; February 16, 2022.	April 14, 2022
25839	0648–XB812 ..	ICF, Fish and Aquatic Science Team; 980 9th Street, Suite 1200, Sacramento, CA 95814 (Responsible Party: Eric Chapman).	87 FR 8788; February 16, 2022.	April 14, 2022.
25856	0648–XB812 ..	Cramer Fish Sciences; 13300 New Airport Road, Suite 103, Auburn, CA 95602 (Responsible Party: Steve Zeug).	87 FR 8788; February 16, 2022.	April 14, 2022.
25965	0648–XB812 ..	Oregon Department of Fish and Wildlife; 726 SW Lower Bend Rd., Madras, OR 97741 (Responsible Party: Stacy Strickland).	87 FR 8788; February 16, 2022.	April 18, 2022.
26049	0648–XB812 ..	Center for Watershed Sciences, University of California, Davis; One Shields Avenue, Davis, CA 95616 (Responsible Party: Robert Lusardi).	87 FR 8788; February 16, 2022.	April 14, 2022.
26287	0648–XB812 ..	Washington Department of Fish and Wildlife, Fish Program/Fish Management; 1111 Washington St. SE, Olympia, WA 98501 (Responsible Party: Jesse Schultz).	87 FR 8788; February 16, 2022.	April 22, 2022.
26295	0648–XB812 ..	Mount Hood Environmental; PO Box 744, Boring, OR 97009 (Responsible Party: Ian Courter).	87 FR 8788; February 16, 2022.	May 19, 2022.
26334	0648–XB812 ..	Center for Watershed Sciences, University of California, Davis; One Shields Avenue, Davis, CA 95616 (Responsible Party: Robert Lusardi).	87 FR 8788; February 16, 2022.	April 14, 2022.
26352	0648–XB812 ..	Northwest Straits Commission; 10441 Bayview-Edison Rd., Mount Vernon, WA 98273 (Responsible Party: Robert Lusardi).	87 FR 8788; February 16, 2022.	April 21, 2022.
26359	0648–XB812 ..	Washington Sea Grant; 345 Sixth St., Suite 550, Bremerton, WA 98337 (Responsible Party: Jeffrey W. Adams).	87 FR 8788; February 16, 2022.	May 6, 2022.
26398	0648–XB812 ..	South Puget Sound Salmon Enhancement Group; 6700 Martin Way East, Suite 112, Olympia, WA 98516 (Responsible Party: Megan Brady).	87 FR 8788; February 16, 2022.	May 13, 2022.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and

regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on finding that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Dated: July 12, 2022.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–15187 Filed 7–14–22; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to the Procurement List:* July 31, 2022; *Date deleted from the Procurement List:* August 14, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 4/29/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Custodial Service
Mandatory for: OPM, Theodore Roosevelt Building, Washington, DC
Designated Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: OFFICE OF PERSONNEL MANAGEMENT, OPM PHILADELPHIA REGION CONTRACTING

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Office of Personnel Management (OPM), Custodial, Recycling & Snow Removal Services, Theodore Roosevelt Building, Washington DC contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the OPM will refer its business elsewhere, this addition must be effective on July 31, 2022, ensuring timely execution for an August 1, 2022, start date while still allowing 16 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee has been determined that no severe adverse impact exists on the incumbent contractor. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on April 29, 2022 and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Deletions

On 4/1/2022 and 4/8/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following service(s) are deleted from the Procurement List:

Service(s)

Service Type: Janitorial/Custodial
Mandatory for: Bureau of Land Management, Salt Lake City Field Office and Warehouse, Salt Lake City, UT; 2370 S. Decker Lake Blvd.; Salt Lake City, UT
Designated Source of Supply: Columbus Foundation, Inc., Salt Lake City, UT
Contracting Activity: BUREAU OF LAND MANAGEMENT, BUREAU OF LAND MANAGMENT

Service Type: Janitorial/Custodial
Mandatory for: Cape Henlopen USARC; Lewes, DE
Mandatory for: Fleming Goodwin USARC; Dover, DE
Designated Source of Supply: CHI Centers, Inc., Silver Spring, MD

Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2022–15199 Filed 7–14–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions the Procurement List.

SUMMARY: The Committee is proposing to add service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: August 14, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Facilities Support Services
Mandatory for: US Navy, Naval Sea Systems Command, Southwest Regional Maintenance Center, Naval Base San Diego, Naval Base Coronado (North Island), and Naval Base Point Loma, San Diego, CA
Designated Source of Supply: Professional Contract Services, Inc., Austin, TX
Contracting Activity: DEPT OF THE NAVY, SOUTHWEST REGIONAL MAINT CENTER

Michael R. Jurkowski,

Acting Director, Operations.

[FR Doc. 2022–15198 Filed 7–14–22; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Public Scoping for Environmental Impact Statement—Real Estate Transaction and Related Utilities Infrastructure Upgrade at U.S. Army Garrison—West Point and Vicinity

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Notice of Intent (NOI).

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as implemented by Council on Environmental Quality regulations, the Department of the Army announces its intent to prepare an environmental impact statement (EIS) to analyze a real estate transaction and a related utilities infrastructure upgrade. The real estate transaction would alter, where necessary, an existing transmission line easement at West Point, NY, and would grant to Orange and Rockland Utilities (O&R) a new 150-foot-wide transmission line easement at West Point. These measures would allow O&R to upgrade its existing 34.5-kilovolt (kV) electrical transmission line and associated infrastructure between its Woodbury Transition Station (in the Town of Woodbury, NY), West Point, NY, and the neighboring Village of Highland Falls, NY. The EIS will evaluate the environmental impact of the Proposed Action, to include its impact on adjacent properties.

DATES: Comments must be received by August 29, 2022.

ADDRESSES: Please send any written comments or questions to Mr. Christopher Pray via email (*christopher.c.pray.civ@army.mil*) or via regular mail: U.S. Army Garrison—West Point NEPA Coordinator (Attn: AMIM–MLP–E), Building 667A, Ruger Road, West Point, NY 10996.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Pray at the above addresses or at phone number (845) 938–7122.

SUPPLEMENTARY INFORMATION: The purpose of the Proposed Action is to allow O&R to expand transmission capacity and ensure system redundancy. The Proposed Action is needed because West Point's electric demand is nearing total system capacity. There is no backup in case of emergency and/or planned outages. The current 34.5kV system consists of two 19-megawatt (MW) circuits (38MW total). No reserve capacity exists in either circuit, resulting in a lack of redundant capabilities for a significant number of hours each year. Because the neighboring communities of Highland Falls and Fort Montgomery both receive their electricity from the same 34.5kV system that supplies West Point, these municipalities would also benefit from having a fully redundant electrical system. The Proposed Action would increase overall energy resiliency. Implementing the Proposed Action would allow U.S. Army Garrison—West Point (USAG—West Point) to continue to improve and modernize the educational facilities and infrastructure of the U.S. Military Academy as part of USAG—West Point's larger master planning efforts.

The Proposed Action includes the following steps:

- USAG—West Point would enter into a real estate transaction with O&R to alter, where necessary, the alignment of the existing transmission line easement along approximately eight miles of West Point property and grant a new, approximately one-mile-long, 150-foot-wide easement on West Point property to connect the upgraded transmission line to a new Wilson Gate Collocated Substation at West Point.
- O&R would construct two temporary, overhead (OH), 34.5kV transmission lines where necessary to maintain service. O&R would use existing transmission lines to the greatest extent possible.
- O&R would install a mobile substation at the O&R Dean Substation on Mine Torne Road at West Point.
- O&R would decommission the existing 34.5kV transmission line to West Point, Highland Falls, and Fort Montgomery.
- O&R would construct an upgraded 138kV transmission line, an upgraded O&R Dean Substation, a new three-way switching station along the transmission line easement outside the O&R Dean Substation, an upgraded O&R Harriman Substation (in the Town of Woodbury, NY), and an upgraded USAG—West Point Delafield Substation. USAG—West Point and O&R would then construct a new, co-owned, Wilson Gate Collocated Substation at West Point.
- O&R would decommission the temporary, OH, 34.5kV transmission line, the O&R Highland Falls Substation, and the existing USAG—West Point Wilson Gate Substation.

The transmission line upgrade would require additional real estate transactions between O&R and the State

of New York and between O&R and private landowners. Such transactions are necessary to alter the alignment of—and to build on—those portions of the existing transmission line easement not located on West Point property.

The new Wilson Gate Collocated Substation would be built near the existing USAG—West Point Wilson Gate Substation. The new Wilson Gate Collocated Substation would be divided into two sections, one serving West Point and the other serving the surrounding communities. Upon completion of the project, the existing USAG—West Point Wilson Gate Substation would be decommissioned but maintained for switching purposes.

The EIS will analyze at least two transmission line route alternatives and a No-Action Alternative. The route alternatives would alter the alignment of the existing easement where necessary. The Northern Route to Wilson Gate Collocated Substation Alternative would grant an additional easement to O&R from the vicinity of the USAG—West Point Delafield Substation to the new Wilson Gate Collocated Substation. The Southern Route to Wilson Gate Collocated Substation Alternative would grant an additional easement to O&R from where the transmission line would split north of the intersection of Stony Lonesome Road and Route 9W, to the new Wilson Gate Collocated Substation.

The Proposed Action is expected to impact multiple resources, including wildlife, vegetation, threatened and endangered species, water resources (including state and federally regulated wetlands, surface waters, and floodplains), land use (including the Hudson River Coastal Zone), cultural resources, state park lands, the Hudson River view shed, topography, and soils. Construction activities would create noise and would impact air quality and traffic. Because of the size of the affected area, the project could have significant environmental impacts. The particular resources that would experience significant impacts are unknown at this time.

Consultation with federal and state agencies is required and will include:

- Section 7 consultation under the Endangered Species Act;
- New York State endangered species review;
- Section 106 consultation under the National Historic Preservation Act; and
- preparation of a coastal zone consistency determination.

O&R will need to obtain a number of federal, state, and local permits and approvals, including an Article VII Certificate of Environmental Compatibility and Public Need from the New York State Public Service Commission.

USAG—West Point developed a tentative schedule for the EIS. Two public meetings will occur approximately 20 days after **Federal Register** publication of this NOI. A Draft EIS is expected to be released for public review in late spring 2023, with public meetings to follow within approximately 20 days. The Final EIS will take into consideration all timely comments regarding the Draft EIS and is projected to be released in winter 2023–24. A Record of Decision is anticipated in late spring 2024.

Native American Tribes, government agencies, organizations, and individuals are invited to participate in the scoping process for this EIS by attending public meetings and/or by submitting written comments. USAG—West Point requests potential alternatives, information, and analyses relevant to the Proposed Action.

Due to the COVID–19 pandemic and the need to maintain social distancing, all public meeting materials will be provided online and all public meetings will convene by phone. Public meeting materials can be accessed at: *https://home.army.mil/westpoint/index.php/about/environmental-management-division.* Public meeting dates, times, and access numbers will be listed on the above website and will be published in local newspapers (*e.g., The Times Herald Record, News of the Highlands, The Pointer View,* and *The Cornwall Local*). If you cannot access the materials online, please contact Mr. Christopher Pray at phone number (845) 938–7122, via email (*christopher.c.pray.civ@army.mil*), or via regular mail: US Army Garrison—West Point NEPA Coordinator (Attn: AMIM–MLP–E), Building 667A, Ruger Road, West Point, NY 10996. If you send a request for public meeting materials via regular mail, your request must be postmarked no later than August 1, 2022. Written comments must be received within 45 days of the NOI's publication in the **Federal Register** and can be sent to the above addresses.

James W. Satterwhite, Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2022–15146 Filed 7–14–22; 8:45 am]

BILLING CODE 3711–02–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0095]

Agency Information Collection Activities; Comment Request; ARP–HCY State Coordinators Survey

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before September 13, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0095. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sophia Hart, 202–453–6642.

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: ARP–HCY State Coordinators Survey.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 52.

Abstract: The American Rescue Plan Act of 2021 (ARP) included an unprecedented $800 million to support the specific needs of homeless children and youth via the American Rescue Plan Elementary and Secondary School Emergency Relief—Homeless Children and Youth (ARP–HCY) Fund. State educational agencies (SEAs) and local educational agencies (LEAs) must use ARP–HCY funds to identify homeless children and youth, to provide homeless children and youth with wrap-around services to address the challenges of COVID–19, and to enable homeless children and youth to attend school and fully participate in school activities. This is a one-time grant program administered as part of the American Rescue Plan. The U.S. Department of Education (the Department) is seeking to understand how funds under this one-time grant program are being used.

Specifically, the Department is seeking to learn about the distribution of ARP–HCY funds by SEAs, the characteristics of LEAs receiving funds, and the characteristics of LEAs who chose not to participate in the distribution of funds in each state. Additionally, the Department would like to gather information on how SEAs are using the funds that were set aside at the State level under this program. Information obtained in this survey will be used to inform technical assistance and support provided by the Department and the National Center for Homeless Education (NCHE), resources developed by NCHE, and further studies.

Dated: July 12, 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. 2022–15158 Filed 7–14–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology (PCAST)

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of partially-closed virtual meeting.

SUMMARY: This notice announces a partially-closed meeting of the President's Council of Advisors on Science and Technology (PCAST). Due to the COVID–19 pandemic, this meeting will be held virtually for members of the public and in-person for PCAST members. The Federal Advisory Committee Act (FACA) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, July 28, 2022; 2:30 p.m. to 4 p.m. ET.

ADDRESSES: Information to participate virtually can be found on the PCAST website closer to the meeting at: *www.whitehouse.gov/PCAST/meetings.*

FOR FURTHER INFORMATION CONTACT: Dr. Sarah Domnitz, Designated Federal Officer, PCAST, email: *PCAST@ostp.eop.gov;* or telephone: (202) 881–6399.

SUPPLEMENTARY INFORMATION: PCAST is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from the White House, cabinet departments, and other Federal agencies. PCAST is consulted on and provides analyses and recommendations concerning a wide range of issues where understanding of science, technology, and innovation may bear on the policy choices before the President. The Designated Federal Officer is Dr. Sarah Domnitz. Information about PCAST can be found at: *www.whitehouse.gov/PCAST.*

Tentative Agenda

Open Portion of the Meeting: PCAST will hear from invited speakers on and discuss science and innovation activities at the Department of Energy. Additional information and the meeting agenda, including any changes that arise, will be posted on the PCAST website at: *www.whitehouse.gov/PCAST/meetings.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately one hour with the President on July 28, 2022 or July 29, 2022, which must take place in the White House for scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because a portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

Public Participation: The meeting is open to the public. The meeting will be held virtually for members of the public.

It is the policy of the PCAST to accept written public comments no longer than 10 pages and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on July 28, 2022, at a time specified in the meeting agenda. This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *PCAST@ostp.eop.gov,* no later than 12:00 p.m. Eastern Time on July 21, 2022. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 10 minutes. If more speakers register than there is space available on the agenda, PCAST will select speakers on a first-come, first-served basis from those who registered. Those not able to present oral comments may file written comments with the council.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to *PCAST@ostp.eop.gov* no later than 12:00 p.m. Eastern Time on July 21, 2022, so that the comments can be made available to the PCAST members for their consideration prior to this meeting.

Because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST

website at: *www.whitehouse.gov/PCAST/meetings.*

Minutes: Minutes will be available within 45 days at: *www.whitehouse.gov/PCAST/meetings.*

Signed in Washington, DC, on July 12, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–15151 Filed 7–14–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–13–000]

Commission Information Collection Activities (FERC–914) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collections 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–914 (Cogeneration and Small Power Production—Tariff Filings), which will be submitted to the Office of Management and Budget (OMB) for review.

DATES: Comments on collections of information are due August 15, 2022.

ADDRESSES: Send written comments on FERC–914 (IC22–13–000) to OMB through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902–0231 (Cogeneration and Small Power Production—Tariff Filings) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC22–13–000) to the Commission as noted below. Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select Federal Energy Regulatory Commission; click ''submit'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–914, Cogeneration and Small Power Production—Tariff Filings.

OMB Control No.: 1902–0231.

Type of Request: Three-year extension of the FERC–914 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission published a 60-day notice in the **Federal Register** on May 2, 2022.[1] The Commission received no comments. Section 205(c) of the Federal Power Act (FPA) (16 U.S.C. 824d(c)) and 18 CFR 292 require that every public utility have all its jurisdictional rates and tariffs on file with the Commission and make them available for public inspection, within such time and in such form as the Commission designates. Section 205(d) of the FPA (16 U.S.C. 824d(d)) requires that every public utility must provide notice to the Commission and the public of any changes to its jurisdictional rates and tariffs, file such changes with the Commission, and make them available for public inspection as directed by the Commission. In addition, FPA section 206 (16 U.S.C. 82e) requires the Commission, upon complaint or its own motion, to modify existing rates or services that are found to be unjust, unreasonable, unduly discriminatory, or preferential. FPA section 207 (16 U.S.C. 824f) requires the Commission upon complaint by a state commission and a finding of insufficient interstate service, to order the rendering of adequate interstate service by public utilities, the rates for which would be filed in accordance with FPA sections 205 and 206.

In Order Nos. 671 and 671–A,[2] the Commission revised its regulations that govern qualifying small power production and cogeneration facilities. The Commission eliminated certain exemptions from rate regulation that were previously available to qualifying facilities (QFs). New QFs may need to make tariff filings if they do not meet the exemption requirements.

FERC implemented the Congressional mandate of the Energy Policy Act of 2005 (EPAct 2005) to establish criteria for new qualifying cogeneration facilities by: (1) amending the exemptions available to qualifying facilities from the FPA and from Public Utility Holding Company Act (PUHCA) [resulting in the burden imposed by FERC–914, the subject of this notice]; (2) ensuring that these facilities are using their thermal output in a productive and beneficial manner; that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used fundamentally for commercial, residential or industrial purposes; and there is continuing progress in the development of efficient electric energy generating technology; (3) amending the FERC Form No. 556 [3] to reflect the criteria for new cogeneration QFs; and (4) eliminating ownership limitations for cogeneration and small power production QFs. The Commission satisfied the statutory mandate and its continuing obligation to review its policies encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities, and equitable rates for energy customers.

Type of Respondents: New QFs and small power producers that do not meet Commission exemption criteria.

[1] **Federal Register** citation: 87 FR 25634: *https://www.federalregister.gov/documents/2022/05/02/2022-09347/commission-information-collection-activities-ferc-914-comment-request-extension.*

[2] Revised Regulations Governing Small Power Production and Cogeneration Facilities, Order No. 671, 71 FR 7852 (2/15/2006), FERC Stats. & Regs. ¶ 31,203 (2006); and Revised Regulations Governing Small Power Production and Cogeneration Facilities, Order 671–A, 71 FR 30585 (5/30/2006), in Docket No. RM05–36.

[3] The FERC Form 556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility) is cleared separately as OMB Control No. 1902–0075 and is not a subject of this notice.

Estimate of Annual Burden: [4] The Commission estimates the annual public reporting burden and cost [5] for the information collection as:

FERC–914—COGENERATION AND SMALL POWER PRODUCTION—TARIFF FILINGS

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours & cost ($) per response	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FPA Section 205 Filings	40	1	40	185 hrs.; $16,095	7,400 hrs.; $643,800	$16,095
Electric Quarterly Reports	35	4	140	6 hrs.; $522	840 hrs,; $73,080	2,088
Change of Status	10	1	10	3 hrs.; $261	30 hrs.; $2,610	261
Total			190		8,270 hrs.; $719,490	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 11, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15162 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AD22–11–000, AD21–9–000]

Office of Public Participation Fundamentals for Participating in FERC Matters; Notice of Virtual Workshop: Workshop on Filing Comments

Take notice that the Federal Energy Regulatory Commission (Commission) staff, will convene, in the above-referenced proceeding, a virtual workshop on August 30, 2022, from 2:00 p.m. to 3:00 p.m. Eastern time, to discuss how members of the public including consumers and consumer advocates can file comments on the record using FERC's eFiling and eComment online applications. The workshop will be held remotely.

The workshop will include video demonstrations of steps involved in filing a comment, followed by a presentation of useful tips for using the Commission's online applications and a question-and-answer portion of the workshop. The workshop will provide information on the commenting process to facilitate increased public participation in Commission processes and decision-making.

The workshop will be open for the public to attend, and there is no fee for attendance. Further details on the agenda, can be found on the FERC's Office of Public Participation website. Information on this technical workshop will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The workshop will be accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY)or send a FAX to 202–208–2106 with the required accommodations.

For more information about the workshop, please contact Yewande Bayly of the Commission's Office of Public Participation at 202–502–6595 or send an email to *OPP@ferc.gov.*

Dated: July 11, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15165 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–468–000]

Trailblazer Pipeline Company, LLC, Rockies Express Pipeline, LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Trailblazer Conversion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Trailblazer Conversion Project (Project) involving abandonment in-place, construction, and operation of facilities by Trailblazer Pipeline Company, LLC (TPC) and Rockies Express Pipeline, LLC (REX) in Weld, Logan, and Sedgwick Counties, Colorado; and Kimball, Franklin, Webster, Jefferson, Perkins, Lincoln, Kearney, Fillmore, Adams, and Saline Counties, Nebraska. 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 to construct and an authorization to abandon gas

[4] Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[5] FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2021 FERC average annual salary plus benefits ($180,702/year or $87/hour).

pipeline facilities. 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 5:00 p.m. Eastern Time on August 10, 2022. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on May 27, 2022 you will need to file those comments in Docket No. CP22–468–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if the project is approved by the Commission and 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.

TPC and REX provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–468–000) 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.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project

TPC is proposing to abandon certain natural gas pipeline facilities and associated compressor stations. REX is proposing to provide capacity on the existing REX Pipeline to TPC and construct, install, own, operate, and maintain certain facilities necessary for TPC to continue service to its existing customers. According to TPC and REX, the purpose of the Project is to provide continuing service to TPC's existing natural gas firm transportation customers using underutilized jurisdictional capacity on REX pipeline facilities while making TPC's pipeline facilities available in anticipation of future non-jurisdictional use to transport carbon dioxide (CO_2) for final sequestration. The Project would not involve an increase in natural gas transportation capacity.

The Trailblazer Conversion Project would consist of the following:

- abandonment in-place of 392 miles of 36-inch-diameter TPC pipeline facilities;
- abandonment in-place of three TPC mainline compressor stations;
- construction of a new 18.8-mile-long, 20-inch-diameter lateral pipeline (REX Lateral to TPC Adams);
- construction of a new 22.2-mile-long, 36-inch-diameter lateral (REX Lateral to TPC East);
- installation of station piping and additional regulation at three existing TPC meter stations to enable deliveries into end users or interstate pipeline systems;
- expansion of one existing meter station between the REX Pipeline and the TPC Pipeline;
- construction of two new REX meter stations; and
- construction of five new interconnect booster stations at existing TPC pipeline facilities (footprint of booster stations ranging from 1.2 to 2.1 acres in size and total horsepower ranging from 50 to 3,533).

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The Project would affect approximately 685.2 acres during construction and abandonment activities. About 264.6 acres would be needed for operation of the Project. The remaining acreage would be restored following construction. Of the 41 miles of proposed new pipeline laterals, about 76 percent (31.3 miles) would be co-located with other existing pipeline rights-of-way.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- socioeconomics;
- environmental justice;
- air quality and noise;
- cumulative impacts; and
- reliability and safety.

Commission staff have already identified one issue that deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by TPC and REX as well as public comments. We have so far received comments regarding the safety of the non-jurisdictional transport of CO_2. The preliminary list of issues may change based on your comments and our analysis.

Commission staff will also evaluate reasonable alternatives to the proposed 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.

Following this scoping period, Commission staff will 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 issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–468–000 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 X).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15168 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–86–000.

Applicants: AZ Solar 1, LLC, FL Solar 1, LLC, FL Solar 4, LLC, GA Solar 3, LLC, Grand View PV Solar Two LLC, MS Solar 3, LLC, Sweetwater Solar, LLC, Three Peaks Power, LLC, Twiggs County Solar, LLC, Onward Atlas HoldCo, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of AZ Solar 1, LLC, et al.

Filed Date: 7/8/22.

Accession Number: 20220708–5261.

Comment Date: 5 p.m. ET 7/29/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–162–000.

Applicants: SR Clay, LLC.

Description: SR Clay, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/8/22.

Accession Number: 20220708–5191.

Comment Date: 5 p.m. ET 7/29/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–1439–002; ER22–1440–002; ER22–1441–002; ER22–1442–001.

Applicants: EdSan 1B Group 3, LLC, EdSan 1B Group 2, LLC, EdSan 1B Group 1 Sanborn, LLC, EdSan 1B Group 1 Edwards, LLC.

Description: Notice of Non-Material Change in Status of EdSan 1B Group 1 Edwards, LLC, et al.

Filed Date: 7/8/22.

Accession Number: 20220708–5258.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–1574–001; ER22–1576–001; ER22–1578–001.

Applicants: WPL Wood County Solar, LLC, WPL North Rock Solar, LLC, WPL Bear Creek Solar, LLC.

Description: Notice of Non-Material Change in Status of WPL Bear Creek Solar, LLC, et al.

Filed Date: 7/7/22.

Accession Number: 20220707–5215.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2317–000.

Applicants: Portland General Electric Company.

Description: Compliance filing: Order 881 Compliance Filing Att Q to be effective 7/8/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5001.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2318–000.

Applicants: MATL LLP.

Description: Compliance filing: Order 881 Compliance Filing to be effective 3/14/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5002.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2319–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 5871; Queue No. AD2–180 to be effective 12/11/2020.

Filed Date: 7/11/22.

Accession Number: 20220711–5030.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2320–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6534; Queue No. AE2–074 to be effective 6/10/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5062.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2321–000.

Applicants: Energy Center Paxton LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 7/12/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5068.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2322–000.

Applicants: PNE Energy Supply, LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of PNE Energy Supply, LLC.

Filed Date: 7/7/22.

Accession Number: 20220707–5221.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2323–000.

Applicants: Competitive Energy Services, LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Competitive Energy Services, LLC under ER22–2323.

Filed Date: 7/7/22.

Accession Number: 20220707–5222.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2324–000.

Applicants: Motiva Enterprises LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Motiva Enterprises LLC.

Filed Date: 7/7/22.

Accession Number: 20220707–5223.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2325–000.

Applicants: Owens Corning Sales, LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Owens Corning Sales, LLC.

Filed Date: 7/8/22.

Accession Number: 20220708–5264.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2326–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits update to Attachment 1 of ILDSA, SA No. 1336 (7/11/22) to be effective 7/1/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5082.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2327–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 403, Agave Solar E&P to be effective 6/13/2022.

Filed Date: 7/11/22.

Accession Number: 20220711–5104.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2328–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: SA No. 4 FPL and PowerSouth Amended NITSA and NOA to be effective 12/31/9998.

Filed Date: 7/11/22.

Accession Number: 20220711–5108.

Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2329–000.

Applicants: Gulf Power Company.

Description: Tariff Amendment: Notice of Cancellation—Service Agreement No. 4 to be effective 12/31/9998.

Filed Date: 7/11/22.
Accession Number: 20220711–5109.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2330–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: CCSF Additional Points Filing (SA 275) to be effective 9/10/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5110.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2331–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Rate Schedule No. 308, ANPP Wires to Wires at Jojoba to be effective 9/10/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5114.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2332–000.
Applicants: Entergy Services, LLC, Entergy Louisiana, LLC, Entergy Texas, Inc., Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Arkansas, LLC.
Description: § 205(d) Rate Filing: Entergy Services, LLC submits tariff filing per 35.13(a)(2)(iii: MSS–4 Replacement Tariff Protocols to be effective 10/1/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5127.
Comment Date: 5 p.m. ET 8/1/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES22–50–000.
Applicants: Deerfield Wind Energy 2, LLC.
Description: Second Amendment to Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Deerfield Wind Energy 2, LLC.
Filed Date: 7/7/22.
Accession Number: 20220707–5212.
Comment Date: 5 p.m. ET 7/18/22.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM22–11–000.
Applicants: Wisconsin Public Service Corporation.
Description: Supplement to April 14, 2022 Application of Wisconsin Public Service Corporation to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.
Filed Date: 7/8/22.
Accession Number: 20220708–5263.
Comment Date: 5 p.m. ET 8/5/22.

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 11, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15174 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP22–1048–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Post-GMS Housekeeping Filing to be effective 8/11/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5029.
Comment Date: 5 p.m. ET 7/25/22.
Docket Numbers: RP22–1049–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Update to GT&C Section 27 to be effective 8/11/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5049.
Comment Date: 5 p.m. ET 7/25/22.

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 11, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15173 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2853–073]

Montana Department of Natural Resources and Conservation; 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.:* 2853–073.
c. *Date filed:* June 30, 2022.
d. *Applicant:* Montana Department of Natural Resources and Conservation (Montana DNRC).
e. *Name of Project:* Broadwater Hydroelectric Project.
f. *Location:* On the Missouri River near the town of Toston in Broadwater County, Montana. The project occupies approximately two acres of federal lands administered by the Bureau of Land Management..
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* David Lofftus, Hydro Power Program Manager, Montana Department of Natural Resources and Conservation, 1424 9th Avenue, P.O. Box 201601, Helena, Montana 59620; Phone at (406) 444–6659; or email at *dlofftus@mt.gov*.
i. *FERC Contact:* Ingrid Brofman at (202) 502–8347, or *ingrid.brofman@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 *https://ferconline.ferc.gov/FERCOnline.aspx*. 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: Broadwater Hydroelectric Project (P–2853–073).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Broadwater Hydroelectric Project consists of: (1) a 705-foot-long, 24-foot-high concrete gravity dam with a 360-foot-long spillway containing seven inflatable rubber gates capable of raising the dam's crest elevation by 11 feet; (2) a 275-acre, 9-mile-long reservoir; (3) a 160-foot long rock jetty that extends upstream into the reservoir that serves to separate inflow to the powerhouse from the headworks of the non-project irrigation canal adjacent to the dam; (4) an intake integral with the powerhouse and covered by two inclined trashracks, each 20 feet wide and 40 feet high, with a clear bar spacing of 3 inches; (5) a 160-foot-long, 46-foot-wide, 64-foot high powerhouse containing a single Kaplan turbine with a rated capacity of 9.66 megawatts; (6) a 100-kilovolt, 2.8-mile-long transmission line; and (6) appurtenant facilities.

The project is operated in a run-of-river mode and generates an estimated average of 40,669 megawatt-hours per year.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2853). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary): August 2022.

Request Additional Information (if needed): August 2022.

Issue Acceptance Letter and Notice: November 2022.

Issue Scoping Document 1 for comments: December 2022.

Issue Scoping Document 2: February 2023.

Issue Notice of Ready for Environmental Analysis: February 2023.

q. 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 11, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15164 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–118–000]

Trans-Foreland Pipeline Company LLC; Notice of Request for Extension of Time

Take notice that on July 7, 2022, Trans-Foreland Pipeline Company LLC (Trans-Foreland) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until December 17, 2025, to construct, modify, and operate new facilities for the import of liquefied natural gas (LNG) at its existing Kenai LNG terminal in Nikiski, Alaska (Kenai LNG Cool Down Project or Project) and make the Project available for service as authorized in the December 17, 2020 Order Granting Authorization Under Section 3 of the Natural Gas Act (Order).[1]

Trans-Foreland does not anticipate being able to place the Project into service by December 17, 2022, as stated in Ordering Paragraph (B) of the Order, despite good faith efforts to do so. Trans-Foreland states that the onset and duration of the COVID–19 pandemic and the war in Ukraine have generated adverse economic and logistical conditions that slowed commercial progress and precluded Trans-Foreland from making its final investment decision (FID) for the Project. Trans-Foreland asserts that uncertainty and volatility in the global LNG market have made it difficult for Trans-Foreland to secure a suitable supply arrangement that would provide the financial certainty necessary for the Project. Trans-Foreland requires this financial certainty in order to make its FID and move forward with the Project.

Trans-Foreland requests a three-year extension of time so that it may construct, modify, and place the Project in service by December 17, 2025. Trans-Foreland states that the Project remains commercially viable, and all permits and authorization received are in good standing.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on the Trans-Foreland's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date

[1] *Trans-Foreland Pipeline Company LLC,* 173 FERC ¶ 61,253 (2020).

stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,[2] the Commission will aim to issue an order acting on the request within 45 days.[3] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[4] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).[5] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[6] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on July 26, 2022.

Dated: July 11, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15163 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–480–000]

MIGC LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on June 30, 2022, MIGC LLC (MIGC), 9950 Woodloch Forest Drive, Suite 2800, The Woodlands, Texas, 77380, filed in the above referenced docket, a prior notice request to abandon its Python Compressor Unit in Converse County, Wyoming under authorities granted by its blanket certificate issued in Docket No. CP82–409–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The Python Compressor Station consists of one 2,370 horsepower compressor unit and appurtenant facilities, a compressor building, atmospheric storage tank, sales and fuel-metering skid, associated pipeline and pigging facilities, and required electrical systems and controls (Python Compressor Unit). The project will result in a reduction of mainline capacity on MIGC's system of 50,000 thousand cubic feet per day (Mcf/d). Upon disconnection of the Python Compressor Unit, MIGC's mainline capacity will be reduced from 175,000 Mcf/d to 125,000 Mcf/d.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to Jeffrey M. Molinaro, Regulatory Advisor, MIGC LLC, 9950 Woodloch Forest Dr., The Woodlands, Texas 77380, at (346) 786–5009, or by email *jeff.molinaro@westernmidstream.com*.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on September 9, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is September 9, 2022. A protest may also

[2] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

[3] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[4] *Id.* at P 40.

[5] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[6] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is September 9, 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 9, 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 CP22–480–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP22–480–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served on the applicant either by mail at: Jeffrey M. Molinaro, Regulatory Advisor, MIGC LLC, 9950 Woodloch Forest Dr., The Woodlands, Texas 77380, or by email *jeff.molinaro@westernmidstream.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: July 11, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15166 Filed 7–14–22; 8:45 am]

BILLING CODE 6717–01–P

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8956–02–OAR]

Administration of Cross-State Air Pollution Rule Trading Program Assurance Provisions for 2021 Control Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of data on the administration of the assurance provisions of the Cross-State Air Pollution Rule (CSAPR) trading programs for the control periods in 2021. Total emissions of nitrogen oxides (NO_X) reported by Missouri units participating in the CSAPR NO_X Ozone Season Group 2 Trading Program during the 2021 control period exceeded the state's assurance level under the program. Data demonstrating the exceedance and EPA's preliminary calculations of the amounts of additional allowances that the owners and operators of certain Missouri units must surrender have been posted in a spreadsheet on EPA's website. EPA will consider timely objections to the data and calculations before making final determinations of the amounts of additional allowances that must be surrendered.

DATES: Objections to the information referenced in this notice must be received on or before August 15, 2022.

ADDRESSES: Submit your objections via email to *CSAPR@epa.gov*. Include ''2021 CSAPR Assurance Provisions'' in the email subject line and include your name, title, affiliation, address, phone

number, and email address in the body of the email.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Garrett Powers at (202) 564–2300 or *powers.jamesg@epa.gov.*

SUPPLEMENTARY INFORMATION:

The regulations for each CSAPR trading program contain ''assurance provisions'' designed to ensure that the emissions reductions required from each state covered by the program occur within the state. If the total emissions from a given state's affected units exceed the state's assurance level under the program, then two allowances must be surrendered for each ton of emissions exceeding the assurance level (in addition to the ordinary obligation to surrender one allowance for each ton of emissions). In the quarterly emissions reports covering the 2021 control period, Missouri units participating in the CSAPR NO_X Ozone Season Group 2 Trading Program reported emissions that exceed the state's assurance level under the program by 1,295 tons, resulting in a requirement for the surrender of 2,590 additional allowances.

When a state's assurance level is exceeded, responsibility for surrendering the required additional allowances is apportioned among groups of units in the state represented by ''common designated representatives'' based on the extent to which each such group's emissions exceeded the group's share of the state's assurance level. For the CSAPR NO_X Ozone Season Group 2 Trading Program, the procedures are set forth at 40 CFR 97.802 (definitions of ''common designated representative,'' ''common designated representative's assurance level,'' and ''common designated representative's share''), 97.806(c)(2), and 97.825. Applying the procedures in the regulations for the 2021 control period, EPA has completed preliminary calculations indicating that responsibility for surrendering 1,295 additional allowances in Missouri should be apportioned almost entirely to the group of units operated by Associated Electric Cooperative, Inc., with much smaller shares apportioned to the groups of units operated by the municipal utilities of Chillicothe and Higginsville.

In this document, EPA is providing notice of the data relied on to determine the amounts of the exceedance of the Missouri assurance level discussed above and notice of the preliminary calculations of the amounts of additional allowances that the owners and operators of certain Missouri units must surrender as a result of the exceedance, as required under 40 CFR 97.825(b)(1)(ii). By October 1, 2022, EPA will provide notice of the final calculations of the amounts of additional allowances that must be surrendered, incorporating any adjustments made in response to objections received, as required under 40 CFR 97.825(b)(2)(ii). Each set of owners and operators identified pursuant to the notice of the final calculations must hold the required additional allowances in an assurance account by November 1, 2022.

The data and preliminary calculations are set forth in an Excel spreadsheet entitled ''2021_CSAPR_assurance_provision_calculations_prelim.xlsx'' available at *http://www.epa.gov/csapr/csapr-assurance-provision-nodas.* The spreadsheet contains data for the 2021 control period showing, for each Missouri unit identified as affected under the CSAPR NO_X Ozone Season Group 2 Trading Program, the amount of NO_X emissions reported by the unit and the amount of CSAPR NO_X Ozone Season Group 2 allowances allocated to the unit, including any allowances allocated from a new unit set-aside. The spreadsheet also contains calculations for the 2021 control period showing the total NO_X emissions reported by all such units in each state and the amounts by which the total reported NO_X emissions exceeded the respective states' assurance levels under the program. Finally, the spreadsheet also includes calculations for the 2021 control period showing, for each common designated representative for a group of such units in each state, the common designated representative's share of the total reported NO_X emissions, the common designated representative's share of the state's assurance level, and the amount of additional CSAPR NO_X Ozone Season Group 2 allowances that the owners and operators of the units in the group must surrender.

Any objections should be strictly limited to whether EPA has identified the data and performed the calculations in the spreadsheet correctly in accordance with the regulations. Objections must include (1) precise identification of the specific data or calculations the commenter believes are inaccurate, (2) new proposed data or calculations upon which the commenter believes EPA should rely instead, and (3) the reasons why EPA should rely on the commenter's proposed data or calculations and not the data and calculations referenced in this notice.

(Authority: 40 CFR 97.825(b).)

Rona Birnbaum,

Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2022–15120 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0691, FRL–10009–01–OLEM]

Agency Information Collection Activities; Proposed Collection; Comment Request; Standardized Permit for RCRA Hazardous Waste Management Facilities (Renewal), EPA ICR No. 1935.07, OMB Control No. 2050–0182

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Standardized Permit for RCRA Hazardous Waste Management Facilities (EPA ICR No. 1935.07, OMB Control No. 2050–0182) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before September 13, 2022.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–OLEM–2018–0691, at *https://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) 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, 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.*

FOR FURTHER INFORMATION CONTACT: Jeff Gaines, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0332; *gaines.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov.* Materials can also be viewed at the Reading Room located at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays). The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the authority of sections 3004, 3005, 3008 and 3010 of the Resource Conservation and Recovery Act (RCRA), as amended, EPA revised the RCRA hazardous waste permitting program to allow a ''standardized permit.'' The standardized permit is available to facilities that generate hazardous waste and routinely manage the waste on-site in non-thermal units such as tanks, containers, and containment buildings. In addition, the standardized permit is available to facilities that receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then store or non-thermally treat the hazardous waste in containers, tanks, or containment buildings. The RCRA standardized permit consists of two components: a uniform portion that is included in all cases, and a supplemental portion that the Director of a regulatory agency includes at his or her discretion. The uniform portion consists of terms and conditions, relevant to the unit(s) at the permitted facility, and is established on a national basis. The Director, at his or her discretion, may also issue a supplemental portion on a case-by-case basis. The supplemental portion imposes site-specific permit terms and conditions that the Director determines necessary to institute corrective action under section 264.101 (or state equivalent), or otherwise necessary to protect human health and the environment. Owners and operators have to comply with the terms and conditions in the supplemental portion, in addition to those in the uniform portion.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are business or other for-profit.

Respondent's obligation to respond: Voluntary (40 CFR 270.275).

Estimated number of respondents: 1.

Frequency of response: One time.

Total estimated burden: 218 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $11,612 (per year), includes $525 annualized capital or operation & maintenance costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: July 11, 2022.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2022–15143 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–025]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed July 1, 2022 10 a.m. EST Through July 11, 2022 10 a.m.

EST Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220096, Final, VA, PRO, Final Programmatic Environmental Impact Statement for the Veterans Affairs Housing Loan Program, *Review Period Ends:* 08/15/2022, *Contact:* Erin Byrum 615–279–7446.

EIS No. 20220097, Draft, BOEM, Other, 2023–2028 National Outer Continental Shelf Oil and Gas Leasing Program, *Comment Period Ends:* 10/06/2022, *Contact:* Jill Lewandowski 703–787–1703.

EIS No. 20220098, Final, USFS, NM, Cibola National Forest Land Management Plan Final Environmental Impact Statement, *Review Period Ends:* 08/15/2022, *Contact:* James Turner 505–346–3814.

EIS No. 20220099, Draft Supplement, BLM, AK, Willow Master Development Plan Supplemental Environmental Impact Statement, *Comment Period Ends:* 08/29/2022, *Contact:* Stephanie Rice 907–271–3202.

Dated: July 11, 2022

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2022–15155 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0392, FRL–10007–01–OLEM]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements and Exemptions for Specific RCRA Wastes (Renewal), EPA ICR No. 1597.14, OMB Control No. 2050–0145

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Requirements and Exemptions for Specific RCRA Wastes (Renewal) (EPA ICR No. 1597.14, OMB Control No. 2050–0145) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before September 13, 2022.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–OLEM–2018–0392, at *https://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) 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, 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.*

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0453; *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov.* Materials can also be viewed at the Reading Room located at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays). The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: In 1995, EPA promulgated regulations at 40 CFR part 273 that govern the collection and management of widely-generated hazardous wastes known as ''Universal Wastes''. Universal Wastes are generated in a variety of non-industrial settings, and are present in non-hazardous waste management systems. Examples of Universal Wastes include certain batteries, pesticides, mercury-containing lamps and thermostats. The Part 273 regulations are designed to ensure facilities collect these wastes and properly manage them in an appropriate hazardous waste management system. EPA needs to collect notifications of Universal Waste management to obtain general information on these handlers and to facilitate enforcement of the Part 273 regulations. EPA promulgated labeling and marking requirements and accumulation time limits to ensure that Universal Waste is being accumulated responsibly. EPA needs to collect information on illegal Universal Waste shipments to enforce compliance with applicable regulations. Finally, EPA requires tracking of Universal Waste shipments to help ensure that Universal Waste is being properly treated, recycled, or disposed.

In 2001, EPA promulgated regulations in 40 CFR part 266 that provide increased flexibility to facilities managing wastes commonly known as ''Mixed Waste.'' Mixed Wastes are low-level mixed waste (LLMW) and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. These wastes are also regulated by the Atomic Energy Act. As long as specified eligibility criteria and conditions are met, LLMW and NARM are exempt from the definition of hazardous waste as defined in Part 261. Although these wastes are exempt from RCRA manifest, transportation, and disposal requirements, facilities must still comply with the manifest, transportation, and disposal requirements under the NRC (or NRC-Agreement State) regulations. Section 266.345(a) requires that generators or treaters notify EPA or the Authorized State that they are claiming the Transportation and Disposal Conditional Exemption prior to the initial shipment of a waste to a LLRW disposal facility. This exemption notice provides a tool for RCRA program regulatory agencies to become aware of the generator's exemption claims. The information contained in the notification package provides the RCRA program regulatory agencies with a general understanding of the claimant. This information also allows the agencies to document the generator's exemption status and to plan inspections and review exemption-related records.

And finally, in 1992, EPA finalized management standards for used oils destined for recycling. The Agency

codified the used oil management standards at 40 CFR part 279. The regulations at 40 CFR part 279 establish, among other things, streamlined procedures for notification, testing, labeling, and recordkeeping. They also establish a flexible self-implementing approach for tracking off-site shipments that allow used oil handlers to use standard business practices (*e.g.,* invoices, bill of lading). In addition, part 279 sets standards for the prevention and cleanup of releases to the environment during storage and transit. EPA believes these requirements will minimize potential mismanagement of used oils, while not discouraging recycling. Used oil transporters must comply with all applicable packaging, labeling, and placarding requirements of 49 CFR parts 173, 178, and 179. In addition, used oil transporters must report discharges of used oil according to existing 49 *CFR* part 171 and 33 *CFR* part 153 requirements.

Form Numbers: None.

Respondents/affected entities: Private Sector and State, Local, or Tribal Governments.

Respondent's obligation to respond: mandatory (40 CFR part 273), required to obtain or retain a benefit (40 CFR parts 266 and 279).

Estimated number of respondents: 134,230.

Frequency of response: On occasion.

Total estimated burden: 795,350. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $68,980,149, which includes $54,819,084 annualized labor costs and $14,161,065 annualized capital or O&M costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: July 11, 2022.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2022–15144 Filed 7–14–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of August 25, 2022, Federal Accounting Standards Advisory Board Meeting

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) will hold a meeting on August 25, 2022. The purpose of the meeting is to discuss the draft management's discussion and analysis exposure draft. The meeting will begin at 9:30 a.m. and conclude at 12:30 p.m. The meeting will be virtual.

ADDRESSES: The agenda, briefing materials, and teleconference information for the virtual meeting will be available at *https://www.fasab.gov/briefing-materials/* approximately one week before the meeting. Any interested person may attend the virtual meeting as an observer. Board discussion and reviews are open to the public. For any questions concerning the meeting or during the meeting please send an email to *fasab@fasab.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: 31 U.S.C. 3511(d), Federal Advisory Committee Act, as amended (5 U.S.C. App.).

Dated: July 11, 2022.

Monica R. Valentine,

Executive Director.

[FR Doc. 2022–15108 Filed 7–14–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Privacy Act of 1974; System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to modify an existing system of records entitled, BGFRS–12 ''FRB—Bank Officers Personnel System'' which the Board proposes to rename as BGFRS–12 ''FRB—Bank Employees Personnel System.'' BGFRS–12 is a system of records that contains personal and organizational information about Federal Reserve Bank officers, which the Board is modifying to include all Reserve Bank employees. It is used by the Human Resources Section within the Board's Division of Reserve Bank Operations and Payment Systems (RBOPS) to assist the Board in its oversight of the Federal Reserve Banks including reviewing Reserve Bank compliance with the Federal Reserve Administrative Manual through reviews and monitoring.

DATES: Comments must be received on or before August 15, 2022. This modified system of records will become effective August 15, 2022, without further notice, unless comments dictate otherwise.

The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 30-day period prior to publication in the **Federal Register** in which to review the system and to provide any comments to the agency. The public is then given a 30-day period in which to comment, in accordance with 5 U.S.C. 552a(e)(4) and (11).

ADDRESSES: You may submit comments, identified by *BGFRS–12: FRB—Bank Employees Personnel System,* by any of the following methods:

- *Agency Website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include SORN name and number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Public comments may also be viewed electronically and in-person in Room M–4365A, 2001 C St. NW Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during federal business weekdays.

FOR FURTHER INFORMATION CONTACT: David B. Husband, Senior Counsel, (202) 530–6270, or *david.b.husband@frb.gov;* Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. If you are deaf, hearing or speech impaired, please dial 7–1–1 to access telecommunication relay services.

SUPPLEMENTARY INFORMATION: The Division of Reserve Bank Operations and Payments Systems Human Resources section (RBOPS HR) at the Board of Governors has an ongoing need for access to Reserve Bank official staff and employee information to effectively carry out its oversight responsibilities on behalf of the Board and its Committee on Federal Reserve Bank Affairs. This access supports various oversight activities including System-wide analysis for members of the Board of Governors or leadership of the Board, the assessment of various Reserve Bank

requests, compliance with congressional requirements, and to assist in its oversight of the Federal Reserve Bank's compliance with the Federal Reserve Administrative Manual through reviews and off-site monitoring.

The Board is modifying this system to reflect changes in the operation of the system. Previously, BGFRS 12 was limited solely to Reserve Bank officers, but due to a change to the needs of RBOPS HR, will now include personnel information of all Federal Reserve Bank employees (officers, non-officers, and interns) in the system of records. Accordingly, the Board is making changes to the system name, categories of individuals covered by the system, adding more details to the types of information collected, and changing the title for the System Manager.

SYSTEM NAME AND NUMBER:

BGFRS–12 ''FRB—Bank Employees Personnel System.''

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Reserve Bank of Kansas City, 1 Memorial Drive, Kansas City, Missouri 64198.

SYSTEM MANAGER(S):

Doreen Chappell, Manager, Human Resources Section, Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551, 202–721–4529, or *doreen.s.chappell@frb.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4, 10, 11, and 21 of the Federal Reserve Act (12 U.S.C. 247, 248, 307, and 485).

PURPOSE(S) OF THE SYSTEM:

These records are collected and maintained to assist the Board in its oversight of the Federal Reserve Banks. The Board's use includes ensuring compliance with the Federal Reserve Administrative Manual through reviews and monitoring.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Federal Reserve Bank employees, including interns, but not including contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Past and present Federal Reserve Bank employee information would be limited to data elements directly associated with the Board's oversight role, such as demographic and employment information and compensation-related transactions that have occurred during the employee's employment.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, Federal Reserve Bank staff, and Federal Reserve System personnel systems all provide the information contained within this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General routine uses, A, B, C, D, F, G, H, I, and J apply to this system. These general routine uses are located at *https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf* and are published in the **Federal Register** at 83 FR 43872 (August 28, 2018) at 43873–74.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records in this system are stored in locked file cabinets with access limited to staff with a need to know. Electronic records are stored on a secure server with access limited to staff with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Staff can retrieve records by name or employee identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained for at least three years in accordance with applicable record retention schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is limited to those whose official duties require it.

RECORD ACCESS PROCEDURES:

The Privacy Act allows individuals the right to access records maintained about them in a Board system of records. Your request for access must: (1) contain a statement that the request is made pursuant to the Privacy Act of 1974; (2) provide either the name of the Board system of records expected to contain the record requested or a concise description of the system of records; (3) provide the information necessary to verify your identity; and (4) provide any other information that may assist in the rapid identification of the record you seek.

The Board handles all Privacy Act requests as both a Privacy Act request and as a Freedom of Information Act request. The Board does not charge fees to a requestor seeking to access or amend his/her Privacy Act records.

You may submit your Privacy Act request to the—Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551

You may also submit your Privacy Act request electronically by filling out the required information at: *https://foia.federalreserve.gov/.*

CONTESTING RECORD PROCEDURES:

The Privacy Act allows individuals to seek amendment of information that is erroneous, irrelevant, untimely, or incomplete and is maintained in a system of records that pertains to them. To request an amendment to your record, you should clearly mark the request as a ''Privacy Act Amendment Request.'' You have the burden of proof for demonstrating the appropriateness of the requested amendment and you must provide relevant and convincing evidence in support of your request.

Your request for amendment must: (1) provide the name of the specific Board system of records containing the record you seek to amend; (2) identify the specific portion of the record you seek to amend; (3) describe the nature of and reasons for each requested amendment; (4) explain why you believe the record is not accurate, relevant, timely, or complete; and (5) unless you have already done so in a related Privacy Act request for access or amendment, provide the necessary information to verify your identity.

NOTIFICATION PROCEDURES:

Same as ''Access procedures'' above. You may also follow this procedure in order to request an accounting of previous disclosures of records pertaining to you as provided for by 5 U.S.C. 552a(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

No exemptions are claimed for this system.

HISTORY:

This system was previously published in the **Federal Register** at 73 FR 24984, at 24996 (May 6, 2008). The SORN was also amended to incorporate two new routine uses required by OMB at 83 FR 43872 (August 28, 2018).

Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2022–15197 Filed 7–14–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) announces a Special Emphasis Panel (SEP) meeting on ''Consumer Assessment of Healthcare Providers and Systems (CAHPS) VI (U18)''. This SEP meeting will be closed to the public.

DATES: July 22, 2022.

ADDRESSES: Agency for Healthcare Research and Quality, (Video Assisted Review), 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Jenny Griffith, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, Agency for Healthcare Research and Quality, (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 427–1557.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by AHRQ, and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for ''Consumer Assessment of Healthcare Providers and Systems (CAHPS) VI (U18)'' are to be reviewed and discussed at this meeting. 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. Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 11, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–15113 Filed 7–14–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on ADHD Diagnosis and Treatment in Children and Adolescents

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Supplemental Evidence and Data Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *ADHD Diagnosis and Treatment in Children and Adolescents,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before August 15, 2022.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Center (EPC) Program to complete a review of the evidence for *ADHD Diagnosis and Treatment in Children and Adolescents.* AHRQ is conducting this systematic review pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on ADHD Diagnosis and Treatment in Children and Adolescents, including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/attention-deficit-hyperactivity-disorder/protocol.*

This is to notify the public that the EPC Program would find the following information on ADHD Diagnosis and Treatment in Children and Adolescents helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov* along with the *ClinicalTrials.gov* trial number.
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQ)

KQ1: For the diagnosis of ADHD:

- What is the comparative diagnostic accuracy of approaches that can be used in the primary care practice setting or by specialists to diagnose ADHD among individuals younger than 7 years of age?
- What is the comparative diagnostic accuracy of EEG, imaging, or approaches assessing executive function that can be used in the primary care practice setting or by specialists to diagnose ADHD among individuals aged 7 through 17?
- For both populations, how does the comparative diagnostic accuracy of these approaches vary by clinical setting, including primary care or specialty clinic, or patient subgroup, including age, sex, or other risk factors associated with ADHD?
- What are the adverse effects associated with being labeled correctly or incorrectly as having ADHD?

KQ2: What are the comparative safety and effectiveness of pharmacologic and/or nonpharmacologic treatments of ADHD in improving outcomes associated with ADHD?

- How do these outcomes vary by presentation (inattentive, hyperactive/impulsive, and combined) or other comorbid conditions?
- What is the risk of diversion of pharmacologic treatment?

KQ 3: What are the comparative safety and effectiveness of different empirical monitoring strategies to evaluate the effectiveness of treatment in improving ADHD symptoms or other long-term outcomes?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, and Setting)

PICOTS element	Inclusion criteria	Exclusion criteria
Population	*KQ 1* (diagnosis): Individuals birth through 17 years of age without the diagnosis of ADHD. *KQ 2* (treatment): Individuals birth through 17 years of age with a diagnosis of ADHD. *KQ 3* (monitoring): Individuals birth through 17 years of age who have previously begun treatment for ADHD.	*KQ 1, KQ 2:* Individuals 18 years of age or older unless findings are reported separately for individuals 18 years and under, or if the mean patient age plus the standard deviation is not greater than 21 years of age. *KQ 3:* For long-term studies, the age of the individuals may be greater than 17, but these studies are only considered for inclusion if the age at enrollment in the study was 18 years or younger, and administrative claims data used for diagnosis of ADHD.
Interventions	*KQ 1* (diagnosis): Any standard ADHD diagnostic strategy, including clinician interview, standardized instrument (*e.g.,* Vanderbilt scales, Conner scales, SNAP–IV rating score), neuropsychological test measures (*e.g.,* working memory, processing speed, continuous performance tasks) for individuals under 7 years of age. The use of EEG-based systems, imaging, or assessment of executive function for the diagnosis of ADHD in individuals through 17 years. *KQ 2* (treatment): Any pharmacologic or nonpharmacologic treatment of ADHD, alone or in combination: • Pharmacologic treatments considered are brand name and generic formulations of FDA-approved stimulants (methylphenidate, amphetamine) and nonstimulants (norepinephrine reuptake inhibitors, alpha agonists) and other suggested treatments, including methylphenidate, dexmethylphenidate, dextroamphetamine, lisdexamfetamine, mixed amphetamine salts, amphetamine, tricyclic antidepressants, desipramine, nortriptyline, selective norepinephrine reuptake inhibitors, atomoxetine, alpha-2 agonists, clonidine, guanfacine, dopamine reuptake inhibitors, modafinil, armodafinil, norepinephrine-dopamine reuptake inhibitors, bupropion, serotonin-norepinephrine reuptake inhibitors, duloxetine, serotonin-norepinephrine-dopamine reuptake inhibitors, venlafaxine, monoamine oxidase type B inhibitors, selegiline, N-methyl-D-aspartate receptor antagonists, amantadine, memantine.	*KQ 1:* Validation studies or diagnosis conducted using a non-validated instrument. *KQ 2:* Studies comparing pharmacologic agents approved by the FDA for the treatment of ADHD that have enrollment of fewer than 100 patients with ADHD, or less than 6 months of follow-up.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)—Continued

PICOTS element	Inclusion criteria	Exclusion criteria
	• Nonpharmacologic therapies considered include psychosocial interventions, behavioral interventions, cognitive behavioral therapy, digital gamified cognitive therapies, EndeavorRx, play therapy, play-based interventions, mindfulness-based therapies, school interventions, cognitive training therapies, biofeedback or neurofeedback, parent behavior training, dietary supplements (*e.g.,* omega-3 fatty acids, vitamins, herbal supplements, probiotics), homeopathy, acupuncture, elimination diets, vision training, exercise, chiropractic treatment, peer interventions, and Monarch external trigeminal nerve stimulation (eTNS) system. *KQ 3* (monitoring): Follow-up visits in primary care using various methods and frequencies (monthly to annually) for monitoring, independent of treatment, including the selection of scales/validated tools for monitoring of ADHD severity and treatment response along with forms of remote monitoring or telehealth strategies.	
Comparators	*KQ 1* (diagnosis): Confirmation of diagnosis by a specialist (gold standard), such as a psychologist, psychiatrist or other care provider using a well-validated and reliable process of confirming the diagnosis of ADHD according to the DSM–5. *KQ 2* (treatment): Specific treatments compared with other treatments as described above or to no treatment. *KQ 3* (monitoring): Follow-up compared with differing frequencies of follow-up or different settings of follow-up for monitoring strategies; no restrictions for long-term outcomes.	*KQ 1:* Comparison to diagnosis with a non-validated instrument. *KQ 2:* Comparisons to other patient groups rather than treatments.
Outcomes	*KQ 1* (diagnosis): • Accuracy of diagnostic strategy, as measured by: diagnostic concordance of primary care provider with specialist, inter-rater reliability, internal consistency, test-retest, sensitivity, specificity, area under the curve, positive predictive value, negative predictive value, false positives, false negatives. • Risk of misdiagnosis, missed condition that can appear as ADHD Labeling is any measure of stigma following diagnosis comparing those with and without ADHD. • Costs. *KQ 2* (treatment): • Intermediate outcomes: ○ Changes on standardized symptom scores, including narrow-band focused instruments (Vanderbilt rating scales, ADHD Rating Scales such as the Strength and Weaknesses of Attention-Deficit/Hyperactivity Disorder Symptoms [SWAN]) and broad-band scales (Child Behavior Checklist and Teacher Report Form, Behavior Assessment System for Children, Conners' Rating Scales-Revised, Conners' 3 Parent, Conners' 3 Teacher). ○ Progress toward patient-identified goals. ○ Executive functioning measure changes. ○ Functional impairment (assessed using the Clinical Global Impressions [CGI] scale of the Impairment Rating Scale [IRS]). ○ Acceptability of treatment. • Final outcomes: ○ Academic performance (Academic Performance Rating Scale Academic Competency Evaluation Scale (ACES), school grades, grade retention/not being promoted, Vanderbilt Teacher Form Academic Performance Subscale, standardized achievement tests (WIAT, WJ, WRAT).	

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)—Continued

PICOTS element	Inclusion criteria	Exclusion criteria
	○ Workforce participation, quality of peer relationships, divorce/relationship status, motor vehicle collisions or other accidents, motor vehicle violations, risk-taking behaviors, incarceration or other interactions with the legal system (juvenile detention, probation, court-mandated interventions, need for residential placement). ○ Obesity, tobacco use, substance abuse, mood disorders, depression or anxiety, self-injurious non-suicidal behavior, suicide (attempted or completed), suicidal ideation, mortality. ○ Potential adverse effects of treatment, including changes in appetite, growth suppression, weight decrease, sleep disturbance, gastrointestinal symptoms, elevated blood pressure, increased heart rate, risk of sudden cardiac death, cardiac arrhythmias, conduction abnormalities, chemical leukoderma; priapism, tics or other movement disorders, hallucination, aggression, behavior changes, personality change, loss of spontaneity, number of adverse events. ○ Overtreatment, diversion and misuse of pharmacotherapy, parental stress, time demands/opportunity cost. *KQ 3* (monitoring): • Changes in treatment or dose. • Adverse effects of treatment. • Changes in intermediate and final outcomes.	
Timing	*KQ 1* (diagnosis): • For assessment of diagnostic accuracy: diagnostic follow-up must be within 4 months of the initial evaluation and must be completed before treatment is initiated. • For labeling: any time after the ADHD diagnosis. *KQ 2* (treatment) and *KQ 3* (monitoring): Any.	
Setting	*KQ 1* (diagnosis): Primary or specialty care settings. *KQ 2* (treatment) and *KQ 3* (monitoring): Any (including remote monitoring and telehealth).	
Study Design	• Original data. *KQ 1–3:* Randomized controlled trials (RCTs). *KQ 1* (diagnosis): For diagnostic accuracy, observational studies, including cross-sectional studies, are eligible if they include patients with diagnostic uncertainty and direct comparison of diagnosis in primary care to diagnosis by a specialist. *KQ 1* (diagnosis) and *KQ 2* (treatment): controlled clinical trials and prospective and retrospective observational studies with comparator; sample size: • ≥20 participants. • ≥100 participants for studies comparing two or more pharmacologic treatments. *KQ 3* (monitoring): no study size restriction.	Editorials, nonsystematic reviews, letters, case series, case reports, abstract-only, pre-post studies. Because studies with fewer than 20 subjects are often pilot studies or studies of lower quality, these are excluded. Given the research volume on pharmacologic treatment the sample size limit for non-RCTs is 100 participants, representing population study sizes that could substantially impact the assessment of the existing evidence base. Systematic reviews are not eligible for inclusion but will be retained.
Other limiters	• English-language publications. • *KQ 1* and *KQ 2:* Published in or after 2016 and not included in the prior AHRQ report on ADHD; in addition, we will use studies included in meta-analyses in the prior report for cumulative meta-analyses. • *KQ 3:* Monitoring strategies and long-term effects have no publication year restriction. • Journal manuscripts and trial record data with results.	Non-English language and abbreviated publications (abstracts, letters).

Note: FDA: Food and Drug Administration, KQ: Key Question.

Dated: July 11, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–15112 Filed 7–14–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2022–0085]

Advisory Committee on Immunization Practices (ACIP)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. Time will be available for public comment.

DATES: The meeting will be held on July 19, 2022, from 10:00 a.m. to 3:00 p.m., EDT (times subject to change). The meeting will be webcast live via the World Wide Web. Written comments must be received on or before July 26, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0085, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H24–8, Atlanta, Georgia 30329–4027, Attn: July 19, 2022, ACIP Meeting.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, 1600 Clifton Road NE, Mailstop H24–8, Atlanta, Georgia 30329–4027; Telephone: (404) 639–8367; Email: *ACIP@cdc.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 41 CFR 102–3.150(b), less than 15 calendar days' notice is being given for this meeting due to the exceptional circumstances of the COVID–19 pandemic and rapidly evolving COVID–19 vaccine development and regulatory processes. The Secretary of Health and Human Services has determined that COVID–19 is a Public Health Emergency. A notice of this Advisory Committee on Immunization Practices (ACIP) meeting has also been posted on CDC's ACIP website at: *https://www.cdc.gov/vaccines/acip/index.html.* In addition, CDC has sent notice of this ACIP meeting by email to those who subscribe to receive email updates about ACIP.

Purpose: The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the CDC Director and appear on CDC immunization schedules must be covered by applicable health plans.

Matters To Be Considered: The agenda will include discussions on the use of COVID–19 adult vaccines. A recommendation vote(s) is scheduled. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda, visit *https://www.cdc.gov/vaccines/acip/meetings/index.html.* The meeting will be webcast live via the World Wide Web; for more information on ACIP, visit the ACIP website: *https://www.cdc.gov/vaccines/acip/index.html.*

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: The docket will be opened to receive written comments on July 15, 2022. Written comments must be received on or before July 26, 2022.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes, including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

Procedure for Oral Public Comment: All persons interested in making an oral public comment at the July 19, 2022, ACIP meeting must submit a request at *https://www.cdc.gov/vaccines/acip/meetings/index.html* no later than 11:59 p.m., EDT, July 15, 2022, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals by email on July 18, 2022 regarding their request to speak. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to three minutes, and each speaker may speak only once per meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–15225 Filed 7–13–22; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (CDC) of the Statement of Organization, Functions, and Delegations of Authority of HHS (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 86 35511–35520, dated July 6, 2021) is amended to reflect the reorganization of the National Center for Injury Prevention and Control (NCIPC), Deputy Director for Non-Infectious Diseases, CDC. This reorganization approved by the Director, CDC, on July 1, 2022, will streamline the current organizational structure, improve the overall employee/supervisor ratio, eliminate workflow inefficiencies, and improve customer service.

I. Under Part C, Section C–B, Organization and Functions, make the following changes:

- Update the functional statements for the Division of Violence Prevention (CUHC)
- Update the functional statements for the Office of the Director (CUHC1)
- Establish the Office of Policy, Partnerships, and Communication (CUHC12)
- Establish the Office of Senior Director for Scientific Programs (CUHC13)
- Establish the Office of the Associate Director for Science (CUHC13b)
- Establish the Office of the Deputy Director for Management and Program Operations (CUHC14)
- Establish the Office of Management and Operations (CUHC14b)
- Update the functional statements for the Surveillance Branch (CUHCB)
- Update the functional statements for the Research and Evaluation Branch (CUHCC)
- Retitle the Prevention Practice and Translation Branch to the Violence Prevention Practice and Translation Branch (CUHCD)
- Update the functional statements for the Field Epidemiology and Prevention Branch (CUHCE)
- Establish the Community Violence Prevention Practice and Translation Branch (CUHCG)
- Update the functional statements for the Division of Injury Prevention (CUHF)
- Update the functional statements for the Office of the Director (CUHF1)
- Establish the Office of Science (CUHF12)
- Establish the Office of Policy and Partnerships (CUHF13)
- Establish the Office of Management and Operations (CUHF14)
- Establish the Office of Communications (CUHF15)
- Update the functional statements for the Division of Overdose Prevention (CUHG)
- Update the functional statements for the Office of the Director (CUHG1)
- Establish the Office of Policy, Planning, and Partnerships (CUHG12)
- Establish the Office of the Associate Director for Program Implementation (CUHG13)
- Establish the Office of the Deputy Director for Scientific Programs (CUHG14)
- Establish the Office of the Associate Director for Science (CUHG14b)
- Establish the Office of the Associate Director for Management Operations (CUHG15)
- Establish the Office of Management and Operations (CUHG15b)
- Update the functional statements for the Epidemiology and Surveillance Branch (CUHGB)
- Update the functional statements for the Health Systems and Research Branch (CUHGC)
- Update the functional statements for the Prevention Programs and Evaluation Branch (CUHGD)
- Update the functional statements for the Drug-Free Communities Branch (CUHGE)
- Update the functional statements for the Communications Branch (CUHGG)
- Establish the State Program Implementation Branch (CUHGH)

II. Under Part C, Section C–B, Organization and Functions, insert the following:

- *Division of Violence Prevention (CUHC).* (1) Provides leadership in developing and executing a national program for the prevention and control of violence and its consequences; (2) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, health equity, and cost of violence-related injuries and deaths, and facilitates the development of surveillance systems by state, tribal, local, and territorial agencies; (3) plans, directs, conducts, and supports research focused on the causes of and health inequities in violence and the development and evaluation of strategies to prevent and control violence-related injuries and deaths; (4) produces new, evidence-based scientific knowledge that informs policies, practice, and programs in the violence field; (5) plans, conducts, supports, and evaluates demonstration projects and programs to prevent and control violence; (6) develops and disseminates policies, recommendations, and guidelines for the prevention of violence and its consequences; (7) proposes goals and objectives for linking health system and violence control activities with public health activities, including surveillance, prevention, healthcare, and rehabilitation of injury; (8) proposes goals and objectives for national violence prevention and control programs, monitors progress toward these goals and objectives, and recommends and develops guidelines for priority prevention and control activities; (9) provides expertise in public health practice, health equity, surveillance, evaluation, and research for violence prevention; (10) provides technical assistance, consultation, training, and epidemiological, statistical, educational, and other technical services to assist state and local health departments and community based organizations in the planning, development, implementation, evaluation, and overall improvement of violence prevention programs; (11) facilitates the development and supports the dissemination of research findings and transfer of violence prevention and control technologies to federal, state, and local agencies, private organizations, and other national and international groups; (12) sustains a public health infrastructure for violence prevention at federal, state, tribal, local, and territorial levels; (13) facilitates similar strategic planning activities by other federal, state, and local agencies, academic institutions, and private and other public organizations; and (14) in carrying out the above functions collaborates with other divisions of NCIPC, CDC Centers, Institute, and Offices (CIOs), HHS agencies, other federal, state, and local departments and agencies, academic institutions, private sector, voluntary, and international organizations, as appropriate.
- *Office of the Director (CUHC1).* (1) Provides leadership and direction for division priorities and activities to monitor, prevent and reduce violent behavior and violence-related injuries and deaths; (2) leads the division to monitor trends in violent behavior and violence-related injuries and deaths and scales up prevention activities to reduce violence, risk factors, and consequences; (3) promotes strategies to achieve the vision of a violence-free society in which all people and communities are safe, healthy, and thriving; (4) plans, directs, coordinates, and evaluates the

activities of the division; (5) establishes and interprets policies, and determines program priorities; (6) provides national leadership and guidance in violence prevention and control program planning, development, and evaluation; (7) advances health equity in violence prevention through both research and programmatic activities; and (8) assures multi-disciplinary collaboration in violence prevention and control activities.

• *Office of Policy, Partnerships, and Communication (CUHC12).* (1) Provides leadership and guidance to division management and staff on policies, planning and communications for violence prevention activities; (2) prepares, tracks, and coordinates controlled and general correspondence; (3) prepares responses and coordinates provision of materials requested by CDC leadership, Congress, HHS, other federal agencies, and non-governmental agencies; (4) coordinates with NCIPC Office of Policy and Partnerships to execute and support NCIPC- and CDC-wide policy and partner-related initiatives related to violence prevention; (5) coordinates with the NCIPC Office of Communications to execute and support NCIPC- and CDC-wide communication initiatives and policies; (6) develops tailored messages and materials to promote dissemination of scientific findings, evidence-based prevention strategies, priority recommendations, and guidelines through traditional media outlets, social media, and other channels;

(7) collaborates with subject matter experts, program and policy staff, develops and implements communication strategies, campaigns, and plans to meet the needs of division programs and NCIPC's mission, to provide leadership in preventing and controlling injuries by reducing the incidence, severity, and adverse outcomes of injury; (8) provides consultation on international violence prevention and control activities of the division; and (9) establishes linkages and collaborates, as appropriate, with other divisions and offices in NCIPC, with other CIOs throughout CDC, nongovernmental organizations; and with national level prevention partners that impact violence prevention programs.

• *Office of the Senior Director for Scientific Programs (CUHC13).* (1) Directs and evaluates the cross-cutting scientific activities of the division; (2) provides leadership and guidance in scientific program planning, development, implementation, and evaluation for violence prevention activities; (3) coordinates division public health science efforts to protect the public's health; (4) facilitates the translation of scientific knowledge into preventive actions; (5) ensures use of best practices to collect, analyze, and interpret data and disseminates scientific information to enable internal and external partners to make actionable decisions; and (6) integrates science, data analytics, and visualization into science products.

• *Office of the Associate Director for Science (CUHC13b).* (1) Provides scientific leadership, planning, and guidance to division management and staff on research methodology and priorities for violence prevention research activities;

(2) promotes DVP-funded science programs and activities, and advocates for science within the organization; (3) provides leadership on science policy development and implementation; (4) oversees scientific clearance and related quality assurance; (5) provides representation on scientific issues, internally within CDC and externally with partners; (6) contributes to the development of new scientific advances by preparing manuscripts for publication in scientific and technical journals and publications, including articles and guidelines published in the Morbidity and Mortality Weekly Report (MMWR) and other publications for the public; (7) supports scientific training opportunities and mentorship to scientists and fellows; and (8) in coordination with the NCIPC OS, reviews and approves surveillance, programmatic, and research project concepts, and ensures their compliance with federal regulations.

• *Office of the Deputy Director for Management and Program Operations (CUHC14).* (1) Plans, directs, and evaluates the management and program operations activities of the division; (2) provides cross-cutting leadership and guidance in program planning, development, implementation, and evaluation for violence prevention activities; (3) oversees overarching personnel, operational, administrative, fiscal, and technical support for division programs and units; (4) provides leadership for and assessment of all administrative management activities of the division; (5) provides overall programmatic direction for planning and management oversight of allocated resources, human resource management and general administrative support for division programs and units; and

(6) reviews the effectiveness and efficiency of all administration and operations of division programs and units.

• *Office of Management and Operations (CUHC14b).* (1) Provides leadership, planning, and guidance to division management and staff on management and operations for violence prevention activities; (2) manages the budget through planning, execution, and closeout to facilitate daily operations; (3) provides over-arching personnel, operational, administrative, fiscal, and technical support for division programs and units; (4) develops and implements processes to provide efficiency in facilitating work to prevent violent behavior and violence-related injuries and deaths; (5) carries out routine office functions and meets administrative requirements necessary for daily functions; and (6) coordinates and oversees the implementation of available assistance mechanisms to prevent violent behavior and violence-related injuries and deaths.

• *Surveillance Branch (CUHCB).* (1) Advises the Office of the Director, in DVP and NCIPC, on all aspects of violence surveillance including data and systems management by providing data to inform violence program planning;

(2) conducts national, state, and local surveillance and surveys to identify new and monitor recognized forms of violence and its consequences, analyzes and interprets data, examines patterns in health equity (*e.g.,* by race/ethnicity, gender, gender identity, sexual orientation, and disability), and monitors trends in violence and its trajectory across the lifespan; (3) consults and collaborates with other branches to promote using surveillance data to inform preventive actions; (4) coordinates, manages, maintains, and provides tabulations and maps from surveillance systems and other data sources that contain national, state, and local data on violence-related morbidity, mortality, and economic costs; (5) develops and implements uniform definitions for public health surveillance of various forms of violence and related outcomes; (6) provides leadership for the development of surveillance systems to inform policies, practice, and programs in the violence prevention field; (7) provides expert consultation to federal, state, and local health agencies on surveillance system design, implementation, and evaluation, and use of surveillance data to describe the burden of violence; (8) disseminates violence surveillance information to the scientific community and the general public through regular publication in peer-reviewed journals and CDC publications, presentations at professional conferences and other partner group meetings, and through a

public-facing dashboard; (9) develops, designs, implements, and evaluates innovative surveillance strategies to address gaps and apply surveillance data to epidemiological studies, program evaluation, and programmatic activities; and (10) in carrying out the above functions, provides leadership and collaborates with other divisions and offices in NCIPC, other CIOs throughout CDC, and other federal, state, and local departments and agencies, academic institutions, private sector, voluntary, and international organizations, as appropriate in all aspects of surveillance of violence and its consequences.

• *Research and Evaluation Branch (CUHCC).* (1) Plans, directs, conducts, and supports formative, etiologic, and epidemiologic research focused on causal factors, risk and protective factors, and psychosocial, cultural, and contextual determinants for violence and its consequences; (2) plans, directs, conducts, and supports applied research focused on the rigorous evaluation of strategies, policies, and interventions to prevent violent behavior and violence-related injuries and deaths; (3) evaluates the effectiveness and impact of violence prevention strategies, policies, and interventions as practiced or implemented by public health agencies and organizations at the national/regional and state/local levels; (4) conducts implementation research to examine the context, processes, and factors that influence effective and efficient dissemination/diffusion, uptake/adoption, implementation, translation, and sustainability of violence prevention strategies, policies, and interventions; (5) conducts research that promotes health equity by reducing the inequitable burden of risk for violence exposure experienced by racial and ethnic minority and other disproportionately affected (*e.g.,* gender, sexual orientation, and disability) groups to better understand risk and protective factors contributing to these inequities and evaluate violence prevention strategies, policies, and interventions to remediate them; (6) develops and evaluates methodologies for conducting violence prevention research evaluation; (7) contributes to the research literature and evidence base by publishing regularly in peer-reviewed journals, CDC sponsored publications and government reports that include, but are not limited to, etiological, evaluation, and implementation research and research syntheses; (8) serves as a resource, collaborates, and provides technical assistance in applying research and evaluation results and techniques to the ongoing assessment and improvement of violence prevention and control approaches; (9) disseminates research findings to help guide the development of prevention strategies, policies, and interventions or to improve the effectiveness of existing strategies, policies, and interventions to prevent and reduce violence, its risk factors, and its consequences; and (10) in carrying out the above functions, collaborates with other components within NCIPC, CDC, the Public Health Service, HHS, other federal agencies, and national and international professional, academic, voluntary, philanthropic organizations, and other entities.

• *Violence Prevention Practice and Translation Branch (CUHCD).* (1) Provides leadership and support in public health practice and the application of science for maximum benefit of violence prevention programmatic efforts; (2) plans, directs, conducts, and supports program evaluation of strategies, policies, and programs to prevent violent behavior and violence-related injuries and deaths; (3) monitors and evaluates violence prevention programs and policies, and disseminates findings to promote program accountability and program improvement; (4) promotes an enhanced and sustained infrastructure for a public health approach to violence prevention at state, tribal, local, and territorial levels; (5) provides leadership and technical assistance in promoting health equity as an integral part of programmatic activities to prevent violence and in adapting evidence-based strategies to create the optimal conditions for health and safety for all communities and people regardless of race/ethnicity, sexual orientation, gender identity, poverty, geography, capacity, or religion. (6) generates and moves practice based knowledge into program practice and research fields; (7) develops and evaluates methodologies for conducting program evaluation; (8) identifies findings, lessons learned, and evidence from the field and collaborates with internal and external partners to inform research, surveillance, and program evaluation that builds the evidence base for effective violence prevention; (9) provides support, training, and technical assistance that applies sound prevention principles and systematic processes to enhance public health practice, including program development, implementation, improvement, and competence of personnel engaged in violence prevention and control research practices; (10) applies the best available evidence from translational science and continuous quality improvement to help communities select, adopt, adapt, implement, disseminate, sustain, and scale up programs, strategies, and activities that will lead to successful violence prevention outcomes; (11) works to reduce violence by supporting state and local violence prevention and control programs, and promoting the dissemination and application of science into program practice in the violence prevention field; (12) synthesizes relevant research, evaluation findings, evidence, and trends to develop practical guidance and resources that enhance violence prevention programs, strategies, and activities; (13) communicates internally and externally the important work and progress of the staff, recipients, and partners; (14) plans, conducts, supports, and evaluates demonstration projects and programs to prevent and control violence; (15) proposes goals and objectives for national violence prevention and control programs, monitors progress toward these goals and objectives, and recommends and develops guidelines for priority prevention and control activities; (16) provides national leadership and guidance in violence prevention and control program planning, development, and evaluation; (17) develops and manages liaison and collaborative relationships with professional, community, international, federal, and other agencies involved in violence prevention activities; and (18) in carrying out the above functions, provides leadership and collaborates with other divisions and offices in NCIPC, other CIOs throughout CDC, and other federal, state, local, non-governmental, voluntary, professional, and international organizations in all aspects of public health practice as it relates to violence prevention.

• *Field Epidemiology and Prevention Branch (CUHCE).* (1) Conducts investigations to address important public health problems related to violence; (2) conducts domestic and international surveys to assess incidence and prevalence of violence, risk factors, and health consequences, and monitors trends in violence and its trajectory across the lifespan; (3) collects data to inform the timely development of violence prevention initiatives; (4) builds capacity of public health to guide application of data to prevent violence; (5) conducts field epidemiology through field investigations and field support to improve collection of data on violence and provide timely recommendations on evidence-based violence prevention

interventions; (6) advances health equity and prevents violence globally and in the U.S. through data collection and application of evidence-based, data-informed violence prevention practices; (7) synthesizes and translates relevant research, evaluation findings, evidence, and trends, and ensures that communication and marketing technologies are applied to the development of practical tools, products, trainings, and guidance that enhance international violence prevention programs, strategies, and activities; (8) uses research findings to develop new or improve existing strategies, policies, and interventions to prevent and reduce violent behavior, its risk factors, and consequences;

(9) disseminates scientific findings, evidence-based prevention strategies, and violence prevention guidelines through publication of research findings in professional journals and government reports, through participation in national and international meetings, seminars, and conferences, and through the development of communication initiatives; (10) establishes and sustains partnerships with other CDC CIOs and federal and non-government partners to improve the health and safety of youth by linking systematic measurement of violence with multi-sectoral, effective, scalable, and sustainable actions to reduce violence and its consequences; (11) works to reduce community violence by supporting state and local violence prevention and control programs and promote the dissemination and application of science into program practice in the violence prevention field;

(12) synthesizes relevant research, evaluation findings, evidence, and trends to develop practical guidance and resources that enhance community violence prevention programs, strategies, and activities; (13) leverages and applies science-based information to help organizations and government agencies to use data to inform public health action to develop, evaluate, and improve programs and strategies to prevent violence-related injuries, health problems, and deaths; (14) provides expert consultation and technical assistance, consultation, training, and epidemiological, statistical, and other technical services to assist international and local health entities in the planning, implementation, application, evaluation, and overall improvement of violence monitoring and violence prevention programming; and (15) in carrying out the above functions, collaborates with other divisions and offices of NCIPC, CIOs, HHS agencies, other federal, state, and local departments and agencies, academic institutions, private sector, voluntary, and international organizations, as appropriate on all aspects of violence surveillance.

• *Community Violence Prevention Practice and Translation Branch (CUHCG).* (1) Provides leadership and support in public health practice and the application of science for maximal benefit of community violence (CV) prevention programmatic efforts; (2) plans, directs, conducts, and supports program evaluation of strategies, policies, and interventions to prevent community violence and related injuries and deaths; (3) monitors and evaluates community violence prevention programs, and disseminates findings to promote program accountability and program improvement; (4) promotes an enhanced and sustained CV infrastructure for a comprehensive approach based on scaling up and/or implementing proven programs and policies to stem current violence and prevent future violence from occurring; (5) provides leadership and technical assistance in promoting health equity as an integral part of programmatic activities to prevent violence and in adapting evidence-based strategies to create the optimal conditions for health and safety for all communities and people regardless of race/ethnicity, sexual orientation, gender identity, poverty, geography, capacity, or religion; (6) generates and moves practice-based knowledge into program practice and research fields; (7) develops and evaluates methodologies for conducting program evaluation; (8) identifies findings, lessons learned, and evidence from the field and collaborates with internal and external partners to inform research, surveillance, and program evaluation that builds the evidence base for effective violence prevention; (9) provides support, training, and technical assistance that applies sound prevention principles and systematic processes to enhance public health practice, including program development, implementation, improvement, and competence of personnel engaged in community violence prevention practices; (10) applies the best available evidence from translational science and continuous quality improvement to help communities select, adopt, adapt, implement, disseminate, sustain, and scale up programs, strategies, and activities that will lead to successful community violence prevention outcomes; (11) communicates internally and externally the important work and progress of the staff, recipients, and partners; (12) plans, conducts, supports, and evaluates demonstration projects and programs to prevent and control community violence; (13) proposes goals and objectives for national community violence prevention programs, monitors progress toward these goals and objectives, and recommends and develops guidelines for priority prevention activities; (14) provides national leadership and guidance in community violence prevention program planning, development, and evaluation; (15) develops and manages liaison and collaborative relationships with other federal, state, and local departments and agencies, academic institutions, private sector, and voluntary organizations involved in community violence prevention activities; and (16) in carrying out the above functions, provides leadership and collaborates with other divisions and offices in NCIPC, other CIOs throughout CDC, and federal, state, local, non-governmental, voluntary, professional, and international organizations in all aspects of public health practice as it relates to community violence prevention.

• *Division of Injury Prevention (CUHF).* (1) Integrates injury prevention strategies with healthcare delivery; (2) develops and disseminates policies, recommendations, and guidelines for the prevention of injury and its consequences; (3) develops and implements evidence-based public health practices, policies, or programs that prevent or reduce unintentional and self-directed injuries; (4) identifies findings, lessons learned, and potential best practices from the field and collaborates with internal and external partners to conduct scientific investigations to examine the context, processes, and factors that influence the risk of injuries and successful implementation of prevention strategies; (5) plans, establishes, and maintains surveillance systems to monitor national trends in morbidity, mortality, disabilities, and cost of injuries and facilitates the development of surveillance systems by state and local agencies; (6) produces and disseminates new scientific knowledge to inform policies, practice, and programs in the injury field; (7) supports the development and enhancement of state, tribal, local, and territorial injury prevention programs that integrate evidence-based population health strategies, surveillance, and evaluation in collaboration with other public health and non-public health sectors to promote injury control and prevention; (8) provides expertise in statistics,

computer programming, data science, economics, public health practice, surveillance, evaluation, and research to engage NCIPC and the injury prevention community; (9) leads translation and dissemination of injury prevention and control research findings and injury data to federal, state, tribal, local, and territorial public health agencies, and public and private sector organizations with responsibilities and interests related to injury prevention; (10) supports the development and enhancement of public health infrastructure for injury prevention at federal, state, tribal, local, and territorial levels through funding, workforce training, and outreach; and (11) leads innovative data science activities to address injury data and information needs and inform research and prevention activities.

• *Office of the Director (CUHF1).* (1) Provides leadership and direction for division priorities and activities to monitor, prevent, and reduce unintentional and self-directed injuries; (2) leads the division to monitor trends in the injury field and scales up prevention activities to reduce injury and its consequences; (3) promotes intervention strategies for injuries to advance NCIPC and CDC's mission; (4) plans, directs, coordinates, and evaluates the activities of the division; (5) leads division strategic planning and priority setting and oversees overall program performance, scientific quality of activities, and operational policies to advance NCIPC and CDC's mission; (6) provides leadership, representation, and consultation on cross-agency, intra-governmental, non-governmental, and international workgroups and forums to advance division goals and NCIPC and CDC's mission; and (7) oversees the development of research to inform policies, practice, and programs in the injury field.

• *Office of Science (CUHF12).* (1) Provides leadership, planning, and guidance to division management and staff on scientific policy, priorities, and research methodology for injury prevention and control practices; (2) ensures division programs and units produce the highest quality, most useful and relevant science possible; (3) leads development and updates to research priorities for injury prevention and control in collaboration with division programs and provides tools and assessment to ensure research informs policy, practice, and programs in the injury field; (4) prepares and monitors clearance of manuscripts for publication in scientific and technical journals and publications, including articles and guidelines published in the MMWR and other publications for the public; (5) supports scientific training opportunities and mentorship to scientists and fellows; and (6) provides leadership for the development of research to inform policies, practice, and programs in the injury field.

• *Office of Policy and Partnerships (CUHCF13).* (1) Provides leadership and guidance to division management and staff on policies and partnership for injury prevention and control; (2) implements operational policies to advance NCIPC and CDC's mission; (3) develops and manages collaborative relationships with professional, community, international, governmental, and non-governmental agencies, and tribal nations, to advance injury prevention and control; (4) coordinates with the NCIPC Office of Policy and Partnerships to identify and proactively manage emerging policy issues; (5) coordinates with the NCIPC Office of Policy and Partnerships and division staff to provide program, performance, and budgetary information related to the division's activities for internal and external stakeholders and policy makers; (6) coordinates with division staff to prepare briefing materials; (7) collaborates with other NCIPC divisions and Offices and other CIOs throughout CDC on critical injury prevention programs; and (8) prepares, tracks, and coordinates responses to all inquiries from NCIPC leadership, Congress, HHS, other federal agencies, and non-governmental agencies.

• *Office of Management and Operations (CUHCF14).* (1) Provides leadership, planning, and guidance to division management and staff on management and operations for injury prevention and control practices; (2) manages the budget through planning, execution, and closeout to facilitate daily operations; (3) provides over-arching personnel, operational, administrative, fiscal, and technical support for division programs and units; (4) develops and implements processes to efficiently facilitate work on prevention and control injuries; (5) carries out routine office functions and meets administrative requirements necessary for daily functions; and (6) coordinates and oversees the implementation of available assistance mechanisms to prevent and control injuries.

• *Office of Communications (CUHCF15).* (1) Provides leadership and guidance to division management and staff on communications initiatives and policies, including health literacy, plain language, and CDC branding for injury prevention and control topics and practices; (2) collaborates with subject matter experts and program and policy staff to develop strategic communication plans that meet division, NCIPC, and CDC priorities; (3) develops, implements, and evaluates communication strategies, campaigns, and materials to disseminate data and scientific findings, evidence-based prevention strategies, priority recommendations, programmatic successes, and guidelines through traditional and emerging communication channels; (4) facilitates coordination of cross-cutting topics related to effective communications strategies and ensures incorporation of lessons learned to promote communications best practices; (5) leads digital communication and marketing strategies and manages digital channels in the injury field; and (6) provides ongoing communication leadership, support, and strategic direction to division programs and units.

• *Division of Overdose Prevention (CUHG).* (1) Plans, establishes, evaluates, uses, and collaborates on surveillance systems to monitor local, state, and national trends in morbidity, mortality, risk and protective factors related to drug use and overdose, and implements programmatic strategies to prevent drug use and overdose; (2) plans, directs, conducts, and supports research and advanced analytics focused on the causes, risks, and protective factors associated with drug use and overdose and identifies strategies at the federal, state, and local level, as well as in health systems, to prevent drug use and overdose; (3) evaluates the effectiveness and impact of drug use and overdose-related interventions, strategies, policies, and programs as practiced or implemented by public health agencies and organizations at the federal, state, territorial, and local levels, including health systems and law enforcement/public safety; (4) identifies, develops, translates, implements, and evaluates programs and evidence-based clinical guidelines and informs policies to prevent drug use and overdose; (5) facilitates the translation, dissemination, and sustainability of practice- and research-tested findings into widespread local, state, and national public health and health system practice to prevent drug use and overdose; (6) develops, translates, implements, and evaluates evidence-based clinical prescribing guidelines to improve patient outcomes and prevent drug overdose; (7) provides technical assistance, consultation, training, and capacity building to federal, state, and local agencies, non-profit and

international organizations, professional associations, and medical providers to prevent drug use and overdoses; (8) establishes and maintains relationships across HHS, CDC, and NCIPC and its partners, including state, territorial, and local public health agencies, other federal agencies, the healthcare sector, professional organizations, and other constituents, including academic institutions and international organizations, that address drug use and overdose prevention; and (9) develops or is actively involved in the development of drug use and overdose prevention educational materials, training courses, tools, and other communication materials, as appropriate, based on identified needs of partners.

• *Office of the Director (CUHG1).* (1) Provides leadership and direction on division priorities and activities to monitor, prevent, and reduce harms associated with drug use, misuse, and overdose; (2) leads the division in monitoring trends in the drug overdose crisis and other emerging drug threats and identifies and scales prevention activities to address the evolving drug overdose crisis; (3) promotes strategies to achieve the vision to end drug overdose and related harms; (4) plans, directs, and evaluates division activities; (5) provides cross-cutting leadership and guidance in policy formation and program planning, development, implementation and evaluation for drug use and overdose prevention; and (6) ensures multi-disciplinary collaboration in drug use and overdose prevention activities.

• *Office of Policy, Planning, and Partnerships (CUHG12).* (1) Provides leadership and guidance to division management and staff on policies, planning, and partnership related to activities to monitor, prevent, and reduce harms associated with drug use, misuse, and overdose; (2) prepares, tracks, and coordinates controlled and general correspondence; (3) prepares responses and coordinates provision of materials requested by NCIPC leadership, CDC leadership, HHS, Congress, and other federal partners; (4) coordinates with NCIPC's Office of Policy and Partnerships to execute and support NCIPC- and CDC-wide policy- and partner-related initiatives focused on overdose prevention; (5) collaborates, as appropriate, with non-governmental organizations, academic institutions, philanthropic foundations, and other domestic and international partners to achieve the division's mission; (6) tracks and monitors annual appropriations process, working with NCIPC staff to draft annual budget justifications and performance narratives; (7) coordinates with division and NCIPC leadership to develop enterprise risk mitigation efforts related to division activities and monitor performance measures related to division, NCIPC, and CDC performance; and (8) coordinates and implements national prevention strategies, programs, and policies in collaboration with state and local public health departments, community-based organizations, and other branches, CIOs, and federal agencies.

• *Office of the Associate Director for Program Implementation (CUHG13).* (1) Provides leadership, guidance, and technical assistance to division management and staff to strengthen implementation of overdose surveillance and prevention programs and initiatives; (2) identifies, implements, and coordinates technical assistance strategies and supports to enhance the implementation and evaluation of the division's overdose surveillance and prevention strategies and programs;

(3) fosters and promotes opportunities for cross-program learning and leverages program synergies to improve coordination, consistency, and efficiencies across the division's programmatic efforts aimed at reducing overdoses; (4) collaborates with other offices, CIOs, and national partners to identify and execute opportunities that increase the scope, reach, and impact of the division's overdose prevention strategies; (5) establishes and maintains relationships with national partners and other key stakeholders to strengthen technical assistance and enhance subject matter expertise; (6) provides cross-cutting leadership, expertise, and guidance to inform and execute on program planning, development, and implementation of efforts, strategies, and activities to combat the changing drug overdose epidemic; (7) leverages programmatic data and research findings to inform the development and/or implementation of strategies, policies, and interventions; and (8) develops tools and resources to support the implementation of the division's overdose surveillance and prevention strategies and activities.

• *Office of the Deputy Director for Scientific Programs (CUHG14).* (1) Plans, directs, and evaluates the cross-cutting scientific activities of the division; (2) provides leadership and guidance on scientific program planning, development, implementation, and evaluation for drug use and overdose prevention; (3) coordinates division public health science efforts to protect the public's health; (4) develops capacity within states, territories, and localities to integrate new and existing epidemiological and scientific principles into operational and programmatic expertise within division programs and units; (5) ensures use of best practices to collect, analyze, and interpret data and disseminate scientific information to enable internal and external partners to make actionable decisions; and (6) translates and integrates science, data analytics, and visualization into science products.

• *Office of the Associate Director for Science (CUHG14b).* (1) Provides scientific leadership, planning, and guidance to division management and staff on scientific policy, research methodology, and strategic priorities for overdose prevention activities, ensuring the integrity of the division's scientific work; (2) provides leadership to develop research on etiologic, epidemiologic, and behavioral aspects of drug use and overdose prevention; evaluate prevention activities; and coordinate division activities with others involved in related work across NCIPC, CDC, HHS, and other partners; (3) implements and guides policies and procedures related to data management, sharing and public access, human subjects research protections, Paperwork Reduction Act regulations, Federal Advisory Committee Act regulations, and scientific authorship and misconduct, ensuring work is performed in accordance with these policies and guidance; (4) oversees adjudication of issues related to science disputes, scientific ethics, and misconduct; (5) ensures the division's work is grounded in science and recommendations are evidence-based; (6) conducts portfolio reviews of scientific and programmatic initiatives in the division to identify critical gaps and opportunities for the future direction of research and programmatic work; (7) coordinates agency-wide and cross-agency cannabis-related surveillance, research activities, and communications activities, and provides technical assistance for cannabis-related programmatic activities; (8) reviews and approves surveillance, programmatic, and research project concepts in coordination with NCIPC OS to ensure alignment with strategic priorities and compliance with federal regulations; (9) oversees and conducts clearance (scientific information product reviews) of manuscripts for publication in scientific and technical journals and publications, including articles and guidelines published in the MMWR, informational web content, and other publications for the public; (10)

addresses critical research gaps through the development of extramural research funding opportunities and collaborates with the Extramural Research Program Office to ensure timely publication of funding opportunities and rigorous peer review of funding applications; and (11) supports scientific training opportunities and development of the scientific workforce, including the Epidemic Intelligence Service and Oak Ridge Institute for Science and Education training programs.

• *Office of the Associate Director for Management and Operations (CUHG15).* (1) Plans, directs, and evaluates the management and operations activities of the division; (2) oversees over-arching personnel, operational, administrative, fiscal, and technical support for the division; (3) provides leadership for and assessment of all administrative management activities of the division; (4) provides overall direction for planning and management oversight of allocated resources, human resource management, and general administrative support for the division; and (5) reviews the effectiveness and efficiency of all administration and operations of the division.

• *Office of Management and Operations (CUHG15b).* (1) Provides leadership, planning, and guidance to division management and staff on financial and administrative operations for overdose activities; (2) manages the budget through planning, execution, and closeout to facilitate daily operations; (3) provides expert consultation on personnel, operational, administrative, fiscal, and technical support management; (4) develops tools and implements processes to provide efficiency in facilitating work to reduce drug use and prevent overdose; (5) carries out over-arching, routine administrative requirements necessary for daily functions; (6) coordinates and oversees the implementation of available assistance mechanisms to prevent drug use and overdose; and (7) ensures proposed and ongoing operations are consistent with policy, practices, and procedures.

• *Epidemiology and Surveillance Branch (CUHGB).* (1) Plans, establishes, and evaluates surveillance systems to monitor national, state, and local trends in nonfatal and fatal overdoses and innovative surveillance projects, such as biosurveillance, illicit drug supply monitoring, linkage to care tracking, and overdose data linkages; (2) develops and implements uniform definitions of various overdose-related outcomes for public health surveillance; (3) routinely disseminates surveillance data through publications, data briefs and reports, presentations, and CDC websites and data dashboards on national, state, and local trends on overdose-related outcomes and disparities, which includes the mapping of geographic variations; (4) monitors and tracks overdoses with surveillance systems to inform prevention programs at the state and local level; (5) develops, designs, implements, and evaluates innovative surveillance strategies or systems in collaboration with colleagues to address gaps in existing CDC surveillance systems that inform evaluation and programmatic activities; (6) plans and directs strategies to collect, analyze, and interpret scientific findings from surveillance and epidemiologic activities to evaluating trends, set priorities, and develop intervention strategies for overdose prevention; (7) develops comprehensive data management processes to manage overdose morbidity, mortality, and innovative surveillance data received through cooperative agreements and contracts; (8) plans and collaborates on data modernization and data science efforts with colleagues in NCIPC and other CIOs; (9) serve as subject matter experts providing technical assistance on surveillance activities with state and local entities; (10) plans and conducts data projects from data sources, such as toxicology data, to fill gaps in surveillance and investigates emerging and novel drug overdose threats; and (11) supports training to increase the number and capacity of personnel engaged in overdose epidemiology and surveillance—including supporting medical examiners/coroners in investigating drug overdose deaths.

• *Health Systems and Research Branch (CUHGC).* (1) Supports applied research, advanced analytics, evaluation, and demonstration projects to determine the effectiveness of health system prevention interventions; enhance the impact of health systems; and expand the understanding of how to best integrate health systems with public health prevention efforts to prevent drug use and overdose; (2) develops, implements, and evaluates evidence-based clinical prescribing guidelines and accompanying translation materials to improve patient outcomes and prevent drug overdose; (3) conducts advanced overdose and treatment analytics and modeling to inform prevention strategies and provide jurisdictions and partners with actionable data and tools; (4) provides expert consultation to federal, state, local, and international health and public health agencies on applied research, evaluation, and health system implementation strategies; (5) provides scientific technical assistance to states, tribes, localities, and territories through programmatic efforts to increase their capacity to develop, implement, and evaluate system-level overdose prevention strategies; (6) develops, implements, and evaluates tools and resources to use in electronic health records and health IT systems to address overdoses and support data integration across data systems; (7) expands reach and scale of evidence-based health system interventions through strategic partnerships and collaboration with health systems and state, tribal, local, and territorial public health departments; (8) publishes regularly in peer-reviewed journals and CDC-sponsored publications on topics that include, but are not limited to, programmatic, advanced analytics, modeling, evaluation, health systems, or community-based strategies to contribute to the research literature; and (9) supports dissemination of research, advanced analytics, evaluation, translation, and program implementation to federal, state, tribal, local, and territorial health agencies, public and private sector organizations, and other national and international groups with responsibilities and interests related to overdose prevention.

• *Prevention Programs and Evaluation Branch (CUHGD).* (1) Provides programmatic leadership and support for drug use and overdose prevention activities in state, tribal, local, and territorial jurisdictions; (2) provides technical assistance and project officer support to grantees on evaluation and implementation of evidence- and practice-based interventions with the greatest reach and impact in state, tribal, local and territorial jurisdictions, including sustaining and scaling up programs, strategies, and activities over time in collaboration with public safety/law enforcement and other partners; (3) stimulates adoption and effective use of evidence-based strategies to prevent drug use and overdose, including addressing disproportionately affected populations; (4) collaborates with localities to develop, adapt, and adopt novel evidence-based strategies; (5) leverages epidemiology and surveillance data about drug overdose morbidity, mortality, and risk and protective factors to inform, tailor, and update prevention strategies across the life course; (6) monitors and evaluates the outcomes of division investments in state, tribal, local and territorial jurisdictions through program evaluation and applied prevention

science while widely disseminating findings to improve programmatic activities; (7) publishes the findings of programmatic evaluations in peer-reviewed literature and other reports and participates in scientific and professional conferences; (8) serves as a resource, collaborates, and provides comprehensive technical assistance and training to state, tribal, local and territorial jurisdictions and other partners to reduce drug use and overdose; (9) synthesizes relevant research, evaluation findings, evidence, and trends to develop practical guidance and resources that enhance overdose prevention programs, strategies, and activities; (10) uses research findings to develop or improve strategies, policies, and interventions to prevent and reduce overdose, and its risk factors and consequences; and (11) collaborates with state, tribal, local, and territorial jurisdictions, public safety/law enforcement, and other partners to use data to drive decision-making and action.

• *Drug-Free Communities Branch (CUHGE).* (1) Provides programmatic leadership and support to communities/localities and community coalitions under the Drug-Free Communities (DFC) Support and the Comprehensive Addiction and Recovery Act Local Drug Crisis (CARA Local Drug Crisis) Grant Programs; (2) provides comprehensive technical assistance and project officer support to the grant award recipients and serves as a resource and collaborator to implement community-based youth substance use prevention interventions capable of effecting and sustaining community-level change and addressing local youth opioid, methamphetamine, and/or prescription medication abuse; (3) works with the grant award recipients to promote the seven Strategies for Community-Level Change (Provide Information, Enhance Skills, Provide Support, Enhance Access or Reduce Barriers, Change Consequences, Change Physical Design, Modify/Change Policies); (4) collaborates with staff across the division, NCIPC, and CDC to maximize opportunities and the subject matter expertise available for the implementation of the DFC Support and CARA Local Drug Crisis Grant Programs; (5) monitors and evaluates the outcomes of division investments in communities/localities and community coalitions in concert with the White House Office of National Drug Control Policy using rigorous evaluation methods and widely disseminating findings to improve future programmatic activities; (6) synthesizes relevant research, evaluation findings, evidence, and trends to develop practical guidance and resources that enhance community-based youth substance use prevention programs, strategies, and activities and present this work at relevant scientific and professional conferences; (7) uses research findings to develop new strategies and interventions or to improve the impact of existing strategies and interventions to prevent and reduce youth substance use and associated risk factors and consequences; and (8) provides assistance, as needed, to communities/localities and community coalitions to prevent youth substance use.

• *Communications Branch (CUHGG).* (1) Oversees communication and marketing science, research, practice, and public affairs and ensures division materials meet HHS and CDC standards; (2) leads division's strategic planning for communication, marketing science, and public affairs programs and projects and analyzes context, situation, and environment to inform division-wide communication and marketing programs and projects; (3) ensures use of scientifically-sound research for marketing and communication programs and projects and accurate, accessible, timely, and effective translation of science for the use of multiple audiences; (4) leads identification and implementation of information dissemination channels and provides communication and marketing project management expertise; (5) collaborates with external organizations, including media organizations, to ensure that scientific findings and their implications for public health reach the intended audiences; (6) collaborates closely with divisions to produce materials tailored to meet the requirements of news and other media channels, including press releases, letters to the editor, public service announcements, television programming, video news releases, and other electronic and printed materials; (7) coordinates the development and maintenance of accessible public information through the internet, social media, and other applicable channels; (8) provides training and technical assistance in health communication, risk communication, social marketing, and public affairs; (9) manages or coordinates communication services such as internet/intranet, application development, social media, video production, graphics, photography, CDC name and logo use, and other brand management; (10) plans, develops, conducts, and evaluates cross-cutting communication projects and campaigns to inform the media, health professionals, the public, and others about drug use and overdose prevention; (11) develops and evaluates messages, materials, and health communication products to promote and disseminate scientific findings, evidence-based prevention strategies, priority recommendations, and guidelines through various platforms; (12) provides editorial services, including writing, editing, and technical editing; (13) facilitates internal communication to NCIPC staff and allied audiences; (14) serves as a liaison to internal and external groups to advance the division's mission and collaborates with NCIPC's Office of Communication and CDC's Office of the Associate Director for Communication on media relations, electronic communication, health media production, and brand management activities; (15) collaborates with the Center for Preparedness and Response and other CDC and the Agency for Toxic Substances and Disease Registry entities to fulfill communication responsibilities in emergency response situations; and (16) collaborates with other CDC CIOs to develop marketing communications targeted to populations that benefit from a cross-functional approach.

• *State Program Implementation Branch (CUHGH).* (1) Provides programmatic leadership, guidance, and technical assistance to state health departments on a range of surveillance and prevention strategies to reduce and prevent drug overdoses; (2) provides programmatic and scientific support to strengthen state award recipients capacity to implement surveillance and prevention interventions capable of effecting and sustaining state-level change to combat drug overdoses; (3) coordinates with staff across the division, NCIPC, and CDC to leverage subject matter expertise and opportunities for collaboration to enhance development, implementation, and evaluation of overdose surveillance and prevention strategies needed to combat the changing drug overdose epidemic; (4) monitors and evaluates the outcomes of the division's programmatic investments; (5) uses research findings to inform or improve strategies, policies, and interventions on surveillance and prevention strategies to combat drug overdoses through states and partners; and (6) synthesizes relevant research, evaluation findings, and trends to develop practical guidance and resources that enhance and expand state overdose prevention strategies and activities.

III. Delegations of Authority: All delegations and redelegations of authority made to officials and employees of affected organizational components will continue pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101)

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Chief Operating Officer, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 87 FR 36133, dated June 15, 2022) is amended to reflect the reorganization of the staff offices within the Office of the Director, Centers for Disease Control and Prevention (CDC). This reorganization approved by the Director, CDC, on July 5, 2022, will streamline the current organizational structure, improve the overall employee/supervisor ratio, eliminate workflow inefficiencies, and improve customer service.

I. Under Part C, Section C–B, Organization and Functions, the following organizational units are deleted in its entirety:

- Population Health and Healthcare Office (CAQE)
- Public Private Partnerships Activity (CAT14)
- Office of Communication Science (CAU13)
- Division of Public Affairs (CAUB)
- Office of the Director (CAUB1)
- Digital Media Branch (CAUBB)
- News Media Branch (CAUBC)
- External and Employee Relations Branch (CAUBD)
- Division of Communication Services (CAUD)
- Office of the Director (CAUD1)
- Broadcast Services Branch (CAUDB)
- Graphics Services Branch (CAUDC)
- CDC–INFO and Print Services Branch (CAUDD)
- Minority Health and Health Equity (CBE12)
- Diversity and Inclusion Management Program (CBEC)

II. Under Part C, Section C–B, Organization and Functions, make the following change:

- Update the functional statement for the CDC Washington Office (CAB)
- Establish the Office of the Associate Director for Global Health Diplomacy and Strategy (CAE)
- Establish the Office of the Director (CAE1)
- Establish the Division of Diplomacy, Policy, and External Partner Engagement (CAEB)
- Establish the Division of Global Health Strategic Planning and Coordination (CAEC)
- Establish the Division of Regional Engagement and Coordination (CAED)
- Update the functional statement for the Strategic Business Initiatives Unit (CAJ13)
- Retitle the Policy, Research, Analysis, and Development Office to the Office of Policy Analytics and Population Health (CAQB)
- Update the functional statement for the Office of the Chief of Staff (CAT)
- Update the functional statement for the Office of the Director (CAT1)
- Retitle the Meeting and Advance Team Management Activity to the Advance Team Activity (CAT12)
- Update the functional statement for the Budget and Operations Management Activity (CAT13)
- Establish the Policy, Performance, and Communications Activity (CAT16)
- Retitle the Division of Issues Management, Analysis and Coordination (CATC) to the Office of the Executive Secretariat (CATC)
- Update the functional statements for the Office of the Associate Director for Communication (CAU)
- Update the functional statement for the Office of the Director (CAU1)
- Establish the Office of Internal Communication and Engagement (CAU14)
- Establish the Office of External Engagement (CAU15)
- Establish the Office of Management and Operations (CAU16)
- Establish the Division of Communication Science and Services (CAUE)
- Establish the Office of the Director (CAUE1)
- Establish the Communication Science Branch (CAUEB)
- Establish the Communication Support and Services Branch (CAUEC)
- Establish the Division of Digital Media (CAUG)
- Establish the Office of the Director (CAUG1)
- Establish the Enterprise Technology Branch (CAUGB)
- Establish the Visual Design Branch (CAUGC)
- Establish the Content and Engagement Branch (CAUGD)
- Establish the Division of Media Relations (CAUH)
- Establish the Office of the Director (CAUH1)
- Establish the Media Support Branch (CAUHB)
- Establish the Broadcast and Multimedia Branch (CAUHC)
- Retitle the Office of Equal Employment Opportunity to the Office of Equal Employment Opportunity and Workplace Equity (CAV)
- Establish the Minority Health and Health Equity Program (CBED)

II. Under Part C, Section C–B, Organization and Functions, insert the following:

- *CDC Washington Office (CAB).* Directs and manages CDC interactions with Congress; (2) develops and executes legislative strategies; (3) collaborates with the Office of the Chief Operating Officer to develop and execute strategies in Congress that advance CDC appropriations priorities; (4) builds congressional relationships; (5) tracks and analyzes legislation; (6) develops strategy and leads response to congressional, Government Accountability Office (GAO), and Office of Inspector General (OIG) oversight; (7) builds relationships with government agencies and other organizations to advance agency priorities, with an emphasis on federal agencies; (8) protects and advances the agency's reputation, scientific credibility, and interests; (9) informs CDC leadership of current developments and provides insight into the Washington policy environment; (10) coordinates DC-area assignees and helps maximize their impact in supporting the agency's strategies and priorities; and (11) coordinates CDC's partnership activities as they relate to Washington-based, or Washington-focused organizations, and works across the agency to advance those relationships.
- *Office of the Associate Director for Global Health Diplomacy and Strategy (CAE).* The mission of the Office of the Associate Director for Global Health Diplomacy and Strategy is to advise and represent the CDC Director on agency-wide global health strategies and coordinate agency-wide policies and priorities focused on achieving maximum public health impact in support of the agency mission. CDC's mission is to protect Americans from

health, safety, and security threats, whether originating domestically or abroad, and the global health mission to improve and protect the health, safety, and security of Americans while reducing morbidity and mortality worldwide. This office: (1) advises CDC leadership in developing agency-wide global health and health security policies, programs, and strategies; (2) provides health diplomacy leadership to foster critical global relationships for CDC within and outside of the U.S. government (USG); (3) serves as the agency's global health representative throughout the USG and globally; (4) coordinates and supports diplomatic and strategic partner engagements across CDC, ensuring input and representation across relevant Centers, Institute, and Offices (CIOs) and programs; and (5) leads cross-CIO coordination to monitor and evaluate programs to measure progress toward USG global health and national security objectives.

• *Office of the Director (CAE1).* (1) Manages, directs, and evaluates Office of the Associate Director for Global Health Diplomacy and Strategy (OADGHDS) activities; (2) provides strategic advice to CDC leadership on agency direction and drives CDC to increase global health impact and health security; (3) leads the development of agency-wide global health strategies and coordinates policies and priorities; (4) leads the overall coordination of CDC global health security resources and ensures evaluation of their impact; (5) determines CDC's strategic regional engagement priorities for global health and health security; (6) supports communication needs of OADGHDS and the regional platforms; (7) coordinates CDC's global health communication strategy and public affairs media response across global health programs; (8) communicates with CDC budget and operations personnel on cross-cutting functions; (9) coordinates office budget development, implementation, tracking, and reporting; (10) oversees administrative functions such as strategic recruitment, personnel actions, training and employee development, space requests and allocation, procurement, and distribution of equipment and supplies; and (11) manages temporary staff in the office, including those on details or Intergovernmental Personnel Actions.

• *Division of Diplomacy, Policy and External Partner Engagement (CAEB).* (1) Manages global health and health security policy across CDC's global health programs by providing leadership, coordination, and awareness of CDC's global health and health security partnership and policymaker engagement strategy; (2) supports the Associate Director to lead agency-wide global health strategic and policy engagement; (3) coordinates diplomatic, partner, and policy engagements; (4) builds capacity throughout CDC for global engagement and health diplomacy to support the global health strategy; (5) establishes and maintains strategic partnerships at the leadership level with key organizations, government agencies, and individuals working on global health and health security; (6) develops and prepares congressional testimony, bill reports, and responses to requests for information; (7) coordinates cross-agency global health issues management; (8) supports engagement with regional platforms for policy, strategy and partnership; (9) coordinates cross-agency, high-profile visits and visits to field offices; (10) manages and tracks memorandums of understanding; (11) provides strategic leadership, direction, management, and policy guidance representing CDC's global interests with the United Nations/World Health Organization, HHS, the Department of Defense, the United States Agency for International Development, the Department of State, and other international or USG organizations; (12) advises CDC leadership on the status and impact of policies, potential policies (such as legislation or administration directives), or other highly visible actions likely to influence key strategic partner organizations; (13) ensures strategic representation of CDC and USG global health and health security interests in various required venues and in strategy and collaborations with CIOs; and (14) supports the Associate Director or other senior leaders when representing CDC or the CDC Director in high-level diplomatic and strategic policy engagements (including with regional and country directors).

• *Division of Global Health Strategic Planning and Coordination (CAEC).* (1) Advises the Associate Director and senior leadership on programmatic strategy; (2) develops and monitors a CDC global health strategy and regional strategies; (3) provides direction, standards, and technical assistance for resource planning, performance, and accountability; (4) responsible for coordination and accountability for CDC's global health resource portfolio (including high-level financial tracking, spend plan development and oversight, monitoring, staffing, and reporting); (5) provides leadership and facilitation across CIOs, country offices and regional offices for agency-level global health, monitoring and evaluation activities and reporting, including health security; (6) facilitates and coordinates across CIOs, programs, country and regional offices, ensuring that agency global health projects are complementary and effective; (7) organizes short- and long-term strategic planning activities for regions; (8) facilitates information sharing between programs and CDC leadership, regional offices, and country offices; (9) supports tracking of impact, deliverables and analyses of overarching global health work (including supplemental activities) at agency level; and (10) coordinates special initiative funding, activities, and reporting within the office.

• *Division of Regional Engagement and Coordination (CAED).* (1) Represents the CDC Director's priorities for global health strategy at a regional level; (2) works closely with CIOs to ensure strategic alignment of regional programs and activities; (3) collaborates with staff in U.S. missions and other partners to establish regional offices; (4) supports management and operations of the regional offices, including budget and staffing resource planning; (5) develops short- and long-term strategies based on regional health threats, in accordance with CDC global and regional priorities, strategies, and resources; (6) builds and strengthens relationships with key partners throughout the region and at CDC headquarters; and (7) at a regional level, serves as liaison between CDC leadership in the Unites States and overseas and international partners, including other USG agencies, high-ranking officials of foreign governments, public health agencies, multilateral organizations, and non-governmental organizations.

• *Strategic Business Initiatives Unit (CAJ13).* (1) Evaluates and conducts agency-wide enterprise risk monitoring and management; (2) develops and executes the annual Federal Managers' Financial Integrity Act program review; (3) conducts special reviews and appraises the adequacy and effectiveness of agency-wide practices and operations; (4) coordinates responses to the OIG hotline and other agency special reviews; (5) administers the Federal Advisory Committee Act program; (6) develops, coordinates, and formalizes CDC operational policies; (7) oversees the agency's records management program; (8) manages CDC's delegations of authority and organizational structures and functions; and (9) serves as the representative for the CDC Gift Review Panel.

• *Office of Policy Analytics and Population Health (CAQB).* (1) Serves CDC by amplifying the work of, with, and on behalf of the CDC Director, the Office of the Associate Director for Policy and Strategy Director (OADPS), and CIOs to accelerate improved population health, healthcare, and evidence-based policy analytics to inform decision-making; (2) focuses on building, scanning, assessing, leveraging, and translating evidence for the integration of policy, population health and health equity, and healthcare interventions; (3) strategically engages and collaborates with CDC CIOs and divisions, federal agencies, and other partner organizations to accelerate the uptake of evidence-based policy interventions across community settings and health systems (payers, providers, and purchasers); (4) supports CDC CIOs and divisions in analyzing policy strategies by considering broad implications, interactions, and unintended consequences while integrating policy and legal scans, health outcomes data, systems thinking, and economic analyses to determine what works for improving public health; (5) builds capacity agency-wide and externally for working in population health, healthcare, and evidence-based public health policy while ensuring that CDC staff have the skills needed to both analyze health and economic impacts of policy interventions and use those findings to inform programs' public health goals; (6) translates knowledge for policy, population health, and healthcare evidence by synthesizing, adapting, and distilling findings into actionable, practical, and understandable tools, resources, and messages for the intended audiences and decision-makers; (7) leads and supports the policy clearance process to increase awareness among CDC staff about what comprises evidence-based policy content and how to communicate effectively about policy and regulations related to health and healthcare; (8) supports priority topics, activities, and initiatives of the CDC Director, OADPS, and cross-CIO efforts with key internal and external entities (both federal and non-federal); and (9) applies innovative techniques to gain insights while identifying new population health and healthcare leadership strategies and elevating new policy approaches by considering equitable approaches, engaging untapped sectors, skills/capacities, analytic approaches, data, and methods.

• *Office of the Chief of Staff (CAT).* The Office of the Chief of Staff (OCoS) is accountable for providing strategic advice to the CDC Director and ensures proactive coordination of agency-wide priorities and policies in direct support of CDC's mission. The OCoS: (1) serves as the principal advisor to the CDC Director on internal and external affairs; (2) convenes key leadership for assessment, management, mitigation options, and resolution of issues and initiatives affecting CDC's priorities and goals; (3) provides information to senior management, as necessary, to make timely strategic and operational decisions; (4) assists in assuring that CDC viewpoints are appropriately represented in decision making processes; (5) supports leadership in the resolution of issues; (6) assists in determining CDC objectives and priorities; (7) provides a conduit for background information and updates on controversial or sensitive issues; (8) serves as one of the CDC Director's primary strategic liaisons with staff, partners, and the community at large; and (9) represents the Office of the Director on councils or CDC peer organizations, as well as with high ranking officials outside CDC, HHS, the Office of Management and Budget, and the White House.

• *Office of the Director (CAT1).* (1) Directs, manages, and coordinates the activities of the Office of the Chief of Staff; (2) provides leadership and direction to the Immediate Office of the Director; (3) oversees functions of the office; (4) develops goals and objectives, provides leadership, policy formation, oversight, communication support, and guidance in planning and implementation; (5) manages, prepares for, and conducts executive and senior level meetings, while identifying, triaging, supervising, and tracking subsequent action items; (6) serves as primary point of contact for the CDC Foundation including engagement of CDC leadership and coordination of key priorities; (7) oversees operational activities related to the Advisory Committee to the Director and its subcommittees and workgroups; (8) serves as the OD liaison during a CDC Emergency Operations Center (EOC) activation; (9) establishes and maintains visible and accessible communication opportunities across CDC and with the private sector; and (10) leads special projects for the CDC leadership team.

• *Advance Team Activity (CAT12).* (1) Coordinates and manages the CDC Director's schedule and travel and manages briefing materials; (2) participates in the development of CDC's strategies, priority areas, goals and objectives; (3) coordinates key partner requests for the CDC Director and senior leadership appearances at board meetings, special events, speaking engagements, and other external events; (4) maintains relationships with HHS and White House officials; and (5) manages special events and high-level visits.

• *Budget and Operations Management Activity (CAT13).* (1) Meets with CDC budget and operations personnel on cross-cutting functions on behalf of the OCoS; (2) coordinates the development, implementation (including spending plan) tracking, and reporting of the OCoS budget; and (3) executes administrative functions for the Immediate Office of the Director and Office of the Chief of Staff, including strategic recruitment, personnel and performance actions, training and employee development, travel, space requests and allocation, and procurement and distribution of equipment and supplies.

• *Policy, Performance and Communication Activity (CAT16).* (1) Coordinates, develops, recommends, and implements strategic planning and tracking for the Office of the Chief of Staff; (2) develops and coordinates performance management to ensure achievement of goals within the OCoS and the immediate Office of the Director; (3) participates in reviewing, coordinating, and preparing legislation, briefing documents, congressional testimony, and other legislative matters; (4) serves as primary contact for policy offices and officials across CDC; (5) coordinates the review and approval of Freedom of Information Act (FOIA) requests, GAO, and OIG reports, and related activities; (6) develops and strengthens strategic partnerships with key constituent groups; (7) facilitates communication between CDC and key partners; (8) collaborates with the CDC Office of the Associate Director for Communication on media relations, electronic communication, health media production, and brand management activities; (9) develops communication materials, including speeches, talking points, and presentations, for key officials in the OCoS and the immediate Office of the Director staff and audiences; (10) facilitates internal communication to the OCoS; and (11) executes special projects.

• *Office of the Executive Secretariat (CATC).* (1) Identifies and triages issues across OD in collaboration with agency leadership to ensure efficient responses to the Director's priority issues, and helps position CDC to take advantage of emerging opportunities; (2) supports key leadership in assessment, management, mitigation options, and resolution of issues and initiatives affecting CDC's priorities and goals, and ensures

controlled correspondence responses and reports reflect CDC/Agency for Toxic Substances and Disease Registry's (ATSDR)'s priorities and positions on critical public health issues; (3) establishes an environmental scanning system and network throughout CDC to identify urgent and high risk issues and opportunities related to the Director's priorities and coordinates the use of the official CDC/ATSDR-controlled correspondence tracking system throughout CDC; (4) cultivates strong relationships to facilitate effective coordination across CDC and with HHS; (5) communicates findings and status of current and ongoing issues, trends, and opportunities to senior leadership, CIOs, and HHS through formal advisories, alerts, and briefings; (6) conducts final clearance and quality assurance/control of controlled correspondence, select non-scientific policy documents, and a wide variety of documents that require the approval of various officials within HHS; (7) communicates with HHS Office of the Secretary on critical issues on behalf of the OCoS and serves as the point of contact with the HHS Immediate Office of the Secretary, Executive Secretariat for status of Secretary's controlled correspondence and review/clear of non-scientific documents; (8) assists leadership in identifying regulatory priorities and supports development of regulations; (9) serves as Chief Regulatory Officer and tracks and coordinates review/clearance of regulations under development; (10) serves as CDC's point of contact for the Office of the Federal Register and the Federal Document Management System and maintains all official records relating to the decisions and official actions of the Director; (11) serves as official record keeper for the Director's correspondence and non-scientific policy documents and ensures documents are maintained according to CDC's records retention policies and transferred to the National Archives and Records Administration, according to their statutes and guidelines; (12) manages the collection of the CDC Director's correspondence and documents in response to FOIA requests; (13) develops and distributes leadership reports, including the White House/HHS Weekly Cabinet Report and weekly situation reports on emerging issues impacting HHS and the White House; and (14) manages the electronic signature of the CDC Director and other OD executives, ensures consistent application of CDC correspondence standards and styles and ensures agency training and communication updates on official correspondence for and on behalf of the CDC Director.

• *Office of the Associate Director for Communication (CAU).* The mission of the Office of the Associate Director for Communication (OADC) is to enhance CDC's communication impact, manage the high visibility of the agency and its senior leaders, and guide public health messaging through support to programs. The office: (1) provides leadership, direction, support, and assistance to CDC's CIOs to implement communication strategies; (2) promotes clear, accessible, and inclusive communication; (3) conducts and promotes health communication science practices to address agency priorities; (4) oversees and manages CDC interactions with news media; (5) develops strategy and oversees communication response for crisis and agency priorities; (6) strategically protects and advances CDC's reputation, credibility and interests; (7) coordinates CDC partnerships to advance communication-related relationships; (8) develops, guides, and implements internal and external public affairs strategies and activities; (9) provides leadership on all aspects of digital communications; and (10) supports or provides communication services, including but not limited to broadcast, multimedia, public information, graphics and design elements, translation, and photography.

• *Office of the Director (CAU1).* (1) Manages, directs, and evaluates activities of the OADC; (2) makes sure CDC communication activities comply with HHS established policies; (3) communicates the value and benefits of CDC programs; (4) leads strategic communication activities addressing agency-wide priorities; (5) provides strategic communication support for CDC's emergency responses and the Joint Information Center (JIC); (6) provides reputation-management expertise and counsel; (7) provides leadership and guidance to communicate decisions made by CDC's leadership in an efficient and clear manner; (8) coordinates with CIOs on communication activities; (9) serves as the central point of contact for Office of the Director executive communication, including enterprise communication, speaking engagements, announcements, and speeches; (10) provides communication leadership on equity, healthy equity, diversity, inclusion, and accessibility initiatives; (11) provides leadership and guidance to manage and operate OADC's programs, including the areas of fiscal management, human capital, travel, and other administrative services; (12) develops and tracks annual budget and spend plan to fulfill CDC's communication priorities; (13) serves as OADC's primary point of contact with CDC's Office of Financial Resources on contracts and budget matters; and (14) ensures communication products authored by CDC staff members or published by CDC are released for public-use in a timely manner, are of the highest quality, and are scientifically sound, inclusive, and understandable.

• *Office of Internal Communication and Engagement (CAU14).* (1) Establishes and implements a strategy to increase clear communication between CDC leadership and employees; (2) ensures agency initiatives are effectively communicated across employee groups; (3) provides advice on internal communication strategy to other senior leaders across the agency; (4) leads development of internal content and strategies for all employee communication channels; (5) provides communication coordination and guidance related to equity, healthy equity, diversity, inclusion, and accessibility; (6) creates and implements employee special engagement activities and events; and (7) provides agency communication to former employees and retirees.

• *Office of External Engagement (CAU15).* (1) Manages CDC's scientific museum and learning center, the David J. Sencer CDC Museum; (2) implements strategies to educate visitors about the value of public health through museum exhibitions, CDC's historical collection, student programs, tours, and other engagement strategies; and (3) coordinates the use of the CDC exhibit for public health conferences.

• *Office of Management and Operations (CAU16).* (1) Provides leadership and guidance to manage and operate OADC's programs, including the areas of fiscal management, human capital, travel, and other administrative services; (2) develops and tracks OADC's annual budget and spend plan to fulfill CDC's communication priorities; (3) serves as OADC's primary point of contact with CDC's Office of Financial Resources on contracts and budget matters; and (4) coordinates efforts for strategic workforce development, talent management, and succession planning.

• *Division of Communication Sciences and Services (CAUE).* (1) Promotes the scientific practice of health communication and disseminates evidence-based knowledge to practitioners of health communication, marketing, and media; (2) provides agency-wide support for communication services including photography,

translation, and communication consultation/analysis leadership and support; (3) guides CIOs on applying measures of effectiveness for public health communication efforts; and (4) leads CDC's health literacy improvement work and Plain Writing Act implementation.

• *Office of the Director (CAUE1).* (1) Supports OADC's mission through the planning, development, implementation and evaluation of science-based health communication activities and programs; (2) serves as the principal advisor on the scientific basis for communication and marketing practice; and (3) provides leadership for ensuring communication service activities and products are of the highest quality.

• *Communication Science Branch (CAUEB).* (1) Promotes evidence-based health communication knowledge to practitioners of health communication, marketing, and media; (2) provides technical assistance on large or multidisciplinary projects to provide a consistent approach; (3) provides implementation for the Plain Writing Act; (4) guides, advises, and trains on plain language to make CDC health information inclusive, accessible, and understandable to audiences that may have specific health literacy and health equity needs; (5) advises on methods for gaining public input on health issues and priorities (*e.g.,* advisory mechanisms, focus groups, polling, legislative, and media tracking); (6) manages contract resources and provides analysis relative to audience segmentation and behavior; (7) distributes health communication research to interested professionals at CDC, its partners, and other stakeholders; (8) provides consultation and analysis of consumer research data to CIOs used for developing and evaluating health communication and marketing to specific audiences; and (9) manages clearances of CDC's public-facing communication materials with HHS and other relevant government entities as necessary.

• *Communication Support and Services Branch (CAUEC).* (1) Provides communication consultation and support services (*e.g.,* photography; multi-lingual translation; writing and editing); and (2) manages multi-year, multi-vendor CDC-wide communication contracts for CIOs.

• *Division of Digital Media (CAUG).* (1) Serves as the agency-wide lead for digital media technologies; (2) manages CDC digital media communication activities; (3) develops standards and policies for digital media including web, social media, hotlines, mobile applications, and visual design; (4) manages CDC's digital communications systems and architectures for Web, CDC–INFO, intranet, mobile sites and applications, and social media (*i.e.,* Web Content Management System, mobile services, *CDC.gov* servers, search engine, content syndication); and (5) provides operations support and management for CDC's external website, intranet, CDC–INFO, and CDC's main social media channels, including *CDC.gov,* CDC en Español, mobile apps, CDC Connects, and emerging technologies; and (6) manages CDC visual design services products.

• *Office of the Director (CAUG1).* (1) Serves as the agency-wide principal advisor for digital media communication technologies through planning, development, implementation, and evaluation strategies; (2) represents CDC on HHS and other government digital councils; (3) coordinates digital activities with HHS and operating divisions digital communication staff; and (4) provides leadership and guidance on digital communication strategies to CDC leadership and the OADC Director.

• *Enterprise Technology Branch (CAUGB).* (1) Leads the selection, design, development, and evaluation of digital media technologies; (2) manages CDC's digital communications systems and architectures for web, intranet, CDC–INFO, mobile sites and applications, and social media (*i.e.,* eb Content Management System, mobile services, *CDC.gov* servers, search engine, content syndication); (3) ensures metrics and user-centered design is part of all digital media efforts; (4) provides training and support to CIO staff using digital communication system; (5) supports use of technology to all OADC programs and offices; and (6) manages information technology governance for OADC systems and tools.

• *Visual Design Branch (CAUGC).* (1) Leads and coordinates agency-wide visual design activities; (2) produces digital creative material to maintain, strengthen, and expand the CDC brand across all communication channels; (3) develops and produces graphic illustrations, including scientific posters, infographics, desktop published documents, visual presentations, conference materials, brochures, fact sheets, newsletters, web-ready graphics, and exhibits; (4) provides creative direction and brand management guidance for graphics products, manages guidelines and standards for quality and consistency across the agency; and (5) optimizes visual design for digital delivery.

• *Content and Engagement Branch (CAUGD).* (1) Provides operations support and management for CDC's website, intranet, CDC–INFO, and CDC's main social media channels, including *CDC.gov* top tier, CDC en Español, mobile apps, and CDC Connects; (2) coordinates digital media governing bodies (Web Council, Social Media Council, and related Communities of Practice and workgroups); (3) provides the public with accessible, accurate, and credible health information through multiple channels; (4) ensures web, social media, and CDC–INFO call center activities adhere to best practices for quality assurance, customer satisfaction, performance, and health impact; (5) provides 24/7 surge support for web, social media and the 1–800 call center for public health emergencies and establishes policies and procedures with the EOC and JIC; and (6) analyzes digital platform data to inform communication planning and programs throughout the agency.

• *Division of Media Relations (CAUH).* (1) Provides agency-wide strategy, implementation and evaluation of news media and broadcast services; (2) provides content, policy review, and clearance of news media materials with HHS including but not limited to press releases, statements, rollout plans, press kits, talking points, letters to editors, and fact sheets; (3) manages and responds to news media requests for access to CDC, its subject matter experts, reports, and publications; (4) provides leadership and guidance for external public relations strategies; (5) provides leadership, technical assistance, and consultation in risk communication and reputational management; (6) ensures broadcast functionality/broadcast engineering support for CDC initiatives and continuity of operations; (7) develops and disseminates video and audio production; (8) supports new multimedia communication channels (*e.g.* HHS TV, CDC TV, radio/TV broadcast, podcast, webcast, and videos-on-demand) for CDC programs; and (9) provides support for broadcast delivery press conferences and media interviews.

• *Office of the Director (CAUH1).* (1) Develops the strategic priorities and manages the program activities of the division; (2) leads the agency's media relations and broadcast activities; (3) provides guidance and recommendations on effective use of news media to CDC's director, leadership, and CIOs; (4) coordinates messaging and rollouts for major announcements; (5) collaborates and coordinates with other federal organizations and external stakeholders on media relations and broadcast services; (6) establishes and maintains strategic partnerships with key

organizations and individuals working on public health policies and programs; and (7) serves as liaison on news and digital media policies, procedures, and clearances to HHS' Office of Assistant Secretary for Public Affairs.

• *Media Support Branch (CAUHB).* (1) Provides leadership in the development and use of news media strategies and practices; (2) obtains HHS clearance of news media materials for media outlets and the public (including, but not limited to, press releases, statements, rollout plans, press kits, talking points, letters to editors, and fact sheets); (3) provides media relations strategy, monitoring, and support for CDC leadership; (4) promotes health information to the public through various channels, including digital channels to reach the news media; (5) manages and responds to news media requests for access to CDC subject matter experts, reports, and publications; (6) works with CIOs to identify news media opportunities and responds to issues that arise; (7) provides news media/spokesperson training and technical assistance to CDC staff; (8) supports messaging and rollouts for major announcements; and (9) develops and supports long lead media opportunities and responds to requests.

• *Broadcast and Multimedia Branch (CAUHC).* (1) Develops and produces audio, video, and multimedia health information products; (2) provides CDC with global communication capacity for high-definition broadcast, webcast, and emerging social and health media delivery channels; (3) supports the EOC to provide response capacity and capability for emergency broadcasts; (4) develops and delivers health information broadcast programs, including podcasts, CDC–TV and other channels for the public, in coordination with HHS; (5) creates and produces communication using new forms of social and electronic media; (6) collaborates with other areas of CDC to review and recommend potential audio and video technology; and (7) develops distance education, health communication, and training products to reach public health partners and professionals.

• *Office of Equal Employment Opportunity and Workplace Equity (CAV).* The Office of Equal Employment Opportunity and Workplace Equity (OEEOWE) is located in the Office of the Director and serves as the principal advisor to the CDC Director on all equal employment opportunity matters. The mission is to ensure an environment that promotes equal employment opportunity for all individuals, eradicates discrimination and harassment in all forms, and promotes an inclusive environment that empowers employees to participate and support CDC's global health mission. In carrying out its mission, OEEOWE: (1) develop and recommend CDC-wide equal employment opportunity policies, goals, and priorities to carry out the directives of the Office of Personnel Management, Equal Employment Opportunity Commission, and HHS equal employment opportunity policies and requirements, mandated by Title VII, Civil Rights Act of 1964; Age Discrimination in Employment Act; Rehabilitation Act of 1973; Civil Service Reform Act; 29 CFR 1614, Federal Sector Equal Employment Opportunity; Executive Order 11478, Equal Employment Opportunity in the Federal Government; (2) provides leadership, direction, and technical guidance to CDC managers and staff for the development of comprehensive programs and plans; (3) coordinates and evaluates equal employment opportunity operations and plans, including on affirmative action; (4) develops plans, programs, and procedures to assure the prompt receipt, investigation, and resolution of complaints of alleged discrimination by reason of race, sex, color, religion, disability, national origin, age, or by reason of reprisal or retaliation; (5) coordinates the development of comprehensive special emphasis programs to assure ensure equal opportunity for employment, promotion, and training for all segments of the workforce; (6) identifies needs for OEEOWE functions within CDC and assures the development of a training curriculum for CDC supervisory personnel; (7) prepares or coordinates the preparation of reports and analyses designed to reflect the status of employment of women and minorities at CDC and communicates with HHS and other organizations concerned with equal employment opportunity; (8) ensures effective coordination of activities with CDC personnel and training programs; (9) develops a system of structured reviews and evaluations of activities to assure effective operations and accountability; (10) assists in assuring the adequate allocation of resources including the establishment of guidelines for recruiting, selection, and training of agency personnel; (11) develops and directs research and evaluation studies to focus on and improve the effectiveness of program activities; (12) provides direction for the agency's alternative dispute resolution activities; (13) provides direct support for program activities; (14) provides and coordinates leadership for diversity, equity, inclusion, and accessibility issues; and (15) ensures diversity, equity, inclusion, and accessibility policies, procedures and practices are in compliance with relevant laws, regulations, executive orders, etc., and supports employees in reaching their full potential so that they may better accomplish CDC's mission and be effective guardians of public health.

• *Minority Health and Health Equity Program (CBED).* Minority Health and Health Equity Program will: (1) provide scientific, programmatic, policy, partnership, and systems change leadership to reduce and eliminate health disparities among populations who are underserved; (2) enhance the overall health of the American public by reducing the burden of preventable disease, illness, and injury through initiatives geared toward people from racial and ethnic minority groups within and outside of the United States; (3) address interconnections among social categories such as race/ethnicity, gender, class, and national origin that create overlapping systems of advantage and disadvantage linked to health disparities; (4) facilitate the implementation of policies across CDC that promote the elimination of health disparities, expand access to vital conditions for health and well-being, and advance health equity; (5) assure implementation of proven strategies across CDC programs that reduce health disparities in communities of highest risk; (6) advance the science and practice of health equity; and (7) collaborate with state, tribal, local, territorial, national, and global partners to promote the reduction of health inequalities.

III. *Delegations of Authority:* All delegations and redelegations of authority made to officials and employees of affected organizational components will continue pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101)

Robin D. Bailey Jr.,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–15156 Filed 7–14–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10511, CMS–10788, CMS–10052, CMS–460 and CMS–10105]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement without change; *Title of Information Collection:* Medicare Coverage of Items and Services in FDA Investigational Device Exemption Clinical Studies—Revision of Medicare Coverage; *Use:* Section 1862(m) of the Social Security Act (and regulations at 42 CFR Subpart B (sections 405.201–405.215) allows for payment of the routine costs of care furnished to Medicare beneficiaries in a Category A investigational device exemption (IDE) study and authorizes the Secretary to establish criteria to ensure that Category A IDE trials conform to appropriate scientific and ethical standards. Medicare does not cover the Category A device itself because Category A (Experimental) devices do not satisfy the statutory requirement that Medicare pay for devices determined to be reasonable and necessary. Medicare may cover Category B (Non-experimental) devices, and associated routine costs of care, if they are considered reasonable and necessary and if all other applicable Medicare coverage requirements are met. Under the current centralized review process, interested parties (such as study sponsors) that wish to seek Medicare coverage related to Category A or B IDE studies have a centralized point of contact for submission, review and determination of Medicare coverage IDE study requests. In order for CMS (or its designated entity) to determine if the Medicare coverage criteria are met, as described in our regulations, CMS (or its designated entity) must review documents submitted by interested parties or study sponsors. Such information submitted will be a FDA IDE approval letter, IDE study protocol, IRB approval letter, National Clinical Trials (NCT) number, and Supporting materials as needed. *Form Number:* CMS–10511 (OMB control number: 0938–1250); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 116; *Total Annual Responses:* 116; *Total Annual Hours:* 232. (For policy questions regarding this collection contact Xiufen Sui at 410–786–3136.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Prescription Drug and Health Care Spending; *Use:* On December 27, 2020, the Consolidated Appropriations Act, 2021 (CAA) was signed into law. Section 204 of Title II of Division BB of the CAA added parallel provisions at section 9825 of the Internal Revenue Code (the Code), section 725 of the Employee Retirement Income Security Act (ERISA), and section 2799A–10 of the Public Health Service Act (PHS Act) that require group health plans and health insurance issuers offering group or individual health insurance coverage to annually report to the Department of the Treasury, the Department of Labor (DOL), and the Department of Health and Human Services (HHS) (collectively, ''the Departments'') certain information about prescription drug and health care spending, premiums, and enrollment under the plan or coverage. This information will support the development of public reports that will be published by the Departments on prescription drug reimbursements for plans and coverage, prescription drug pricing trends, and the role of prescription drug costs in contributing to premium increases or decreases under the plans or coverage. The 2021 interim final rules, ''Prescription Drug and Health Care Spending'' issued by the Departments and the Office of Personnel Management (OPM) implement the provisions of section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act, as enacted by section 204 of Title II of Division BB of the CAA. OPM joined the Departments in issuing the 2021 interim final rules, requiring Federal Employees Health Benefits (FEHB) carriers to report information about prescription drug and health care spending, premiums, and plan enrollment in the same manner as a group health plan or health insurance

issuer offering group or individual health insurance coverage. *Form Number:* CMS–10788 (OMB control number: 0938–1405); *Frequency:* Annual; *Affected Public:* Private Sector; *Number of Respondents:* 356; *Total Annual Responses:* 356; *Total Annual Hours:* 1,684,080. (For policy questions regarding this collection, contact Christina Whitefield at 301–492–4172.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Recognition of Pass-Through Payment for Additional (New) Categories of Devices under the Outpatient Prospective Payment System and Supporting Regulations; *Use:* The transitional pass-through provision provides a way for ensuring appropriate payment for new technologies whose use and costs are not adequately represented in the base year claims data on which the outpatient PPS is constructed as required by law. Categories of medical devices will receive transitional pass-through payments for 2 to 3 years from the date payments are initiated for the category. However, the underlying provision is permanent and provides an on-going mechanism for reflecting timely introduction of new items into the payment structure.

Interested parties such as hospitals, device manufacturers, pharmaceutical companies, and physicians apply for transitional pass-through payment for certain items used with services covered in the outpatient PPS. After we receive all requested information, we evaluate the information to determine if the creation of an additional category of medical devices for transitional pass-through payments is justified. We may request additional information related to the proposed new device category, as needed. We advise the applicant of our decision, and update the outpatient PPS during its next scheduled quarterly payment update cycle to reflect any newly approved device categories. We list below the information that we require from all applicants. The following information is required to process requests for additional categories of medical devices for transitional pass-through payments. *Form Number:* CMS–10052 (OMB control number: 0938–0857); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profits; *Number of Respondents:* 10; *Number of Responses:* 10; *Total Annual Hours:* 160. (For questions regarding this collection contact Kimberly A. Campbell at 410–786–2289.)

4. *Type of Information Collection Request:* Revision of a currently approved collection: *Title of Information Collection:* Medicare Participating Physician or Supplier Agreement; *Use:* Form CMS–460 is the agreement a physician, supplier, or their authorized official signs to become a participating provider in Medicare Part B. By signing the agreement to participate in Medicare, the physician, supplier, or their authorized official agrees to accept the Medicare-determined payment for Medicare covered services as payment in full and to charge the Medicare Part B beneficiary no more than the applicable deductible or coinsurance for the covered services. For purposes of this explanation, the term ''supplier'' means certain other persons or entities, other than physicians, that may bill Medicare for Part B services (*e.g.,* suppliers of diagnostic tests, suppliers of radiology services, durable medical suppliers (DME) suppliers, nurse practitioners, clinical social workers, physician assistants). Institutions that render Part B services in their outpatient department are not considered ''suppliers'' for purposes of this agreement. *Form Number:* CMS–460 (OMB control number: 0938–0373); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profits; *Number of Respondents:* 36,000; *Number of Responses:* 36,000; *Total Annual Hours:* 9,000. (For questions regarding this collection contact Mark G. Baldwin at 410–786–8139.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* National Implementation of the In-Center Hemodialysis CAHPS Survey; *Use:* The national implementation of the ICH CAHPS Survey is designed to allow third-party, CMS-approved survey vendors to administer the ICH CAHPS Survey using mail-only, telephone-only, or mixed (mail with telephone follow-up) modes of survey administration. Experience from previous CAHPS surveys shows that mail, telephone, and mail with telephone follow-up data collection modes work well for respondents, vendors, and health care providers. Any additional forms of information technology, such as web surveys, is under investigation as a potential survey option in this population.

Data collected in the national implementation of the ICH CAHPS Survey are used for the following purposes:

- To provide a source of information from which selected measures can be publicly reported to beneficiaries as a decision aid for dialysis facility selection.
- To aid facilities with their internal quality improvement efforts and external benchmarking with other facilities.
- To provide CMS with information for monitoring and public reporting purposes.
- To support the ESRD Quality Improvement Program.

Form Number: CMS–10105 (OMB control number: 0938–0926); *Frequency:* Semi Annually; *Affected Public:* Individuals and Households; *Number of Respondents:* 103,500; *Total Annual Responses:* 621,000; *Total Annual Hours:* 55,890. (For policy questions regarding this collection contact Israel H. Cross at 410–786–0619.)

Dated: July 12, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–15175 Filed 7–14–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–1615]

Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products—Content and Format; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products—Content and Format.'' This guidance provides recommendations for developing the content and format of an Instructions for Use (IFU) document for human prescription drug and biological products, as well as drug-led or biologic-led combination products submitted under a new drug application (NDA) or a biologics license application (BLA). The IFU is written for patients (or their caregivers) who use drug products that have complicated or detailed patient-use instructions. The recommendations in this guidance are intended to help ensure that patients receive clear and concise information that is easily understood for the safe and

effective use of such products. This guidance finalizes the draft guidance issued on July 2, 2019, entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format.''

DATES: The announcement of the guidance is published in the **Federal Register** on July 15, 2022.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–1615 for ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Chris Wheeler, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3330, Silver Spring, MD 20993, 301–796–0151; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products—Content and Format.'' The recommendations in this guidance are intended to help ensure that patients receive clear and concise information that is easily understood for the safe and effective use of such products and to help provide consistency to the content and format of IFU documents.

The IFU is a form of prescription drug labeling. For drugs for which self-administration may be complicated (such as requiring the patient to perform multiple steps to prepare, administer, store, and/or dispose of the drug), the IFU is intended to give directions that are clear and understandable for patients, and therefore, promote the safe and effective use of that drug. For example, IFUs may be appropriate for a drug product with one set of dosing instructions for adult patients and another set for pediatric patients. The IFU is developed by the applicant, reviewed and approved by FDA, and provided to patients when the drug product is dispensed.

This guidance finalizes the draft guidance entitled ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products and Drug-Device and Biologic-Device Combination Products—Content and Format,'' issued on July 2, 2019 (84 FR 31598). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include a change in title in addition to editorial changes to improve clarity.

This guidance is being issued consistent with FDA's good guidance

practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Instructions for Use—Patient Labeling for Human Prescription Drug and Biological Products—Content and Format.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 201 have been approved under OMB control number 0910–0572; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: July 8, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–15161 Filed 7–14–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3031]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Tobacco Products, User Fees, Requirements for the Submission of Data Needed To Calculate User Fees for Domestic Manufacturers and Importers of Tobacco Products

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 15, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted 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 OMB control number for this information collection is 0910–0749. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonnalynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Tobacco Products, User Fees, Requirements for the Submission of Data Needed To Calculate User Fees for Domestic Manufacturers and Importers of Tobacco Products

OMB Control Number 0910–0749—Extension

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) (Pub. L. 111–31) was signed into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) and granted FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health generally and to reduce tobacco use by minors.

FDA issued a final rule on May 10, 2016 (81 FR 28707) that requires domestic manufacturers and importers of cigars and pipe tobacco to submit information needed to calculate the amount of user fees assessed under the FD&C Act (*https://www.govinfo.gov/content/pkg/FR-2016-05-10/pdf/2016-10688.pdf*). FDA expanded its authority over tobacco products by issuing another final rule entitled ''Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products'' (Deeming rule; May 10, 2016, 81 FR 28974), deeming all products that meet the statutory definition of ''tobacco product,'' except accessories of the newly deemed tobacco products, to be subject to the FD&C Act (*https://www.govinfo.gov/content/pkg/FR-2016-05-10/pdf/2016-10685.pdf*). The Deeming rule, among other things, subjected domestic manufacturers and importers of cigars and pipe tobacco to the FD&C Act's user fee requirements. Consistent with the Deeming rule and the requirements of the FD&C Act, the user fee final rule requires the submission of the information needed to calculate user fee assessments for each manufacturer and importer of cigars and pipe tobacco to FDA.

As noted, FDA issued a final rule that requires domestic tobacco product manufacturers and importers to submit information needed to calculate the amount of user fees assessed under the FD&C Act. The U.S. Department of Agriculture (USDA) had been collecting this information and provided FDA with the data the Agency needed to calculate the amount of user fees assessed to tobacco product manufacturers and importers. USDA ceased collecting this information in fiscal year 2015 (October 2014). USDA's information collection did not require OMB approval, per an exemption by Public Law 108–357, section 642(b)(3). Consistent with the requirements of the FD&C Act, FDA requires the submission of this information to FDA. FDA took this action to ensure that the Agency continues to have the information needed to calculate, assess, and collect

user fees from domestic manufacturers and importers of tobacco products.

Section 919(a) of the FD&C Act (21 U.S.C. 387s(a)) requires FDA to ''assess user fees on, and collect such fees from, each manufacturer and importer of tobacco products'' subject to the tobacco product provisions of the FD&C Act (chapter IX of the FD&C Act). The total amount of user fees to be collected for each fiscal year is specified in section 919(b)(1) of the FD&C Act and, under section 919(a), FDA is to assess and collect a proportionate amount each quarter of the fiscal year. The FD&C Act provides for the total assessment to be allocated among the classes of tobacco products. The class allocation is based on each tobacco product class's volume of tobacco product removed into commerce. Within each class of tobacco products, an individual domestic manufacturer or importer is assessed a user fee based on its share of the market for that tobacco product class.

To make reporting requirements for this collection easier for respondents, FDA offers respondents the ability to provide their user fee submission information via an electronic form (Form FDA 3852). To learn more about the electronic submission process and download Form FDA 3852 respondents may go to: *https://www.fda.gov/tobacco-products/manufacturing/electronic-submissions-tobacco-products.*

In the **Federal Register** of November 19, 2021 (86 FR 64948), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1150.5(a), (b)(1), and (2), and Form FDA 3852; General identifying information provided by manufacturers and importers of FDA regulated tobacco products and identification and removal information (monthly)	700	12	8,400	3	25,200
1150.5(b)(3); Certified copies (monthly)	700	12	8,400	1	8,400
1150.13; Submission of user fee information (identifying information, fee amount, etc.) (quarterly)	376	4	1,504	1	1,504
1150.15(a); Submission of user fee dispute (annually)	5	1	5	10	50
1150.15(d); Submission of request for further review of dispute of user fee (annually)	3	1	3	10	30
Total					35,184

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Recordkeeping burden hours for § 1150.5(a) and (b), Form FDA 3852, and § 1150.13 appearing in the notice published in the **Federal Register** on November 19, 2021, are obsolete due to fiscal year (FY) 2021 data. Table 1 of this document contains the updated estimates.

FDA estimates that entities will submit tobacco product user fee reports for approximately 700 Alcohol and Tobacco Tax and Trade Bureau (TTB) permits in a given month. The permit count was derived from aggregate data of active permit holders provided by the TTB and reflects that in FY21, there was an average of 234 total permitted manufacturers and 466 permitted importers reporting tobacco user fees over all tobacco product types for which TTB assesses excise taxes (including cigarettes, cigars, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco).

FDA estimates it will take 3 hours for each of these submission types for a total of 25,200 hours annually. Under § 1150.5(b)(3), these respondents are also expected to provide monthly certified copies of the returns and forms that relate to the removal of tobacco products into domestic commerce and the payment of Federal excise taxes imposed under chapter 52 of the Internal Revenue Code of 1986 to FDA. We estimate that each monthly report will take 1 hour for a total of 8,400 hours annually.

The estimate of 376 respondents required to submit payment of user fee information under § 1150.13 reflects an average across the 4 quarters for FY21 assessments issued to entities. FDA estimates the quarterly submission will take approximately 1 hour for a total of 1,504 hours annually.

FDA estimates that five of those respondents assessed user fees will dispute the amounts under § 1150.15(a), for a total amount of 50 hours. FDA also estimates that three respondents who dispute their user fees will ask for further review by FDA under § 1150.15(d), for a total amount of 30 hours. FDA has received nine dispute submissions since fiscal year 2015. Based on this data, the Agency does not believe we will receive more than five disputes and three requests for further reviews in the next 3 years.

FDA estimates the total annual burden for this collection of information is 35,184 hours. The estimated burden for the information collection reflects an overall decrease of 444 hours. We attribute this adjustment to a slight decrease in the number of entities submitting tobacco user fee information to FDA.

Dated: July 8, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–15157 Filed 7–14–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0412]

Revocation of Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection and/or Diagnosis of COVID–19; Availability

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorization (EUA) (the Authorization) issued to ScienCell Research Laboratories (ScienCell) for the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RT–qPCR) Detection

Kit. FDA revoked this Authorization under the Federal Food, Drug, and Cosmetic Act (FD&C Act). The revocation, which includes an explanation of the reasons for revocation, is reprinted in this document.

DATES: The Authorization for the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RT–qPCR) Detection Kit is revoked as of June 7, 2022.

ADDRESSES: Submit a written request for a single copy of the revocation to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the revocation may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocation.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Ross, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993–0002, 240–402–8155 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. On April 3, 2020, FDA issued an EUA to ScienCell for the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RT–qPCR) Detection Kit, subject to the terms of the Authorization. Notice of the issuance of this Authorization was published in the **Federal Register** on June 5, 2020 (85 FR 34638), as required by section 564(h)(1) of the FD&C Act. Subsequent updates to the Authorization were made available on FDA's website. The authorization of a device for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2) of the FD&C Act, be revoked when the criteria under section 564(c) of the FD&C Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the FD&C Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the FD&C Act).

II. EUA Revocation Request

In a request received by FDA on June 2, 2022, ScienCell requested revocation of, and on June 7, 2022, FDA revoked, the Authorization for the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RT–qPCR) Detection Kit. Because ScienCell notified FDA that ScienCell decided to discontinue distribution of the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RTqPCR) Detection Kit and requested FDA revoke the EUA for the ScienCell SARS-CoV–2 Coronavirus Real-time RT–PCR (RT–qPCR) Detection Kit, FDA has determined that it is appropriate to protect the public health or safety to revoke this Authorization.

III. Electronic Access

An electronic version of this document and the full text of the revocation is available on the internet at *https://www.regulations.gov/.*

IV. The Revocation

Having concluded that the criteria for revocation of the Authorization under section 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the EUA of ScienCell for the ScienCell SARS–CoV–2 Coronavirus Real-time RT–PCR (RTqPCR) Detection Kit. The revocation in its entirety follows and provides an explanation of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

U.S. FOOD & DRUG ADMINISTRATION

June 7, 2022

Yongjiang Daniel Li, Ph.D.
Associate Director, Molecular Biology Division
ScienCell Research Laboratories
1610 Faraday Avenue
Carlsbad, CA 92000
Re: Revocation of EUA200079

Dear Dr. Li:

This letter is in response to the request from ScienCell Research Laboratories ("ScienCell"), received on June 2, 2022, that the U.S. Food and Drug Administration (FDA) revoke the EUA for the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit issued on April 3, 2020, and amended on June 5, 2020, September 22, 2020, and September 23, 2021. ScienCell indicated that it has decided to discontinue distribution of the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit and there is not any viable/non-expired product remaining in distribution.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revoked when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because ScienCell has notified FDA that it has decided to discontinue distribution of the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit and requested FDA revoke the EUA for the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization. Accordingly, FDA hereby revokes EUA200079 for the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit, pursuant to section 564(g)(2)(C) of the Act. As of the date of this letter, the ScienCell SARS-CoV-2 Coronavirus Real-time RT-PCR (RT-qPCR) Detection Kit is no longer authorized for emergency use by FDA.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Sincerely,

/s/

Jacqueline A. O'Shaughnessy, Ph.D.
Acting Chief Scientist
Food and Drug Administration

Dated: July 8, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–15160 Filed 7–14–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; Molecular and Cellular Aspects of Obesity and Metabolic Disease.

Date: July 26, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raul Rojas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, Bethesda, MD 20892, (301) 451–6319, *rojasr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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 12, 2022.

Miguelina Perez,

Program Analyst,Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15171 Filed 7–14–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2022–N031; FXES11130100000–223–FF01E00000]

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before August 15, 2022.

ADDRESSES:

Document availability and comment submission: Submit a request for a copy of the application and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name and application number (*e.g.,* Dana Ross, ESPER0001705):

- *Email: permitsR1ES@fws.gov.*
- *U.S. Mail:* Marilet Zablan, Regional Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Regional Recovery Permit Coordinator, Ecological Services, (503) 231–6131 (phone); *permitsR1ES@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
ES22353B	Center for Natural Lands Management, Temecula, CA.	Taylor's Checkerspot (*Euphydryas editha taylori*).	Oregon and Washington.	Harass by survey, monitor, capture, handle, and release.	Amend.
ES19076C	Guam Department of Agriculture, Mangilao, GU.	Mariana eight-spot butterfly (*Hypolimnas octocula marianensis*).	Guam	Harass by capture, handle, survey, captive propagation, and release.	Amend.
ES35731D	Pūlama Lānai, Lānai City, HI	Band-rumped storm-petrel (*Oceanodroma castro*), Hawaiian petrel (*Pterodroma sandwichensis*).	Hawaii	Harass by survey, monitor, predator control, and salvage.	Amend.
PER0007997	University of Washington Botanic Gardens, Seattle, WA.	*Hackelia venusta* (Showy stickseed), *Sidalcea oregana* var. *calva* (Wenatchee Mountains checkermallow).	Washington ..	Remove/reduce to possession—survey, collect seeds, propagate, outplant, and monitor.	Amend.
PER0042992	Tyler Breech, Idaho State University, Pocatello, ID.	Lost River sucker (*Deltistes luxatus*), Shortnose sucker (*Chasmistes brevirostris*).	Oregon	Harass by survey, capture, handle, and release.	New.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to an applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Marilet A. Zablan,

Regional Program Manager for Restoration and Endangered Species Classification, Pacific Region.

[FR Doc. 2022–15132 Filed 7–14–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. DO1–2022–0003; 223D0102DM, DS6CS00000, DLSN00000.000000, DX.6CS25]

Request for Information To Inform Interagency Working Group on Mining Regulations, Laws, and Permitting

AGENCY: Department of the Interior.

ACTION: Notice of public listening sessions and extension of public comment period.

SUMMARY: The Department of the Interior is announcing the dates of public listening sessions the Interagency Working Group on Mining Regulations, Laws, and Permitting is holding to gather information and develop recommendations for improving Federal hardrock mining regulations, laws, and permitting processes. We are also extending the comment period on our March 31, 2022, request for information notice announcing the formation of an interagency working group to gather information and develop recommendations for improving Federal hardrock mining regulations, laws, and permitting processes.

DATES: The public comment period on our request for information notice that published on March 31, 2022, at 86 FR 18811 is extended. Interested persons are invited to submit comments by 11:59 p.m. August 30, 2022.

The interagency group will host virtual public listening sessions at the dates and times below.

- 12:00 p.m.–1:30 p.m. ET Tuesday, July 19th
- 1:00 p.m.–2:30 p.m. ET Thursday, July 21st
- 1:00 p.m.–2:30 p.m. ET Tuesday, July 26th

Please register at the following link to receive further communication regarding the details of the listening session, including an invite.

https://blm.zoomgov.com/webinar/register/WN_7aYgS_MQQpSTKRoB88n03A

https://blm.zoomgov.com/webinar/register/WN_DECbin4eQ_CwYEpEOM3lpQ

https://blm.zoomgov.com/webinar/register/WN_KUjEwhI-Q5qB2ZGYtBbMYA

Listening sessions may end before the time noted above if all those participating have completed their oral comments.

ADDRESSES: Comments may be submitted through *https://www.regulations.gov* and will be available for public viewing and inspection. In the Search box, enter the docket number presented above in the document headings. For best results, do not copy and paste the number; instead, type the docket number into the Search box using hyphens. Then, click on the Search button. You may submit a comment by clicking on ''Comment.'' Comments may also be submitted by mail using the following address: Bureau of Land Management, Division of Solid Minerals, 1849 C Street NW, Room 5645, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Steven Feldgus, Deputy Assistant Secretary, Land and Minerals Management, (202) 208–6734, or by email at *miningreform@ios.doi.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 for contacting Mr. Feldgus. 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: On February 24, 2021, President Biden signed Executive Order (E.O.) 14017, ''America's Supply Chains.'' On June 8, 2021, the White House released the 100-Day reviews directed by E.O. 14017, which included a recommendation for the Federal government to establish ''an interagency team with expertise in mine permitting and environmental law to identify gaps in statutes and regulations that may need to be updated to ensure new production meets strong environmental standards throughout the lifecycle of the project; ensure meaningful community consultation and consultation with tribal nations, respecting the government-to-government relationship, at all stages of the mining process; and examine opportunities to reduce time, cost, and risk of permitting without compromising these strong environmental and consultation benchmarks.'' [1]

On September 16, 2021, the Department of the Interior (Department) received a petition for rulemaking pursuant to the Department's regulations at 43 CFR part 14 from 9 Tribal and 31 conservation groups requesting ''a rulemaking to strengthen and modernize [the Bureau of Land Management's] regulations at 43 CFR part 3800 *et seq.*''

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA); section 40206 of the IIJA, ''Critical Minerals Supply Chains and Reliability,'' directs the Secretaries of the Interior and Agriculture to submit a report to Congress by November 15, 2022, that ''identifies additional measures, including regulatory and legislative proposals, if appropriate, that would increase the timeliness of permitting activities for the exploration and development of domestic critical minerals.''

To respond to these directives and the rulemaking petition, the Department has created an interagency working group (IWG) on Federal hardrock mining laws, regulations, and permitting, chaired by the Department and including the Department of Agriculture through the U.S. Forest Service; the Environmental

[1] The White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth,* June 2021, p. 14. *https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/.*

Protection Agency; the Army Corps of Engineers; the Departments of Commerce, Energy, Defense, and State; the Council on Environmental Quality; and the National Economic Council. For the purposes of the IWG, ''hardrock'' minerals are those mineral resources that are subject to disposal under the Mining Law of 1872.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Tommy Beaudreau,

Deputy Secretary, U.S. Department of the Interior.

[FR Doc. 2022–15114 Filed 7–14–22; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Request for Information (RFI) on Federal Old-growth and Mature Forests

AGENCY: Forest Service, Agriculture (USDA); Bureau of Land Management, Interior (DOI).

ACTION: Request for information.

SUMMARY: The United States Department of Agriculture (USDA), United States Forest Service (Forest Service), and the United States Department of the Interior (DOI), Bureau of Land Management (BLM), invite public comment to inform the response to Executive Order Strengthening the Nation's Forests, Communities, and Local Economies which requires USDA and DOI to define old-growth and mature forests on Federal lands; complete an inventory and make it publicly available; coordinate conservation and wildfire risk reduction activities; identify threats to mature and old-growth forests; develop policies to address threats; develop Agency-specific reforestation goals by 2030; develop climate-informed reforestation plans; and develop recommendations for community-led local and regional economic development opportunities.

DATES: A webinar will be held for interested members of the public on July 21, 2022. More information about this session (including specific time and how to attend) will be posted to the Forest Service website (*https://www.fs.usda.gov/managing-land/old-growth-forests*). Comments must be received in writing by August 15, 2022.

ADDRESSES: The webinar will be held on Microsoft Teams web conferencing software. The webinar will be recorded. Information about how to attend the webinar, presentation materials used during the webinar, and the webinar recording will be posted to: *https://www.fs.usda.gov/managing-land/old-growth-forests.* Written comments concerning this notice may be submitted electronically to: *https://cara.fs2c.usda.gov/Public/CommentInput?project=NP-3239.*

FOR FURTHER INFORMATION CONTACT: Jamie Barbour, Assistant Director, Ecosystem Management Coordination, (503) 708–9138, *roy.barbour@usda.gov.* Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of this RFI is to inform the public and gather feedback on potential future implementation efforts associated with provisions of Executive Order (E.O.) 14072: Strengthening the Nation's Forests, Communities, and Local Economies, issued April 22, 2022. The focus of this current request for information is to inform the response to E.O. 14072 Section 2(b) specifically, which calls on the Secretaries of Agriculture and the Interior, within one year, to define, identify, and complete an inventory of old-growth and mature forests on Federal lands, accounting for regional and ecological variations, as appropriate, and making the inventory publicly available.

Background. E.O. 14072 Section 2(b) states that: ''The Secretary of the Interior, with respect to public lands managed by the Bureau of Land Management, and the Secretary of Agriculture, with respect to National Forest System lands, shall, within one year of the date of this order, define, identify, and complete an inventory of old-growth and mature forests on Federal lands, accounting for regional and ecological variations, as appropriate, and shall make such inventory publicly available.''

USDA and DOI recognize definition development as a pivotal first step in meeting the subsequent identification and inventory requirements of E.O. 14072. Development of the definition, followed by identification and inventory will then be used to inform subsequent needs identified in E.O. 14072 Section 2(c) (*e.g.,* conservation and wildfire risk reduction activities, including consideration of climate-smart stewardship of mature and old-growth forests; analysis of the threats to mature and old-growth forests on Federal lands, including from wildfires and climate change; and development of policies to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal land).

This effort is also directly connected to the Secretary's Memorandum 1077–004: Climate Resilience and Carbon Stewardship of America's National Forests and Grasslands (issued June 23, 2022, by the Secretary of Agriculture, *https://www.usda.gov/directives/sm-1077-004*). The Secretary's Memorandum 1077–004 specifically references E.O. 14072 implementation and other actions.

Defining old growth and mature forests for purposes of conducting an inventory as required under E.O. 14072 Section 2(b) does not, by itself, change any current forest management policies or practices. Developing policies to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal land as stated in E.O. 14072 Section 2(c) will follow completion of definition development, identification, and inventory.

Defining old-growth and mature forests has evolved with our scientific understanding of these unique ecosystems. Previous definitions include a general old-growth one included in a 1989, Forest Service Chief's letter to Regional Foresters which reads: ''Old-growth forests are ecosystems distinguished by old trees and related structural attributes. Old-growth encompasses the later stages of stand development that typically differ from earlier stages in a variety of characteristics, which may include tree size, accumulations of large dead woody material, number of canopy layers, species composition, and ecosystem function.'' Today, most scientists agree that old-growth forests differ widely in character with age, geographic location, climate, site productivity, and characteristic disturbance regime. Mature and old-growth forests also reflect diverse spiritual and cultural values for these special places.

Gathering and synthesizing old-growth forest information at a national scale continues to progress. Data sources exist, including the Forest Service Inventory and Analysis Program. Yet,

several factors, including variations in ecological definitions of old forests in response to the diversity of forest types across the nation, climate change impacts, and the dynamic nature of forest conditions, are challenging to integrate. Considering the important values provided by old forest conditions, leveraging the Forest Service Forest Inventory and Analysis Program with existing and evolved definitions of old-growth will provide an improved picture for land managers to guide sound, science-informed, decision-making.

Input Requested. The USDA Forest Service and the Bureau of Land Management, DOI, are seeking input on the development of a definition for old-growth and mature forests on Federal land, and are specifically requesting input on the following questions:

- What criteria are needed for a universal definition framework that motivates mature and old-growth forest conservation and can be used for planning and adaptive management?
- What are the overarching old-growth and mature forest characteristics that belong in a definition framework?
- How can a definition reflect changes based on disturbance and variation in forest type/composition, climate, site productivity and geographic region?
- How can a definition be durable but also accommodate and reflect changes in climate and forest composition?
- What, if any, forest characteristics should a definition exclude?

Additional information about this effort, including a link to the recorded webinar, can be found at: *https://www.fs.usda.gov/managing-land/old-growth-forests.*

Christopher French,

Deputy Chief, National Forest System, Forest Service.

Tracy Stone-Manning,

Director, Bureau of Land Management.

[FR Doc. 2022–15185 Filed 7–14–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–34183; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before July 2, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by August 1, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before July 2, 2022. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

FLORIDA

Duval County

Tookes, Bishop Henry Y., House, 1011 West 8th St., Jacksonville, SG100007980

Miami-Dade County

North Beach Bandshell, 7275 Collins Ave., Miami Beach, SG100007981

ILLINOIS

Cook County

Chicago Vocational School, 2100 East 87th St., Chicago, SG100007996

Cornelia, The, 3500 North Lake Shore Dr., Chicago, SG100007997

James E. Plew Building, (Motor Row, Chicago, Illinois MPS), 2635–2645 South Wabash Ave., Chicago, MP100007999

Jo Daviess County

Bishop's Busy Big Store-Lyric Opera House, 137 North Main St., Elizabeth, SG100008001

Kane County

Crego, George M., Farm, 3S854 Finley Rd., Sugar Grove vicinity, SG100007994

Kendall County

Downtown Oswego Historic District, Roughly bounded by one-half blk. north of Jackson St., the alleys immediately west and east of Main St., and one-half block south of Washington St., Oswego vicinity, SG100007995

Lake County

Libertyville Town Hall, 715 North Milwaukee Ave., Libertyville, SG100007992

Ogle County

Mount Morris Downtown Historic District, Wesley Ave., West Main St., South Seminary Ave., Center St., Mount Morris, SG100007993

NEW JERSEY

Hudson County

Excelsior Engine Co. No. 2 Firehouse-Exempt Firemen Association Headquarters, 6106 Polk St., West New York, SG100007991

NEW YORK

Erie County

Buffalo Public School #32–PS 32, 342 Clinton St., Buffalo, SG100008002

Herkimer County

H.M. Quackenbush Factory, 220 North Prospect St., Herkimer, SG100008003

TEXAS

Cameron County

Rio Grande Valley Gas Company Building, 355 West Elizabeth St., Brownsville, SG100007983

WISCONSIN

Douglas County

Thompson, A.D., Cabin, 13393 South St. Croix Rd., Gordon, SG100007979

Eau Claire County

Soo Line Railroad Bridge, Spans the Eau Claire R. between Galloway and Gibson Sts., Eau Claire, SG100007982

Green County

Wilhelm Tell Schuetzen Haus and Park, N8745 Cty. Rd. O, New Glarus, SG100007989

Kewaunee County

Kewaunee Pierhead Lighthouse, (Light Stations of the United States MPS), In L. Michigan at east end of south pier at Kewaunee R. mouth, 0.5 mi east of WI 42, Kewaunee, MP100007998

Additional documentation has been received for the following resources:

TENNESSEE

Blount County

Yearout, Isaac, House, (Blount County MPS), Big Springs Rd., 0.3 mi. north of Morganton Rd., Alcoa vicinity, AD89000920

Hardeman County

Allen-White School (Additional Documentation), 100 Allen Extension St., Whiteville, AD05001214

Knox County

Christenberry Club Room (Additional Documentation), (Knoxville and Knox County MPS), Jct. of Henegar and Shamrock Aves., southwest corner, Knoxville, AD97000242

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

COLORADO

Larimer County

Buckhorn Ranger Station Historic District, Fire Route 133, Arapaho and Roosevelt National Forests, Bellvue, SG100007990

IDAHO

Adams County

Indian Mountain Fire Lookout, NF Rd. 243, 12 mi. southeast of Council, Council vicinity, SG100007977

MASSACHUSETTS

Plymouth County

Brockton VA Hospital Historic District, (United States Third Generation Veterans Hospitals, 1946–1958 MPS), 940 Belmont St., Brockton, MP100008004

Authority: Section 60.13 of 36 CFR part 60.

Dated: July 6, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–15147 Filed 7–14–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM 2022–0034]

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Future Wind Energy Development in the New York Bight

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of intent (NOI) to prepare a programmatic environmental impact statement (PEIS); request for comments.

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare a PEIS to analyze the potential impacts of wind energy development activities in the New York Bight (NY Bight), as well as the change in those impacts that could result from adopting programmatic avoidance, minimization, mitigation, and monitoring (AMMM) measures for the NY Bight. This NOI announces the scoping process BOEM will use to identify significant issues and potential alternatives for consideration in the NY Bight PEIS. Detailed information can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.*

DATES: Comments received by August 15, 2022, will be considered.

BOEM will hold virtual public scoping meetings for the NY Bight PEIS at the following dates and times (eastern time):

- Thursday, July 28, 5:00 p.m.
- Tuesday, August 2, 5:00 p.m.
- Thursday, August 4, 1:00 p.m.

Registration for the public meetings may be completed here: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight* or by calling (202) 517–1249. The virtual meetings are open to the public and free to attend.

ADDRESSES: Written comments can be submitted in any of the following ways:

- Delivered by mail or delivery service, enclosed in an envelope labeled, ''NY BIGHT PEIS'' and addressed to Chief, Division of Environmental Assessment, Office of Environmental Programs, Bureau of Ocean Energy Management, 45600 Woodland Road VAM–OEP, Sterling, Virginia 20166; or
- *Through the regulations.gov web portal:* Navigate to *www.regulations.gov* and search for Docket No. BOEM–2022–0034. Select the document in the search results on which you want to comment, click on the ''Comment'' button, and follow the online instructions for submitting your comment. A commenter's checklist is available on the comment web page. Enter your information and comment, then click ''Submit.''

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski, BOEM Office of Environmental Programs, 45600 Woodland Road, Sterling, Virginia 20166, telephone (703) 787–1703, or email *boemnybightpeis@boem.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of and Need for the Proposed Action

In February 2022, through a competitive leasing process under 30 CFR 585.211, BOEM awarded Commercial Leases OCS–A 0537, 0538, 0539, 0541, 0542, and 0544 covering an area offshore New York and New Jersey known as the NY Bight and totaling over 488,000 acres. The leases grant the lessees the exclusive right to submit construction and operation plans (COPs) to BOEM proposing the construction, operation, and conceptual decommissioning of offshore wind energy facilities in the lease areas. Through an intergovernmental renewable energy task force that included the States of New York and New Jersey and numerous Federal agencies and Tribal and local governments, BOEM identified these lease areas for consideration in development of commercial-scale offshore wind energy projects, subject to the appropriate reviews and approvals.

Potential development of the leaseholds would assist with meeting several State mandates for renewable energy. New Jersey's goal of 7.5 gigawatts (GW) of offshore wind energy generation by 2035 is outlined in New Jersey Executive Order No. 92, issued on November 19, 2019. New York's goal of 9.0 GW of offshore wind energy generation by 2035 is outlined in the Climate Leadership and Community Protection Act, signed into law on July 18, 2019. Based on a conservative power ratio of 3 megawatts per square kilometer, BOEM estimates that full development of leases in this area has the potential to create up to 5.6 to 7 GW of offshore wind energy.

The Proposed Action for the PEIS is the adoption of programmatic AMMM measures that BOEM may require as conditions of approval for activities proposed by lessees in COPs submitted for the NY Bight unless the COP-specific NEPA analysis shows that implementation of such measures is not warranted or effective. BOEM may require additional or different measures based on subsequent, site-specific NEPA analysis or the parameters of specific COPs. These AMMM measures are considered programmatic insofar as they may be applied to COPs within the whole NY Bight area, not because they necessarily will apply to COPs under BOEM's renewable energy program outside of the NY Bight area. The PEIS will analyze the potential impacts of development in the NY Bight and how those impacts can be avoided, minimized, or mitigated by AMMM

measures. However, the Proposed Action will not result in the approval of any activities.

The purpose of the Proposed Action is to identify, analyze, and adopt, as appropriate, issues, degree of potential impacts, and AMMM measures. The site-specific NEPA analyses and consultations for each proposed wind energy project will focus on the impacts of approving a particular COP, including identification of AMMM measures that are best suited for consideration in the COP-specific NEPA analysis. The Proposed Action is needed to help BOEM make timely decisions on COPs submitted for the NY Bight. Timely decisions further the United States policy to make Outer Continental Shelf (OCS) energy resources available for expeditious and orderly development, subject to environmental safeguards (43 U.S.C. 1332(3)) and other requirements listed at 43 U.S.C. 1337(p)(4), including protection of the environment, among several other factors. Project-specific NEPA analysis for individual COPs will tier to or incorporate by reference this PEIS and could apply additional or different AMMM measures as needed.

A broader approach to the NEPA analysis for the six COPs expected for the NY Bight is consistent with Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad,'' issued on January 27, 2021. In that order, President Biden stated that the policy of his administration is ''to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.'' To support the goals outlined in Executive Order 14008, the administration has also announced plans to increase renewable energy production, with a goal of 30 GW of offshore wind energy capacity by 2030.

Through the development of this PEIS, BOEM will address the following objectives:

- Analysis of the impacts expected from a representative project in the NY Bight that is informed by input provided by the lessees on the type of projects they intend to develop;
- Analysis of programmatic AMMM measures for the NY Bight;
- Focused, regional cumulative analysis;
- Identification of minor or negligible impacts so that site-specific reviews can focus on moderate or major impacts; and
- Tiering of project-specific environmental analyses.

The analysis in this PEIS will provide a framework for its integration with site-specific NEPA reviews. The framework will provide a way for project-specific analyses to determine whether the project will have greater, equal, or fewer impacts than those that were analyzed in the PEIS by considering the level of action analyzed and the particularities of the site. Future COP-specific NEPA documents will make impact determinations for the specific project and affected resources and will focus on moderate to major impacts. The COP-specific NEPA analyses of potential impacts to resources will not generally revisit resources for which the PEIS analysis has indicated that the impact is likely to be negligible to minor. However, these impacts may be revisited if warranted by particular characteristics of the site or proposed project that suggest that the impact determination might shift to moderate or major.

Proposed Action and Preliminary Alternatives

As noted above, the Proposed Action does not include the approval of any activities. The Proposed Action is the adoption of programmatic AMMM measures that BOEM may require as conditions of approval for activities proposed by lessees in COPs submitted for the NY Bight. BOEM may require additional or modified measures based on subsequent, site-specific NEPA analysis or the parameters of specific COPs. The analysis of the Proposed Action considers the change in potential impacts resulting from the AMMM measures. The analysis of the Proposed Action assumes that a representative project will be developed for the NY Bight and considers the potential impacts of that development on the environment. The activities scenario upon which analysis of the Proposed Action is based is that of a representative project, including associated export cables, within a range of design parameters informed by lessees. By developing the activities scenario based on a representative project design envelope created with the input of the lessees that will be submitting the COPs for the NY Bight, BOEM avoids engaging in speculative analysis of potential impacts. The Proposed Action does not itself require any actions by BOEM or lessees.

If any reasonable alternatives to the Proposed Action are identified during the scoping period, BOEM will evaluate those alternatives in the draft PEIS, which will also include a no action alternative (NAA). The NAA considers no development of the lease areas in the NY Bight. This alternative provides analysis for tiering at the COP-specific NEPA stage, including context that can be used in COP-specific NEPA analyses and against which proposed actions at the COP-specific stage may be compared. In addition, the analysis of the adoption of AMMM measures for the NY Bight is predicated upon an understanding of the impacts of development, which in turn are predicated on an understanding of the impacts of no development.

The draft PEIS will also include an alternative that analyzes the impacts of not adopting the programmatic AMMM measures for a representative project in the NY Bight. This alternative will facilitate comparison of the potential impacts from a representative project with and without the AMMM measures. In addition, this alternative will provide analyses that can be incorporated at the COP-specific stage and allow the analysis at that stage to focus on issues particular to the specific COP.

Summary of Potential Impacts

Potential impacts to resources may include adverse or beneficial impacts on air quality, water quality, bats, benthic habitat, essential fish habitat, invertebrates, finfish, birds, marine mammals, terrestrial and coastal habitats and fauna, sea turtles, wetlands and other waters of the United States, commercial fisheries and for-hire recreational fishing, cultural resources, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other marine uses, recreation and tourism, and scenic and visual resources. These potential impacts will be analyzed in the draft and final PEIS.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on certain marine life from underwater noise caused by construction and on marine mammals from collisions with project-related vessel traffic. Structures installed by the projects could permanently change benthic and fish habitats (*e.g.,* creation of artificial reefs). Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties

and recreational and tourism areas. Project structures also would pose an allision and height hazard to vessels passing close by, and vessels would, in turn, pose a hazard to the structures. Additionally, the projects could cause conflicts with military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys. Beneficial impacts are also expected by facilitating achievement of State renewable energy goals, increasing job opportunities, improving air quality, and reducing carbon emissions.

Anticipated Authorizations and Consultations

Neither the PEIS nor the resulting programmatic record of decision (ROD) will authorize any activities or approve any individual applications. The PEIS and ROD will provide a programmatic environmental analysis and framework to support future decision-making on individual COP submittals. When COPs are submitted to BOEM, the site-specific characteristics of the project will be evaluated by preparing additional environmental analyses that may tier from this PEIS or may incorporate it by reference. Based on the site-specific applications and evaluations, BOEM may then reach a site-specific determination and approve, approve with modifications, or deny individual COPs. This PEIS will inform future BOEM decisions on COP submittals but will not approve or authorize any applications or plans. Therefore, neither this PEIS nor its resulting ROD would constitute a final agency action authorizing or approving any individual COPs.

In conjunction with this PEIS, BOEM will undertake various consultations in accordance with applicable Federal laws, such as the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, National Historic Preservation Act, Marine Mammal Protection Act, Rivers and Harbors Act, Clean Water Act, and the Coastal Zone Management Act. However, it may be determined that some of these consultations are better suited for the COP-specific decision stage. BOEM will also conduct government-to-government Tribal consultations.

Decision-Making Schedule

After the draft PEIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft PEIS. BOEM currently expects to issue the NOA in September 2023. After the public comment period ends, BOEM will review and respond to comments received and will develop the final PEIS. BOEM currently expects to make the final PEIS available to the public in June 2024. BOEM would issue any ROD no sooner than 30 days after the final PEIS is made available.

The ROD for the NY Bight PEIS is expected to (1) identify certain programmatic AMMM measures that BOEM may require as conditions of approval on COPs in the NY Bight, (2) identify the AMMM measures that should (or should not) be considered in a COP-specific NEPA analysis, and (3) require BOEM to use a tiered review process that relies on the analyses in the PEIS for the COPs expected to be filed for the six leases issued in the NY Bight.

Scoping Process

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the NY Bight PEIS. BOEM will hold virtual public scoping meetings at the times and dates described above under the **DATES** caption. Throughout the scoping process, Federal agencies, Tribal, State, and local governments, and the public have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, and reasonable alternatives for AMMM measures (*e.g.,* size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities) to be analyzed in the PEIS, as well as to provide additional information.

BOEM will also use the NEPA comment process to initiate the section 106 consultation process under the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*), as permitted by 36 CFR 800.2(d)(3). Through this notice, BOEM intends to inform its section 106 consultation by seeking public comment and input regarding the identification of historic properties affected by or potential effects to historic properties from activities associated with approval of wind energy development in the NY Bight.

Before publication of this NOI, BOEM met with NY Bight leaseholders, interested Federal agencies, Tribal governments, and other potential State partners to provide information on the NY Bight programmatic approach. Additionally, BOEM met separately with the National Marine Fisheries Service and the U.S. Army Corps of Engineers to discuss how the programmatic analysis may support and streamline their project-level approvals, as well as with the Advisory Council on Historic Preservation to discuss potential approaches to section 106 consultation.

NEPA Cooperating Agencies

BOEM invites other Federal agencies and Tribal, State, and local governments to consider becoming cooperating agencies in the preparation of this PEIS. The Council on Environmental Quality (CEQ) NEPA regulations specify that qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies' expected contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior cooperating agency. Agencies also should consider the factors for determining cooperating agency status in the CEQ memorandum entitled, ''Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,'' dated January 30, 2002. This document is available on the internet at: *www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf.*

BOEM, as the lead agency, does not provide financial assistance to cooperating agencies. Governmental entities that are not cooperating agencies will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

Comments: Federal agencies, Tribal, State, and local governments, and other interested parties are requested to comment on the scope of this PEIS, significant issues that should be addressed, and alternatives that should be considered. For information on how to submit comments, see the **ADDRESSES** section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for

public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. To help BOEM determine whether to withhold from disclosure your personally identifiable information, you must identify in a cover letter any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of NHPA, BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic property if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic property, or impede the use of a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions relevant to the analysis of the Proposed Action from the public; affected Federal, Tribal, State, and local governments, agencies, and offices; the scientific community; industry; or any other interested party. Specifically, BOEM requests information on the following topics:

1. Potential AMMM measures, including NY Bight wind energy development alternatives, and the effects these could have on—

a. biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles;

b. physical resources and conditions including air quality, water quality, wetlands, and other waters of the United States; and

c. socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.

2. As part of its compliance with section 106 of the NHPA and the implementing regulations (36 CFR part 800), BOEM intends to develop a section 106 programmatic agreement (PA) through consultation with the State Historic Preservation Officers (SHPOs), federally-recognized Tribes, the Advisory Council on Historic Preservation, and consulting parties. The PA will identify a standard process for the future identification of historic properties and the evaluation, avoidance, minimization, mitigation, and monitoring of historic properties within the New York Bight. The PA may address possible programmatic AMMM measures in the NY Bight if potential adverse effects are identified during the consultation for this PA. BOEM plans to execute the PA before the PEIS ROD is issued. The PA will clarify the section 106 consultations that will be conducted for the individual COPs. The section 106 consultations for each COP will be conducted in conjunction with the NEPA reviews for each COP and will ensure consistency with the PA.

BOEM also seeks comment and input from the public and consulting parties regarding the identification of other potential consulting parties, the identification of historic properties within the NY Bight, the potential effects on those historic properties from NY Bight wind energy development alternatives including any AMMM, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic properties during the public scoping period at *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.*

If any historic properties are identified, BOEM's draft PA and potential effects analysis will be available for public and consulting party comment in the draft PEIS.

3. Information on other current or planned activities in, or in the vicinity of, the NY Bight wind energy development alternatives including any AMMM measures, their possible impacts on the alternatives, and the alternatives' possible impacts on those activities.

4. Other information relevant to impacts on the human environment from potential NY Bight wind energy development alternatives, including any AMMM measures.

5. Information on the following for the development of the representative project design envelope and activities scenario: layout of turbines (analyze one or more standard layouts); setbacks identified in the leases; size (wind turbine generator nameplate capacity), dimensions (tip height, hub height, and rotor diameter) and number of turbines; offshore substation dimensions, number, and location; type of foundation; foundation installation method; scour protection; approach to cable emplacement (installation methods and disturbance corridor width); location of landfalls; onshore substation location; point of grid interconnection; ports, fabrication facilities, and staging areas; timing of onshore and offshore activities; and, associated activities such as vessel trips.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important for consideration of the Proposed Action, as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft PEIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

Authority: 42 U.S.C. 4321 *et seq.,* and 40 CFR 1501.9.

William Yancey Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2022–15159 Filed 7–14–22; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1575 & 731–TA–1577 (Final)]

Emulsion Styrene-Butadiene Rubber (ESBR) From Czechia and Russia; Scheduling of the Final Phase of Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731–TA–1575 & 731–TA–1577 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of emulsion styrene-butadiene rubber (''ESBR'') from Czechia and Russia, provided for in statistical reporting numbers 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: June 27, 2022.

FOR FURTHER INFORMATION CONTACT: Charles Cummings ((202) 708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''cold-polymerized emulsion styrene-butadiene rubber (ESBR). The scope of the investigations includes, but is not limited to, ESBR in primary forms, bales, granules, crumbs, pellets, powders, plates, sheets, strip, etc. ESBR consists of nonpigmented rubbers and oil-extended nonpigmented rubbers, both of which contain at least one percent of organic acids from the emulsion polymerization process. ESBR is produced and sold in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The scope of the investigations covers grades of ESBR included in the IISRP 1500 and 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as ''Clear'' or ''White Rubber.'' The 1700 grades are oil-extended and thus darker in color and are often called ''Brown Rubber.'' Specifically excluded from the scope of the investigations are products which are manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.,* IISRP 1600 series and 1800 series) and latex (an intermediate product).''

Background.—The final phase of these investigations is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of affirmative preliminary determinations by Commerce that imports of ESBR from Czechia and Russia are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed effective November 15, 2021, by Lion Elastomers LLC (Port Neches, Texas).

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 14, 2022, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 8, 2022. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 1, 2022. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 3, 2022. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is October 24, 2022. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 15,

2022. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before November 15, 2022. On December 1, 2022, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 5, 2022, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: July 11, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–15101 Filed 7–14–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1266]

Certain Wearable Electronic Devices With ECG Functionality and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on June 27, 2022, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain wearable electronic devices with ECG functionality and components thereof imported, sold for importation, and/or sold after importation by respondent Apple Inc. of Cupertino, California (''Apple''); and cease and desist orders directed to Apple. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on June 27, 2022. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on July 27, 2022.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1266'') in a prominent place on

the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 11, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–15102 Filed 7–14–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1033]

Importer of Controlled Substances Application: Xcelience

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Xcelience has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 15, 2022. Such persons may also file a written request for a hearing on the application on or before August 15, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 17, 2022, Xcelience, 4901 West Grace Street, Tampa, Florida 33607–3807, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I

The company plans to import drug code 7437 (Psilocybin) as finished dosage for clinical trials research, and analytical purposes. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–15107 Filed 7–14–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1034]

Importer of Controlled Substances Application: AndersonBrecon, Inc. DBA PCI Pharma Services

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: AndersonBrecon, Inc. DBA PCI Pharma Services has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 15, 2022. Such persons may also file a written request for a hearing on the application on or before August 15, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be

aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 5, 2022, AndersonBrecon, Inc. DBA PCI Pharma Services, 4545 Assembly Drive, Rockford, Illinois 61109–3081, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The company plans to import the listed controlled substance for clinical trials only. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–15106 Filed 7–14–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1029]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: AMPAC Fine Chemicals LLC, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 13, 2022. Such persons may also file a written request for a hearing on the application on or before September 13, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 21, 2022, AMPAC Fine Chemicals LLC, Highway 50 & Hazel Avenue, Rancho Cordova, California 95670, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Norlevorphanol	9634	I
Methylphenidate	1724	II
Levomethorphan	9210	II
Levorphanol	9220	II
Thebaine	9333	II
Remifentanil	9739	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for distribution to its customers. No other activities for these drug codes are authorized for this registration.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–15104 Filed 7–14–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Personal Protective Equipment (PPE) for Shipyard Employment

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 requires employers to provide and ensure that each affected employee uses the appropriate personal protective equipment (PPE) for the eyes, face, head, extremities, torso, and respiratory system, including protective clothing, protective shields, protective barriers, life-saving equipment, personal fall arrest systems, and positioning device systems that meets the applicable provisions of this subpart, whenever workers are exposed to hazards that

require the use of PPE. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 6, 2022 (87 FR 27188).

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: Personal Protective Equipment (PPE) for Shipyard Employment.

OMB Control Number: 1218–0215.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 4,693.

Total Estimated Number of Responses: 2,607.

Total Estimated Annual Time Burden: 22 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–15126 Filed 7–14–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations govern the application, processing, and disposition of petitions for modification of mandatory safety standards. Any mine operator or representative of miners may petition for an alternative method of complying with an existing safety standard. MSHA reviews the content of each submitted petition, assesses the mine in question, and ultimately issues a decision on the petition. This notice includes a list of petitions for modification that were granted after MSHA's review and investigation, between January 1, 2022, and June 30, 2022.

ADDRESSES: Copies of the final decisions are posted on MSHA's website at *https://www.msha.gov/regulations/rulemaking/petitions-modification.* The public may inspect the petitions and final decisions in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except federal holidays. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Noe.Song-Ae.A@dol.gov* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101(c) of the Federal Mine Safety and Health Act of 1977, any mine operator or representative of miners may petition to use an alternative approach to comply with a mandatory safety standard. In response, the Secretary of Labor (Secretary) or his or her designee may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision. In other instances, MSHA may deny, dismiss, or revoke a petition for modification. In accordance with 30 CFR 44.5, MSHA publishes every final action granting a petition for modification.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA granted or partially granted the petitions for modification below. Since the previous **Federal Register** notice (87 FR 10256) included petitions granted through December 31, 2021, listed below are petitions granted between January 1, 2022, and June 30, 2022. The granted petitions are shown in the order that MSHA received them.

- *Docket Number:* M–2020–018–C–AG.

FR Notice: 85 FR 58396 (9/18/2020).

Petitioner: Peabody Southeast Mining, LLC, 654 Camp Creek Portal Road, Oakman, Alabama 35579.

Mine: Shoal Creek Mine, MSHA ID No. 01–02901, located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

- *Docket Number:* M–2020–019–C–AG.

FR Notice: 85 FR 58396 (9/18/2020).

Petitioner: Peabody Southeast Mining, LLC, 654 Camp Creek Portal Road, Oakman, Alabama 35579.

Mine: Shoal Creek Mine, MSHA ID No. 01–02901, located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

- *Docket Number:* M–2020–020–C–AG.

FR Notice: 85 FR 58396 (9/18/2020).

Petitioner: Peabody Southeast Mining, LLC, 654 Camp Creek Portal Road, Oakman, Alabama 35579.

Mine: Shoal Creek Mine, MSHA ID No. 01–02901, located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

- *Docket Number:* M–2021–010–C.

FR Notice: 86 FR 28385 (5/26/2021).

Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.

Mine: Bailey Mine, MSHA ID No. 36–07230, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2021–011–C.
FR Notice: 86 FR 28385 (5/26/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Bailey Mine, MSHA ID No. 36–07230, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2021–012–C.
FR Notice: 86 FR 28385 (5/26/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Bailey Mine, MSHA ID No. 36–07230, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors: Permissibility).

• *Docket Number:* M–2021–013–C.
FR Notice: 86 FR 28391 (5/26/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Harvey Mine, MSHA ID No. 36–10045, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2021–014–C.
FR Notice: 86 FR 28391 (5/26/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, ZIP 15317.
Mine: Harvey Mine, MSHA ID No. 36–10045, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2021–015–C.
FR Notice: 86 FR 28391 (5/26/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, ZIP 15317.
Mine: Harvey Mine, MSHA ID No. 36–10045, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors: Permissibility).

• *Docket Number:* M–2021–016–C.
FR Notice: 86 FR 28906 (05/28/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Enlow Fork Mine, MSHA ID No. 36–07416, located in Washington County, Pennsylvania.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2021–017–C.
FR Notice: 86 FR 28906 (05/28/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Enlow Fork Mine, MSHA ID No. 36–07416, located in Washington County, Pennsylvania.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2021–018–C.
FR Notice: 86 FR 28906 (05/28/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Enlow Fork Mine, MSHA ID No. 36–07416, located in Washington County, Pennsylvania.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors: Permissibility).

• *Docket Number:* M–2021–019–C.
FR Notice: 86 FR 33773 (06/25/2021) and correction published in 86 FR 35538 (07/06/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Itmann No. 5 Mine, MSHA ID No. 46–09569, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2021–020–C.
FR Notice: 86 FR 33773 (06/25/2021) and correction published in 86 FR 35538 (07/06/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Itmann No. 5 Mine, MSHA ID No. 46–09569, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2021–021–C.
FR Notice: 86 FR 33773 (06/25/2021) and correction published in 86 FR 35538 (07/06/2021).
Petitioner: Consol Pennsylvania Coal Company, LLC, 1000 Consol Energy Drive, Canonsburg, Pennsylvania, 15317.
Mine: Itmann No. 5 Mine, MSHA ID No. 46–09569, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors: permissibility).

• *Docket Number:* M–2021–022–C.
FR Notice: 86 FR 30984 (6/10/2021).
Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia, 24639.
Mine: Buchanan No. 1 Mine, MSHA ID No. 44–04856, located in Buchanan County, Virginia.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2021–023–C.
FR Notice: 86 FR 30984 (6/10/2021).
Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia, 24639.
Mine: Buchanan No. 1 Mine, MSHA ID No. 44–04856, located in Buchanan County, Virginia.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2021–024–C.
FR Notice: 86 FR 30984 (6/10/2021).
Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia, 24639.
Mine: Buchanan No. 1 Mine, MSHA ID No. 44–04856, located in Buchanan County, Virginia.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2021–030–C.
FR Notice: 86 FR 51679 (9/16/2021).
Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania, 16201.
Mine: Heilwood Mine, MSHA ID No. 36–09407, located in Indiana County, Pennsylvania.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2021–045–C.
FR Notice: 87 FR 9644 (2/22/2022).
Petitioner: Signal Peak Energy, LLC, 100 Portal Drive, Roundup, Montana 59072.
Mine: Bull Mountains Mine No. 1, MSHA ID No. 24–01950, located in Musselshell County, Montana.
Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2022–002–C.
FR Notice: 87 FR 9644 (2/22/2022).
Petitioner: Signal Peak Energy, LLC, 100 Portal Drive, Roundup, Montana 59072.

Mine: Bull Mountains Mine No. 1, MSHA ID No. 24–01950, located in Musselshell County, Montana.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.)

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2022–15127 Filed 7–14–22; 8:45 am]

BILLING CODE 4520–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (22–054)]

NASA Advisory Council; Technology, Innovation and Engineering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Technology, Innovation, and Engineering Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Wednesday, August 3, 2022, 8:30 a.m.–4:15 p.m., Eastern Time.

ADDRESSES: Meeting will be a hybrid of in-person and virtual. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Designated Federal Officer, Space Technology Mission Directorate, NASA Headquarters, Washington, DC 20546, via email at *g.m.green@nasa.gov* or (202) 358–4710.

SUPPLEMENTARY INFORMATION: This meeting will only be available by Webex or telephonically for members of the public. If dialing in via toll number, you must use a touch-tone phone to participate in this meeting. Any interested person may join via Webex at *https://nasaenterprise.webex.com,* the meeting number is 2760 821 3834, and the password is n@cTIE080322. The toll number to listen by phone is +1–415–527–5035. To avoid using the toll number, after joining the Webex meeting, select the audio connection option that says, ''Call Me'' and enter your phone number. If using the desktop or web app, check the ''Connect to audio without pressing 1 on my phone'' box to connect directly to the meeting.

Note: If dialing in, please mute your telephone.

The agenda for the meeting includes the following topics:

—Space Technology Mission Directorate (STMD) Update
—NASA Nuclear Systems Update
—Early Career Initiative Overview and Researcher Presentation
—2016 Space Technology Research Institutes Updates
—Office of Technology, Policy, and Strategy Update
—Update on Moon to Mars Blueprint

It is imperative that this meeting be held on this day to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–15177 Filed 7–14–22; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0136]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by August 15, 2022. A request for a hearing or petitions for leave to intervene must be filed by September 13, 2022. This monthly notice includes all amendments issued, or proposed to be issued, from May 26, 2022, to June 23, 2022. The last monthly notice was published on May 25, 2022.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0136. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the ''For Further Information Contact'' section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Karen Zeleznock, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1118, email: *Karen.Zeleznock@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0136, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0136.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents,

by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0136, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, 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 the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR), are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/cfr.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the

final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would

constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Omaha Public Power District; Fort Calhoun Station Unit No. 1; Washington County, NE	
Docket No	50–285.
Application date	August 3, 2021, as supplemented by letter dated January 13, 2022.
ADAMS Accession No	ML21271A178 (Package), ML22034A559.
Location in Application of NSHC	Enclosure 1—Pages 13–15.
Brief Description of Amendment	The proposed amendment would approve the License Termination Plan (LTP) and add a license condition that would establish the criteria for determining when changes to the LTP require prior NRC approval.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Stephen M. Bruckner, Attorney, Fraser Stryker PC LLO, 500 Energy Plaza, 409 South 17th Street, Omaha, NE 68102.
NRC Project Manager, Telephone Number	Jack Parrott, 301–415–6634.
Constellation Energy Generation, LLC; Clinton Power Station, Unit 1; DeWitt County, IL	
Docket No	50–461.
Application date	May 24, 2022.
ADAMS Accession No	ML22144A236.
Location in Application of NSHC	Pages 3–5 of Attachment 1.
Brief Description of Amendment	The proposed change would adopt Technical Specification Task Force Traveler 269–A, Revision 2, ''Allow Administrative Means of Position Verification for Locked or Sealed Valves.'' Specifically, the proposed change would modify technical specifications requirements for repetitive verification of the status of locked, sealed, or secured, components to allow the verification to be by administrative means.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, 101 Constitution Ave NW, Washington, DC 20001.
NRC Project Manager, Telephone Number	Joel Wiebe, 301–415–6606.
Constellation Energy Generation, LLC; Clinton Power Station, Unit 1; DeWitt County, IL	
Docket No	50–461.
Application date	May 24, 2022.
ADAMS Accession No	ML22144A224.
Location in Application of NSHC	Pages 4–6 of Attachment 1.
Brief Description of Amendment	The proposed change would adopt Technical Specification Task Force Traveler 230–A, Revision 1, ''Add New Condition B to LCO [Limiting Condition for Operation] 3.6.2.3, RHR [Residual Heat Removal] Suppression Pool Cooling.'' Specifically, the proposed change would modify Technical Specifications 3.6.2.3, ''Residual Heat Removal (RHR) Suppression Pool Cooling,'' to allow two RHR suppression pool cooling subsystems to be inoperable for 8 hours.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, 101 Constitution Ave. NW, Washington, DC 20001.
NRC Project Manager, Telephone Number	Joel Wiebe, 301–415–6606.
Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Units 2 and 3; New London County, CT	
Docket Nos	50–336, 50–423.
Application date	April 6, 2022.
ADAMS Accession No	ML22096A221.
Location in Application of NSHC	Attachment 1, Pages 3–4.
Brief Description of Amendments	The proposed amendments would modify technical specification requirements for mode change limitations in Limiting Condition for Operation 3.0.4 and Surveillance Requirement 4.0.4 applicable to the adoption of Technical Specifications Task Force (TSTF) Traveler 359, ''Increase Flexibility in Mode Restraints,'' Revision 9 (ADAMS Accession No ML031190607). The availability of TSTF–359 for adoption by licensees was announced in the FEDERAL REGISTER on April 4, 2003 (68 FR 16579) as part of the consolidated line item improvement process.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	Richard Guzman, 301–415–1030.
Duke Energy Progress, LLC; H. B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC	
Docket No	50–261.

Application date	April 28, 2022.
ADAMS Accession No	ML22118A367.
Location in Application of NSHC	Pages 9–10 of Enclosure.
Brief Description of Amendment	The proposed amendment would revise Surveillance Requirement 3.8.1.16 for Technical Specification 3.8.1, ''AC [alternating current] Sources-Operating,'' to remove 4.160 kilovolt bus 2 from the requirement to verify automatic transfer capability from the Unit auxiliary transformer to the start up transformer.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street (DEC45A), Charlotte, NC 28202.
NRC Project Manager, Telephone Number	Luke Haeg, 301–415–0272.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Beaver Valley Power Station, Unit Nos. 1 and 2; Beaver County, PA

Docket Nos	50–334, 50–412.
Application date	May 16, 2022.
ADAMS Accession No	ML22137A049.
Location in Application of NSHC	Attachment 1, Pages 39–40.
Brief Description of Amendments	The proposed amendment would create a new technical specification (TS) limiting condition for operation (LCO) that restricts movement involving fuel or over fuel that has occupied part of a critical reactor core within the previous 100 hours. Current TS restrictions would be consolidated in the new LCO.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, Energy Harbor Nuclear Corp., 168 E Market Street Akron, OH 44308–2014.
NRC Project Manager, Telephone Number	Brent Ballard, 301–415–0680.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Perry Nuclear Power Plant, Unit No. 1; Lake County, OH

Docket No	50–440.
Application date	April 7, 2021, as supplemented by letters dated August 17, 2021, and June 1, 2022.
ADAMS Accession No	ML21106A027 (Package), ML21237A075, ML22152A180.
Location in Application of NSHC	Pages 1 and 2 of Attachment 3 to June 1, 2022, supplement.
Brief Description of Amendment	The proposed amendment would add a new Technical Specification 3.7.11, ''Flood Protection,'' and would revise the Updated Safety Analysis Report to change the methodology used for analysis of flooding hazards and drainage within the local intense precipitation domain and would reflect the results from the new analysis. Based on the new analysis, a new flood hazard protection scheme is also proposed for Perry Nuclear Power Plant, Unit 1. The supplemental letter dated June 1, 2022, provided additional information that expanded the scope of the application as originally published in the FEDERAL REGISTER on July 6, 2021 (86 FR 35547). The previously provided no significant hazards consideration included a statement that there are no technical specification changes associated with the request. Because that is no longer the case, the updated no significant hazards consideration supersedes the one previously published.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, Energy Harbor Nuclear Corp., 168 E Market Street Akron, OH 44308–2014.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

Entergy Louisiana, LLC, and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA; Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS

Docket Nos	50–416, 50–458.
Application date	May 26, 2022.
ADAMS Accession No	ML22146A189.
Location in Application of NSHC	Pages 2, 3, and 4 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–580, ''Provide Exception from Entering MODE 4 With No Operable RHR [Residual Heat Removal] Shutdown Cooling,'' for Grand Gulf Nuclear Station, Unit 1, and River Bend Station, Unit 1, using the consolidated line item process. The proposed change would provide a TS exception to entering Mode 4 if both RHR shutdown cooling subsystems are inoperable. The model safety evaluation for TSTF–580 was approved by the NRC in a letter dated July 11, 2021 (ML21188A283 (Package)).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Assistant General Counsel, Entergy Services, Inc.,101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Siva Lingam, 301–415–1564.

Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Units 1 and 2; Goodhue County, MN

Docket Nos	50–282, 50–306.
Application date	June 7, 2022.
ADAMS Accession No	ML22158A090.
Location in Application of NSHC	Pages 2 and 3 of Enclosure.

Brief Description of Amendments	The amendment request would modify the Prairie Island Nuclear Generating Plant, Units 1 and 2, technical specifications to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–577, ''Revised Frequencies for Steam Generator Tube Inspections.''.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Peter M. Glass, Assistant General Counsel, Xcel Energy, 414 Nicollet Mall—401–8, Minneapolis, MN 55401.
NRC Project Manager, Telephone Number	Robert Kuntz, 301–415–3733.

Southern Nuclear Operating Company, Inc.; Edwin I. Hatch Nuclear Plant, Units 1 and 2; Appling County, GA

Docket Nos	50–321, 50–366.
Application date	March 25, 2022, as supplemented by letter dated May 17, 2022.
ADAMS Accession No	ML22087A169, ML22137A001.
Location in Application of NSHC	Pages E1–4 to E1–6 of Enclosure 1.
Brief Description of Amendments	Southern Nuclear Operating Company (SNC) requests adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–208, Revision 0, ''Extension of Time to Reach Mode 2 in LCO 3.0.3.'' Specifically, the amendment would propose to extend the allowed time to reach Mode 2 in LCO 3.0.3 from 7 hours to 10 hours. In addition, SNC requests an administrative change for deletion of a duplicate TS 3.4.10, on TS Page 3.4–25 of each unit's TS.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	Dawnmathews Kalathiveettil, 301–415–5905.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA

Docket Nos	50–387, 50–388.
Application date	March 31, 2022.
ADAMS Accession No	ML22090A058.
Location in Application of NSHC	Enclosure 1, Pages 4–6.
Brief Description of Amendments	The proposed amendments would remove specific minimum qualification requirements for unit staff from the administrative controls technical specifications (TS), would relocate those qualifications to the Quality Assurance Program (QAP), and would revise the TS to refer to the QAP for the minimum qualification requirements.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Damon D. Obie, Esq, 835 Hamilton St., Suite 150, Allentown, PA 18101.
NRC Project Manager, Telephone Number	Audrey Klett, 301–415–0489.

TMI–2 Solutions, LLC; Three Mile Island Unit 2; Londonderry Township, Dauphin County, PA

Docket No	50–320.
Application date	October 5, 2021, as supplemented by letter dated December 15, 2021.
ADAMS Accession No	ML21279A278, ML21354A027.
Location in Application of NSHC	Attachment 1 of the October 5, 2021, application.
Brief Description of Amendment	The subject application is for approval of partial exemptions requests and an associated conforming amendment required to reflect specific associated changes in the technical specifications should the NRC approve the partial exemption request.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Russ Workman, General Counsel, EnergySolutions, 299 South Main Street, Suite 1700, Salt Lake City, UT 84111.
NRC Project Manager, Telephone Number	Amy Snyder, 301–415–6822.

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA

Docket Nos	50–280, 50–281.
Application date	April 14, 2022, as supplemented by letter dated May 11, 2022.
ADAMS Accession No	ML22104A125, ML22131A326.
Location in Application of NSHC	Attachment 1, Section 4.2.
Brief Description of Amendments	These amendments would propose a change to designate the Turbine Building as a tornado-resistant structure in the Surry Units 1 and 2, Updated Final Safety Analysis Report under a different methodology and acceptance criteria than those defined for the other Surry Units 1 and 2 tornado-resistant structures.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ	
Docket No	50–528, 50–529, 50–530.
Amendment Date	June 10, 2022.
ADAMS Accession No	ML22152A234.
Amendment Nos	218 (Unit 1), 218 (Unit 2), and 218 (Unit 3).
Brief Description of Amendments	The amendments revised the technical specifications to remove requirements that only apply to Class 1E buses with a single stage time delay for degraded voltage relays (DVRs) and an inverse time delay for the loss of voltage relays (LVRs). The requirements are no longer applicable since modifications to DVRs and LVRS, approved in License Amendment 201 (ML17090A164), have been completed. The changes also made associated editorial changes and corrected a typographical error.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Constellation Energy Generation, LLC; Three Mile Island Nuclear Station, Unit 1; Dauphin County, PA	
Docket No	50–289.
Amendment Date	June 7, 2022.
ADAMS Accession No	ML22074A131.
Amendment No.	305.
Brief Description of Amendment	The NRC issued an amendment to implement a revision to the Three Mile Island Station, Unit 1 (TMI–1) Physical Security Plan. The revised plan reflects the requirements associated with physical security necessary for the independent spent fuel storage installation (ISFSI)-only configuration, consistent with the permanent removal of all spent fuel from the TMI–1 spent fuel pools. The amendment is effective upon written notice that all the spent fuel is in the ISFSI and TMI–1 has 90 days for implementation.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Constellation Energy Generation, LLC; Three Mile Island Nuclear Station, Unit 1; Dauphin County, PA	
Docket No	50–289.
Amendment Date	April 7, 2022.
ADAMS Accession No	ML22074A024 (Package).
Amendment No.	303.
Brief Description of Amendment	NRC issued an amendment to Renewed Facility License No. DPR–50 for Three Mile Island (TMI), Unit 1. The amendment revises the Three Mile Island (TMI) Station Emergency Plan and Emergency Action Level scheme for the permanently defueled condition after all irradiated fuel has been transferred from the Spent Fuel Pools (SFPs) to the Independent Spent Fuel Storage Installation (ISFSI). The amendment is effective upon NRC receipt of written notification from Constellation Energy Generation that all spent fuel is in dry storage located onsite at the ISFSI and shall be implemented within 90 days of the effective date. Upon implementation the licensee is allowed to make specific reductions in the size and makeup of the Emergency Response Organization.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Constellation Energy Generation, LLC; Three Mile Island Nuclear Station, Unit 1; Dauphin County, PA	
Docket No	50–289.
Amendment Date	April 19, 2022.
ADAMS Accession No	ML22081A229 (Package).
Amendment No.	304.

Brief Description of Amendment	The NRC has issued the enclosed Amendment No. 304 to Renewed Facility Operating License (RFOL) No. DPR–50 for Three Mile Island, Unit 1 (TMI–1), operated by Constellation Energy Generation, LLC. The amendment consists of revisions to the Renewed Facility Operating License and the technical specifications (TSs) in response to the amendment request dated December 16, 2020 (ADAMS Accession NoML20351A451), as supplemented on March 28, 2022 (ADAMS Accession NoML22087A394). These revisions reflect the removal of all spent nuclear fuel from the TMI–1 spent fuel pools (SFPs) and its transfer to dry cask storage within an onsite Independent Spent Fuel Storage Installation (ISFSI). These changes will more fully reflect the permanently shut down status of the decommissioning facility, as well as the reduced scope of structures, systems, and components necessary to ensure plant safety once all spent fuel has been permanently moved to the TMI–1 ISFSI, an activity which is currently scheduled for completion by July 2022. The proposed changes also include the relocation of administrative controls from the TS to the TMI–1 Decommissioning Quality Assurance Program as well as deletion of the remaining TS Bases, except for certain environmental reporting requirements which are required to remain in the TS in accordance with 10 CFR 50.36a(a)(2).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Constellation FitzPatrick, LLC and Constellation Energy Generation, LLC; James A. FitzPatrick Nuclear Power Plant; Oswego County, NY

Docket No	50–333.
Amendment Date	May 27, 2022.
ADAMS Accession No	ML22126A196.
Amendment No.	350.
Brief Description of Amendment	The amendment revised the technical specifications to adopt Technical Specification Task Force 264–A, Revision 0, ''3.3.9 and 3.3.10-Delete Flux Monitors Specific Overlap Requirement SR [Surveillance Requirements].'' Specifically, the amendment revised Technical Specification 3.3.1.1, ''RPS Instrumentation,'' by deleting Surveillance Requirements 3.3.1.1.5 and 3.3.1.1.6, which verify the overlap between the source range monitor and the intermediate range monitor, and between the intermediate range monitor and the average power range monitor. The surveillance functions will still be performed by the associated CHANNEL CHECK in Surveillance Requirement 3.3.1.1.1.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC; Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, NC; Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC; Duke Energy Progress, LLC; H. B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC

Docket No	50–413, 50–414, 50–369, 50–370, 50–269, 50–270, 50–287, 50–261.
Amendment Date	June 14, 2022.
ADAMS Accession No	ML22046A022.
Amendment Nos	312 (Catawba Unit 1), 308 (Catawba Unit 2), 322 (McGuire Unit 1), 301 (McGuire Unit 2), 423 (Oconee Unit 1), 425 (Oconee Unit 2), 424 (Oconee Unit 3), 270 (Robinson Unit 2).
Brief Description of Amendments	The amendments deleted the second Completion Times from the affected Required Actions contained in technical specifications (TSs), removed the example contained in TS Section 1.3, and added a discussion about alternating between Conditions. These changes were consistent with Technical Specification Task Force (TSTF) Traveler TSTF–439, Revision 2, ''Eliminate Second Completion Times Limiting Time from Discovery of Failure to Meet an LCO [Limiting Condition for Operation].''.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 1; Pope County, AR

Docket No	50–313.
Amendment Date	June 23, 2022.
ADAMS Accession No	ML22138A431.
Amendment No.	277.
Brief Description of Amendment	The amendment modified the licensing basis by the addition of a license condition to allow for the implementation of the provisions of 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors.''.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA

Docket No	50–382.
Amendment Date	May 27, 2022.
ADAMS Accession No	ML22145A015.
Amendment No	266.

Brief Description of Amendment	The amendment revised the current instrumentation testing definitions of channel calibration and channel functional test to permit determination of the appropriate frequency to perform the surveillance requirement based on the devices being tested in each step. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–563, Revision 0, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.''.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3 and 4; Miami-Dade County, FL

Docket No	50–250, 50–251.
Amendment Date	May 24, 2022.
ADAMS Accession No	ML22028A066.
Amendment Nos.	296, 289.
Brief Description of Amendments	The amendments revised the Turkey Point Technical Specification (TS) 6.9.1.7 to reflect the adoption of topical report WCAP–16996–P–A, Revision 1, ''Realistic LOCA [loss-of-coolant accident] Evaluation Methodology Applied to the Full Spectrum of Break Sizes (Full Spectrum LOCA Methodology),'' (Reference 3) as a reference in the Core Operating Limits Report (COLR). The added reference identified the analytical method used to determine the core operating limits for the large break LOCA (LBLOCA) and the small break LOCA (SBLOCA) events described in the Turkey Point Updated Final Safety Analysis Report Sections 14.3.2.1 and 14.3.2.2, respectively. The proposed amendments also deleted references 1 through 6 in the TS 6.9.1.7 COLR list of analytical methods.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit No. 2; Berrien County, MI

Docket No	50–316.
Amendment Date	June 8, 2022.
ADAMS Accession No	ML22055A001.
Amendment No.	341.
Brief Description of Amendment	The amendment revised the Donald C. Cook Nuclear Plant, Unit No. 2 technical specifications (TSs) to replace the current pressure temperature limits for the reactor coolant system (RCS) in TS 3.4.3, ''RCS Pressure and Temperature (P/T) Limits,'' which are applicable for a service period up to 32 effective full power years (EFPY), with limits that extend up to 48 EFPY. In addition, the amendment revised TS 3.4.12, ''Low Temperature Overpressure Protection (LTOP) System,'' to align with an updated LTOP analysis. The proposed changes to the LTOP requirements in TS 3.4.12 resulted in changes to TS 3.4.6, ''RCS Loops MODE 4''; TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled''; and TS 3.4.10, ''Pressurizer Safety Valves.''.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2; Berrien County, MI

Docket No	50–315, 50–316.
Amendment Date	June 21, 2022.
ADAMS Accession No	ML22046A233.
Amendment Nos	360 (Unit 1) and 342 (Unit 2).
Brief Description of Amendments	The amendments revised the Bases for Technical Specifications (TS) 3.3.3, ''Post Accident Monitoring (PAM) Instrumentation.'' The change to the TS Bases would allow one channel of TS 3.3.3, ''Post Accident Monitoring (PAM) Instrumentation,'' Function 7, Containment Water Level, to be satisfied by a train of two operable containment water level switches in the event that both containment water level channels become inoperable. This alternate method of satisfying containment water level channel requirements are limited to the remaining duration of the operating cycle each time it is invoked. In addition, a note is added to TS 3.3.3 to reflect this Bases change.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dated: July 7, 2022.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–14819 Filed 7–14–22; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Reinstatement: 3206–0264, Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees, OPM 1825

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on the reinstatement of an information collection request (ICR) 3206–0264, Application for U.S. Flag Recognition

Benefit for Deceased Federal Civilian Employees.

DATES: Comments are encouraged and will be accepted until September 13, 2022. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection via the Federal Rulemaking Portal: *http://www.regulations.gov.* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make those submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Senior Executive Service and Performance Management, Office of Personnel Management, 1900 E. Street NW, Suite 7412, Washington, DC 20415, Attention: Chanel Jackson or via electronic mail to *chanel.jackson@opm.gov* or by phone at 202–936–3022.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Civilian Service Recognition Act of 2011 (Pub. L. 112–73) authorizes an agency to furnish a United States flag on behalf of employees who die of injuries incurred in connection with their employment under specified circumstances. The U.S. Office of Personnel Management (OPM) is issuing guidance and proposed regulations to implement the Civilian Service Recognition Act of 2011. The guidance and proposed regulations will assist agencies in administering a United States flag recognition benefit for fallen Federal civilian employees. The guidance and proposed regulations describe the eligibility requirements and procedures to request a flag.

OPM Form OPM 1825, Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees, may be used to determine deceased Federal employee and beneficiary (*e.g.,* family member of a deceased employee) eligibility for issuance of a U.S. flag. The form may be used by any Federal entity and use of the form is at agency discretion. Agencies may use an electronic version of the form when the agency is equipped to accept electronic signatures.

Analysis

Agency: Office of Personnel Management.

Title: Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees.

OMB Number: 3260–0264.

Frequency: Annually.

Affected Public: Individuals or households.

Number of Respondents: 10.

Estimated Time per Respondent: 10 minutes/hour.

Total Burden Hours: 2 hours.

U.S. Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–15125 Filed 7–14–22; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 95242; File No. SR–CboeEDGX–2021–049]

Self-Regulatory Organizations; Cboe EDGX 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 11, 2022.

On November 17, 2021, Cboe EDGX 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 13.8(h) 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 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 2, 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 (CboeEDGX–2021–049).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15115 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93696 (December 1, 2021), 86 FR 69306. The comment letters received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboeedgx-2021-049/srcboeedgx2021049.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94008, 87 FR 4069 (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.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 94369, 87 FR 14056 (March 11, 2022).

[8] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2021-049/srcboeedgx2021049-20121774-273838.pdf.*

[9] *See* Securities Exchange Act Release No. 94783 (April 22, 2022), 87 FR 25313.

[10] *See* Securities Exchange Act Release No. 95029, 87 FR 34921 (June 8, 2022).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 95239; File No. SR–CboeBYX–2021–028]

Self-Regulatory Organizations; Cboe BYX 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 11, 2022.

On November 22, 2021, Cboe BYX 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 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 28, 2022, the Exchange withdrew the proposed rule change, as modified by Amendment No. 1 (SR–CboeBYX–2021–028).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15122 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–147, OMB Control No. 3235–0131]

Submission for OMB Review; Comment Request Extension: Rule 17a–7

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–7 (17 CFR 240.17a–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–7 requires a non-resident broker-dealer (generally, a broker-dealer with its principal place of business in a place not subject to the jurisdiction of the United States) registered or applying for registration pursuant to Section 15 of the Exchange Act to maintain—in the United States—complete and current copies of books and records required to be maintained under any rule adopted under the Exchange Act and furnish to the Commission a written notice specifying the address where the copies are located. Alternatively, Rule 17a–7 provides that non-resident broker-dealers may file with the Commission a written undertaking to furnish the requisite books and records to the Commission upon demand within 14 days of the demand.

The Commission estimates that there are approximately 30 non-resident broker-dealers. Based on the Commission's experience, the Commission estimates that the average amount of time necessary to comply with Rule 17a–7 is one hour per year per respondent. Accordingly, the Commission estimates that the total industry-wide reporting burden is approximately 30 hours per year. Assuming an average cost per hour of approximately $319 for a compliance manager, the total internal cost of compliance for the respondents is approximately $9,570 per year.[1]

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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by August 15, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: July 11, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15128 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95238; File No. SR–ISE–2022–14]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 4A, Section 12 and Options 7, Section 3

July 11, 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 July 1, 2022, Nasdaq ISE, LLC (''ISE'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93689 (December 1, 2021), 86 FR 69335. The comment letters received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebyx-2021-028/srcboebyx2021028.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94009, 87 FR 4098 (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.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 94373, 87 FR 14060 (March 11, 2022).

[8] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboebyx-2021-028/srcboebyx2021028-20121765-273901.pdf.*

[9] *See* Securities Exchange Act Release No. 94787 (April 22, 2022), 87 FR 25309.

[10] *See* Securities Exchange Act Release No. 95035, 87 FR 35269 (June 9, 2022).

[11] 17 CFR 200.30–3(a)(12).

[1] $319 per hour for a compliance manager is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff for an 1800-hour work-year, multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted for inflation.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain rule text within Options 4A, Section 12, Terms of Index Options Contracts, and Options 7, Section 3, Regular Order Fees and Rebates.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend certain rule text within Options 4A, Section 12, Terms of Index Options Contracts, related to the Short Term Option Series Program, and update the Pricing Schedule to replace references to the symbol ''FB'' with ''META'' within Options 7, Section 3, Regular Order Fees and Rebates. Each change is described below.

Options 4A, Section 12

In 2013, ISE amended the Short Term Option Series Program for equity options within Rule 504 (currently Options 4, Section 5) to change the number of currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date from thirty to fifty options classes.[3] At that time, the Exchange neglected to update the index options rules to make similar changes to the Short Term Option Series Program given that the amount of options classes that may participate in the Short Term Option Series Program is aggregated between equity options and index options and is not apportioned between equity and index options.

Today, Supplementary Material .01(a) to Options 4A, Section 12 provides,

> Classes. The Exchange may select up to thirty (30) currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the 30 option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each index option class eligible for participation in the Short Term Option Series Program, the Exchange may open up to 30 Short Term Option Series on index options for each expiration date in that class. The Exchange may also open Short Term Option Series that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

At this time, the Exchange proposes to amend Supplementary Material .01(a) to Options 4A, Section 12 to increase the number of currently listed options classes on which Short Term Option Series may be opened on any Short Term Option Opening Date from thirty to fifty options classes for index options. The Exchange also proposes to add the word ''thirty'' before the number ''30'' and place the number 30 in parentheses. These amendments would align the limitations within Supplementary Material .01(a) to Options 4A, Section 12 regarding index options with those currently within Supplementary .03(a) to Options 4, Section 5 regarding equity options.

As noted above, this amendment will not result in a greater number of listings in the Short Term Option Series Program because the amount of options classes that may participate in the Short Term Option Series Program is aggregated between equity options and index options and is not apportioned between equity and index options. Amending Supplementary Material .01(a) to Options 4A, Section 12 to conform to the limitations provided within Supplementary .03(a) to Options 4, Section 5 will avoid confusion by making clear the aggregate limitations within equity and index options for listing Short Term Option Series. Today, Nasdaq Phlx LLC ('Phlx'') and Cboe Exchange, Inc. (''Cboe'') have similar limitations within their equity and index Short Term Option Series Program.[4]

Options 7, Section 3

On June 9, 2022 Meta Platforms, Inc. began trading under its new stock symbol, ''META'', replacing its previous ticker symbol, ''FB''. At this time, the Exchange proposes to replace references to the symbol ''FB'' with ''META'' within Options 7, Section 3, Regular Order Fees and Rebates.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 4A, Section 12

In 2013, ISE amended the Short Term Option Series Program for equity options within Rule 504 (currently Options 4, Section 5) to change the number of currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date from thirty to fifty options classes.[7] At that time, the Exchange neglected to update the index options rules to make similar changes to the Short Term Option Series Program given that the amount of options classes that may participate in the Short Term Option Series Program is aggregated between equity options and index options and is not apportioned between equity and index options. Amending Supplementary Material .01(a) to Options 4A, Section 12 to conform to the limitations provided within Supplementary .03(a) to Options 4, Section 5 will avoid confusion by making clear the aggregate limitations within equity and index options for

[3] *See* Securities Exchange Act Release Nos. 71034 (December 11, 2013), 78 FR 76363 (December 17, 2013) (SR–ISE–2013–69) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Short Term Option Series Program).

[4] *See* Phlx Options 4A, Section 12(b)(4) and Cboe Exchange, Inc. Rules 4.5 and 4.13. *See also* Securities Exchange Act Release No. 95077 (June 9, 2022), 87 FR 36188 (June 15, 2022) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 4A, Section 12, Terms of Index Options Contracts).

[5] 15 U.S.C. 78f(b)

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Securities Exchange Act Release Nos. 71034 (December 11, 2013), 78 FR 76363 (December 17, 2013) (SR–ISE–2013–69) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Short Term Option Series Program).

listing Short Term Option Series. Also, aligning the limitations within Supplementary Material .01(a) to Options 4A, Section 12 with those currently within Supplementary .03(a) to Options 4, Section 5 will not result in a greater number of listings in the Short Term Option Series Program because the amount of options classes that may participate in the Short Term Option Series Program is aggregated between equity options and index options and is not apportioned between equity and index options. Today, Phlx and Cboe have similar limitations within their equity and index Short Term Option Series Program.[8]

Options 7, Section 3

The Exchange's proposal to update references to the symbol ''FB'' to ''META'' within the Pricing Schedule at Options 7, Section 3, Regular Order Fees and Rebates, is consistent with the Act. This amendment will make clear that the symbol ''META'' continues to be subject to the pricing noted with respect to the symbol ''FB'' within Options 7, Section 3.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 4A, Section 12

Amending Supplementary Material .01(a) to Options 4A, Section 12 to conform to the limitations provided within Supplementary .03(a) to Options 4, Section 5 does not impose an undue burden on competition because the same limitations apply today to other options exchanges. Today, Phlx and Cboe have similar limitations within their equity and index Short Term Option Series Program.[9]

Options 7, Section 3

The Exchange's proposal to update references to the symbol ''FB'' to ''META'' within the Pricing Schedule at Options 7, Section 3, Regular Order Fees and Rebates, does not impose an undue burden on competition as the proposal does not amend the current pricing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[8] *See* note 4 above.

[9] *See* note 4 above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to 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 so that it may immediately amend its Pricing Schedule to update references to the symbol ''FB'' to ''META'' within Options 7, Section 3, Regular Order Fees and Rebates, to avoid confusion as to the pricing of the symbol ''META.'' The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as the proposed rule change does not raise any new or novel issues. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

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 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–ISE–2022–14 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–ISE–2022–14. 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–ISE–2022–14, and should be submitted on or before August 5, 2022.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15121 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No.34645; File No. 812–15283]

Cypress Creek Private Strategies Master Fund, L.P., et al.

July 11, 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 and closed-end management investment companies to co-invest in portfolio companies with certain affiliated investment entities.

APPLICANTS: Cypress Creek Private Strategies Master Fund, L.P., Endowment Advisers, L.P., d/b/a Cypress Creek Partners, CCP Coastal Redwood Fund, LP, CCP Sierra Redwood Fund, LP, and Marinas I SPV, LLC.

FILING DATES: The application was filed on November 16, 2021 and amended on December 8, 2021, May 13, 2022 and June 27, 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 5, 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: Benjamin Murray, *Benjamin.murray@cypresscreekpartners.com* and George J. Zornada, *George.Zornada@klgates.com.*

FOR FURTHER INFORMATION CONTACT: Christopher D. Carlson, Senior Counsel, or Trace W. Rakestraw, 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' third amended and restated application, dated June 27, 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 *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. 2022–15133 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95240; File No. SR–BX–2022–010]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Credits in Equity 7, Section 118(e)

July 11, 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 July 1, 2022, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction credits, at Equity 7, Section 118(e), as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates on the ''taker-maker'' model, whereby it generally pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange has a schedule, at Equity 7, Section 118(e), which consists of several different credits and fees for Retail Orders[3] and Retail Price Improvement Orders[4] under Rule 4780 (Retail Price Improvement Program).

[15] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Retail Orders shall mean an order type with a Non-Display Order Attribute submitted to the Exchange by a Retail Member Organization (as defined in Rule 4780). A Retail Order must be an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology. *See* Rule 4702(b)(6).

[4] Retail Price Improving (''RPI'') Orders shall mean an Order Type with a Non-Display Order

Currently, the Exchange provides certain credits for Retail Orders that provide liquidity. The Exchange proposes to adopt a new credit of $0.0010 per share executed for Retail Orders with an accepted price greater than or equal to $10,000 that accesses liquidity provided by a Retail Price Improvement Order. The Exchange is also proposing to adjust the existing credit of $0.0021 per share executed to require the Retail Order to have an accepted price of less than $10,000. The Exchange hopes that the proposed new credit will encourage member organizations to increase liquidity providing activity on RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and retail orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal Is Reasonable and Is an Equitable Allocation of Credits

The Exchange's proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has 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'. . . .'' [7]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [8]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several taker-maker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.[9]

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.[10] Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its market share relative to its competitors.

The Exchange believes it is reasonable and equitable to adopt a new $0.0010 per share executed credit for Retail Orders with an accepted price greater than or equal to $10,000 that access liquidity provided by a Retail Price Improvement Order. Similarly, the Exchange believes that it is reasonable to adjust its existing $0.0021 credit to conform with its new proposed credit by requiring the Retail order to have an accepted price less of less than $10,000. As discussed above, the Exchange's goal is to increase liquidity adding activity in RPI Orders on its platform. It is reasonable and equitable to address this need by providing an additional credit to member organizations that meet the proposed thresholds as an incentive for them to increase their liquidity activity in RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

The Proposed Credit Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

The Exchange intends for its proposal to improve market quality for all members that submit RPI and Retail Orders on the Exchange and by extension attract more liquidity to the market, improving market wide quality and price discovery. Although net adders of liquidity for RPI Orders will benefit most from the proposal, this result is fair insofar as increased liquidity adding activity in RPI Orders will help to improve market quality and

Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780. A Retail Price Improving Order may be entered in price increments of $0.001. RPI Orders collectively may be referred to as ''RPI Interest.'' *See* Rule 4702(b)(5).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *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)).

[8] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[9] *See* CBOE BYX Fee Schedule, at *http://markets.cboe.com/us/equities/membership/fee_schedule/byx/;* NYSE National Fee Schedule, at *https://www.nyse.com/publicdocs/nyse/regulation/nyse/NYSE_National_Schedule_of_Fees.pdf.*

[10] The Exchange perceives no regulatory, structural, or cost impediments to market participants shifting order flow away from it. In particular, the Exchange notes that these examples of shifts in liquidity and market share, along with many others, have occurred within the context of market participants' existing duties of Best Execution and obligations under the Order Protection Rule under Regulation NMS.

the attractiveness of the Nasdaq BX market to all existing and prospective retail participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. As noted above, all member organizations of the Exchange will benefit from any increase in market activity that the proposal effectuates. Member organizations may modify their businesses so that they can meet the required thresholds and receive the credits. Moreover, members are free to trade on other venues to the extent they believe that the credits provided are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. The Exchange notes that the tier structure is consistent with broker-dealer fee practices as well as the other industries, as described above.

Intermarket Competition

The Exchange believes that its proposed modifications to its schedule of credits will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credits change in this market may impose any burden on competition is extremely limited.

The proposed credit for adding liquidity is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume has less than 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprised more than 40% of industry volume in recent months.

In sum, the Exchange intends for the proposed change to its credits for RPI Orders, in the aggregate, to increase member incentives to engage in the addition of liquidity on the Exchange. If the additional credit proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

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–BX–2022–010 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–BX–2022–010. 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–BX–2022–010 and should be submitted on or before August 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15116 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95226; File No. SR–NASDAQ–2022–039]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Credits, at Equity 7, Section 118

July 11, 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 July 1, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's schedule of credits, at Equity 7, Section 118(a)(1), as described further below. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to eliminate a credit that the Exchange provides to members for displayed liquidity under Equity 7, Section 118(a)(1).

Currently, the Exchange provides a $0.0018 per share executed credit for securities in Tape C[3] to a member with shares of liquidity provided in all securities representing less than 0.10% of Consolidated Volume,[4] through one or more of its Nasdaq Market Center MPIDs; provided that (i) the member also provides a daily average of at least 250,000 shares of liquidity provided in securities listed on an exchange other than Nasdaq, or (ii) the member routes a daily average volume of at least 10,000 shares during the month via the QDRK[5] routing strategy. The Exchange proposes to eliminate this credit.

The Exchange offers this credit as a means of improving market quality by providing its members with an incentive to increase liquidity on the Exchange. However, the Exchange has observed over time that this credit has not been successful in accomplishing its objective. That is, it has not induced members to add liquidity to the Exchange and members are not targeting this credit for growth or general use of the QDRK strategy. The Exchange has limited resources available to it to offer its members market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective. Accordingly, the Exchange proposes to eliminate the credit noted above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has 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'. . . .''[8]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] There are three Tapes, which are based on the listing venue of the security: Tape C securities are Nasdaq-listed; Tape A securities are New York Stock Exchange-listed; and Tape B securities are listed on exchanges other than Nasdaq and NYSE.

[4] Pursuant to Equity 7, Section 118(a), the term ''Consolidated Volume'' means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member's trading activity. For the purposes of calculating the extent of a member's trading activity during the month on Nasdaq and determining the charges and credits applicable to such member's activity, all M–ELO Orders that a member executes on Nasdaq during the month count as liquidity-adding activity on Nasdaq.

[5] QDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *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)).

''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [9]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that its proposal is reasonable, equitable, and not unfairly discriminatory to eliminate the $0.0018 per share executed credit for securities in Tape C. The credit has not been effective in achieving its intended objective of incentivizing members to provide liquidity to the Exchange. The Exchange has limited resources available to it to offer its members market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective.

The proposal is also equitable and not unfairly discriminatory because the proposed change to the credits will apply uniformly to all similarly situated members. All market participants stand to benefit to the extent that the proposal is successful in freeing limited resources and improving market quality. Any member that is dissatisfied with the credits is free to shift their order flow to competing venues that provide more favorable rates or less stringent qualifying criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participants at a competitive disadvantage. Members are free to trade on other venues to the extent they believe that the credits provided are not attractive or the qualifying criteria for such credits is too stringent. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

The Exchange believes that the proposed change to its schedule of credits to eliminate the $0.0018 per share executed credit for securities in Tape C as noted above will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed change to the Exchange's credits is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 [11] 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2022–039 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.

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–NASDAQ–2022–039. 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–NASDAQ–2022–039 and should be submitted on or before August 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15118 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95245; File No. SR–NSCC–2022–005]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Revise the Excess Capital Premium Charge

July 11, 2022.

On May 30, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2022–005 (the ''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 June 8, 2022,[3] and the Commission has received comments regarding the changes proposed in the Proposed Rule Change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the Proposed Rule Change is July 23, 2022.

The Commission is extending the 45-day period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that it has sufficient time to consider and take action on the Proposed Rule Change.

Accordingly, pursuant to Section 19(b)(2) of the Act[6] and for the reasons stated above, the Commission designates September 6, 2022, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–NSCC–2022–005.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15119 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–497; OMB Control No. 3235–0555]

Submission for OMB Review; Comment Request Extension: Rule 6h–1

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'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 6h–1 (17 CFR 240.6h–1) under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*).

Section 6(h) of the Act (15 U.S.C. 78f(h)) requires national securities exchanges and national securities associations that trade security futures products to establish listing standards that, among other things, require that: (i) trading in such products not be readily susceptible to price manipulation; and (ii) the market on which the security futures product trades has in place procedures to coordinate trading halts with the listing market for the security or securities underlying the security futures product. Rule 6h–1 implements these statutory requirements and requires that (1) the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities, and (2) the exchanges and associations trading security futures products halt trading in any security futures product for as long as trading in the underlying security for trading of a security futures product based on a single security, or trading in 50% or more of the underlying securities for trading of a security futures product based on a narrow-based security index, is halted on the listing market.

It is estimated that approximately 1 respondent will incur an average burden of 10 hours per year to comply with this rule, for a total burden of 10 hours. At an average internal cost per hour of approximately $428, the resultant total internal cost of compliance for the respondents is $4,280 per year (1 respondent × 10 hours/respondent × $428/hour).

Compliance with Rule 6h–1 is mandatory. Any listing standards

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95026 (June 2, 2022), 87 FR 34913 (June 8, 2022) (File No. SR–NSCC–2022–005).

[4] Comments are available at *https://www.sec.gov/comments/sr-nscc-2022-005/srnscc2022005.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

established pursuant to Rule 6h–1 would be filed with the Commission as proposed rule changes pursuant to Section 19(b) of the Act and would be published in the **Federal Register**.

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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Written comments and recommendations for the proposed information collection should be sent by August 15, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: July 11, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15129 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95256; File No. SR–FICC–2022–005]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change to Revise the Formula Used to Calculate the VaR Charge for Repo Interest Volatility

July 12, 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 29, 2022, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

FICC is proposing to amend the GSD Methodology Document—GSD Initial Market Risk Margin Model (''QRM Methodology Document'')[3] in order to revise the formula used to calculate the VaR Charge (as defined below) for repo interest volatility and make conforming changes to the description of this formula. In addition, FICC is proposing to amend the QRM Methodology Document to make certain technical changes, as described in greater detail below.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to amend the QRM Methodology Document to revise the formula used to calculate the VaR Charge for repo interest volatility and make conforming changes to the description of this formula. In addition, FICC is proposing to amend the QRM Methodology Document to make certain technical changes.

(1) Revise the Formula Used To Calculate the VaR Charge for Repo Interest Volatility and Make Conforming Changes

FICC, through GSD, serves as a central counterparty (''CCP'') and provider of clearance and settlement services for the U.S. government securities market. A key tool that FICC uses to manage its credit exposures to its Members is the daily collection of margin from each Member. The aggregated amount of all Members' margin constitutes the Clearing Fund, which FICC would be able to access should a defaulted Member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that Member's portfolio. Each Member's margin consists of a number of applicable components, including a value-at-risk (''VaR'') charge (''VaR Charge'') designed to capture the potential market price risk associated with the securities in a Member's portfolio. The VaR Charge is typically the largest component of a Member's margin requirement. The VaR Charge is designed to cover FICC's projected liquidation losses with respect to a defaulted Member's portfolio at a 99% confidence level.

The VaR Charge includes a component that addresses repo interest volatility, which the QRM Methodology Document refers to as the ''repo interest volatility charge.'' Interest on a repurchase (''repo'') transaction, hereinafter referred to as ''repo interest,'' is the difference between the repurchase settlement amount and the start amount paid on the repo inception date. In its role as a CCP in clearing a repo transaction, FICC guarantees that the borrowers receive their repo collateral back at the close of the repo transaction while lenders receive the start amount paid on the repo inception date plus repo interest. The market value of interest payments for the remaining life of the repo trades are subject to the risk of movements of the market repo interest rates. Since FICC guarantees the repo interest payment to the lenders, this risk needs to be mitigated. The repo interest volatility charge is designed to mitigate such risk, *i.e.,* the risk arising out of fluctuations in market repo interest rates during the margin period of risk (''MPOR''). MPOR is currently set at 3 days for FICC. It represents the duration of time when a CCP is exposed to market risk post-member default, starting from the time of the last successful margin collection to the time the market risk exposure is effectively mitigated. The repo interest volatility charge is a small component of the total GSD margin (currently about 3% at CCP level).

The QRM Methodology Document contains the formula for the calculation of the repo interest volatility charge and describes the components and calculation thereof.

Currently, the repo interest volatility charge is assessed through application of a haircut schedule with a single haircut rate applied to each risk bucket after netting short and long repo interest

[3] The GSD QRM Methodology Document was filed as a confidential exhibit in the rule filing and advance notice for GSD sensitivity VaR. *See* Securities Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR–FICC–2018–801).

[4] Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the FICC Government Securities Division (''GSD'') Rulebook (''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

positions within the relevant risk bucket. Specifically, under the current formula, the repo interest positions for a given Member portfolio are put into different risk buckets based on (a) whether the underlying repo trade is a generic repo trade or a special repo trade and (b) the time to settlement of the underlying repo trade. The total net amount of each risk bucket is calculated as the sum of the product of repo start amount and the time to settlement of each repo interest position in that risk bucket. If the total net amount is positive (long), then the long repo haircut rate for that specific risk bucket is applied to the total net amount for that specific risk bucket to arrive at the repo interest volatility charge for that specific risk bucket. If the total net amount is negative (short), then the short repo haircut rate for that specific risk bucket is applied to the absolute value of the total net amount to arrive at the repo interest volatility charge for that specific risk bucket. The total repo interest volatility charge for the portfolio is the sum of the repo interest volatility charges of all of the risk buckets in the portfolio. As such, the current formula reflects a repo interest rate index driven approach where a single repo haircut rate is applied to the absolute value of the total net amount of each risk bucket of repo interest positions.[5]

In order to provide FICC with more flexibility with respect to the calculation of the repo interest volatility charge so FICC can respond to rapidly changing market conditions more quickly and timely, FICC is proposing revisions to the current formula. The proposed new formula is similar to the current formula in certain respects. For example, the proposed new formula would continue to be repo interest rate index driven and would use a similar mathematical calculation as the current formula. In addition, under the proposed new formula, the repo interest positions for a given Member portfolio would continue to be placed into risk buckets based on (a) whether the underlying repo trade is a generic repo trade or a special repo trade and (b) the time to settlement of the underlying repo trade. However, unlike the current formula, more than one repo haircut rate could apply to each risk bucket. This is because the repo haircut rate that would be applied would no longer be based on whether the total net amount for a specific risk bucket is long or short. Instead, as proposed, the specific repo haircut rate to be applied would be based on whether the individual repo interest position in a specific risk bucket is either long or short. Specifically, as proposed, FICC would apply a long repo haircut rate to all the long positions and a short repo haircut rate to all the short positions in each risk bucket. The long positions and the short positions can offset each other within the same risk bucket but cannot offset each other across different risk buckets. As proposed, the repo interest volatility charge for a specific risk bucket would be the absolute value of the sum of the product of repo start amount, time to settlement, and repo haircut rate of the individual repo interest positions in the risk bucket. However, as is the case with the current formula, the total repo interest volatility charge for the portfolio would still be the sum of the repo interest volatility charges of all of the risk buckets in the portfolio. Doing so would provide FICC the flexibility to use two haircuts for each risk bucket, one for long positions and the other for short positions,[6] thus allowing FICC to respond to rapidly changing market conditions more quickly and timely, particularly when the long and short repo interest positions exhibit very different risk profiles. In turn, the proposed changes would help better ensure that FICC calculates and collects adequate margin from Members and lead to a better risk management practice.

Based on FICC's 2020 and 2021 annual model validation reports, the rolling 12-month backtest coverage on the sub-portfolios of repo interest only positions had been below the 99 percent coverage target from June 2019 to September 2020. In order to improve the backtesting coverage, FICC is also proposing to add a repo bid/ask spread to each repo haircut rate (one for long positions and one for short positions) within the same risk bucket. The repo bid/ask spread would be calculated based on the historical percentile movements of the internally constructed repo interest rate indices. FICC is proposing to add the repo bid/ask spread to each repo haircut rate to account for the difference observed in the repo market between the highest rate a repo participant is willing to pay to borrow money in a repo trade and the lowest rate a repo participant is willing to accept to lend money in a repo trade. FICC believes adding the repo bid/ask spread to each of the repo haircut rates would improve backtesting coverage, particularly with respect to sub-portfolios of repo interest only positions.

For example, assuming a portfolio contains two repo interest positions, both with half a year to settlement, one position has a repo start amount of +$1 million, and the other has a repo start amount of −$0.8 million. In this example, the two repo interest positions have the same time to settlement, so they would fall into the same risk bucket. Let's further assume that for that specific risk bucket, the long repo haircut rate is 40 bps and the short repo haircut rate is 45 bps.

Under the current formula, we first calculate the total net amount of the risk bucket by adding the product of repo start amount and the time to settlement of the two repo interest positions, *i.e.,* (+$1 million*0.5 year) + (−$0.8 million*0.5 year). As calculated, the total net amount is +$100,000. Given that the total net amount is positive (long), we apply the long repo haircut rate of 40 bps, *i.e.,* $100,000*40 bps, and calculate the repo interest volatility charge for the portfolio as $400.

Under the proposed new formula, we would calculate the individual repo interest positions and apply the applicable repo haircut rate at the position level. Specifically, we would first calculate each repo interest position by multiplying the repo start amount and the time to settlement, *i.e.,* (+$1 million*0.5 year) = +$500,000, and then apply the applicable repo haircut rate, *i.e.,* because +$500,000 is a long position, we would apply the long repo haircut rate of 40 bps and calculate the amount for that long position as $2,000. For the second repo interest position, we would first multiply the repo start amount (−$0.8 million) and the time to settlement (0.5 year) and get −$400,000. Given it is a short position, we would apply the short repo haircut rate of 45 bps and calculate the amount for that short position as −$1,800. For the repo interest volatility charge for the portfolio, we would take the absolute value of the sum of the two amounts ($2,000+(−$1,800)) and get $200 as the repo interest volatility charge for the portfolio using the proposed new formula.[7] [8]

[5] FICC has developed its repo interest rate indices using FICC delivery-versus-payment repo transactions.

[6] As an initial matter, FICC would take a streamlined and prudent approach by setting the repo haircut rates for long positions and short positions to be the same rate, *i.e.,* the larger of the two rates, so that the long and short positions in a specific risk bucket would be subject to the same repo haircut rate.

[7] As an initial matter, FICC would set the repo haircut rates for long positions and short positions to be the same rate, *i.e.,* the larger of the two rates, so that the long and short positions in a specific risk bucket would be subject to the same repo haircut rate. *Supra* note 6. Using the new proposed formula under this approach, the repo interest volatility

Continued

The QRM Methodology Document also contains a detailed description of the repo haircut rate calculation for all risk buckets. FICC is proposing to eliminate this detailed description from the QRM Methodology Document and replace it with a more general description of the repo haircut rate calculation. FICC believes that having a more general description would provide FICC with more flexibility to respond to rapidly changing market conditions more quickly and timely by enabling FICC to adjust how the repo haircut rate is calculated without undergoing a rule filing process.[9] By being able to quickly make adjustments to the calculation of the repo haircut rate, FICC would be able to better risk manage the repo interest positions. Specifically, FICC believes this proposed change would enable FICC to make appropriate and timely adjustments to the repo haircut rates based on an evaluation of a number of factors, including, but not limited to, repo interest rate volatility outlook and backtesting coverage results. Furthermore, there are certain known data availability limitations with respect to the current repo interest rate index. That is, the current repo interest rate index is missing data for a volatile period, so repo haircut rates that have been calibrated based on the current repo interest rate index may not be sufficient if the repo market were to experience heightened volatility. FICC believes the proposed changes would therefore also help counterbalance potential data availability limitation issues by enabling FICC to adjust how the repo haircut rate is calculated more quickly and timely and thereby provide FICC with the flexibility to respond to rapidly changing market conditions more quickly and effectively.

FICC would instead describe the detailed calculations of the repo haircut rates in an internal standalone document. Nonetheless, any future changes to the repo haircut rate calculations would continue to follow DTCC's internal model governance procedure as described in the Clearing Agency Model Risk Management Framework.[10] In addition, the repo haircut rates would continue to be tracked in the monthly model parameter report.

Accordingly, FICC believes that revising the formula for the calculation of the repo interest volatility charge as described above and replacing the current specific description with a more general description in the QRM Methodology Document would collectively provide FICC with more flexibility and allow FICC to respond to rapidly changing market conditions more quickly by enabling FICC to adjust how the repo haircut rate is calculated without a rule filing. In addition, FICC believes that the proposed changes would enable FICC to better address the backtest coverage issue and thereby risk manage the repo interest positions more effectively.

Impact Study

FICC conducted an impact study for the period of January 2018 to February 2022 (''Impact Study''). The result of the Impact Study indicates that, at the CCP level, if the proposed changes had been in place, the backtesting coverage ratio for the repo interest volatility charge would have increased from approximately 98.7% to 99.2%.

Specifically, the Impact Study shows that had the proposed changes been in place from January 2018 to February 2022, it would have affected 90 out of 145 (approximately 62%) portfolios of GSD Members per day on average, and the average daily margin increase of the VaR Charge for these Member portfolios would have been approximately $0.7 million (representing approximately 3% of their average daily VaR Charge). For GSD, the proposed changes would have resulted in an average daily VaR Charge increase of approximately $86 million (representing approximately 0.8% of the average daily VaR Charge).

(2) Technical Changes

FICC is also proposing to make certain technical changes to the QRM Methodology Document to enhance clarity.

FICC proposes to revise the term ''GCF Repo'' to ''repo'' in ''2.1 Market risks associated with products cleared by GSD'' and ''3.2.4 Repo Interest Volatility Charge'' sections of the QRM Methodology Document for clarity.

In ''2.5.4. Repo Interest Volatility Charge'' and ''3.2.4 Repo Interest Volatility Charge'' sections of the QRM Methodology Document, FICC proposes to change ''inception date'' to ''repo inception date'' and ''above'' to ''in the above sections'' to enhance clarity. FICC also proposes to clarify and update certain descriptions in the ''2.5.4. Repo Interest Volatility Charge'' and ''3.2.4 Repo Interest Volatility Charge'' sections. For example, FICC is proposing to clarify the description of the risk that the repo interest volatility charge is designed to address and the repo trades that it applies to. In addition, FICC is proposing to update the paragraphs in ''2.5.4. Repo Interest Volatility Charge'' section describing the use of risk buckets to reflect the current practice.

Furthermore, FICC proposes to change ''repurchase price'' to ''repurchase settlement amount'' and ''original sale price'' to ''start amount paid on the repo inception date'' in ''3.2.4 Repo Interest Volatility Charge'' section for clarity. To enhance the clarity of the QRM Methodology Document, FICC also proposes to remove a formula from

charge for the portfolio would be $450. Instead of using 40 bps for long positions and 45 bps for short positions, we would apply 45 bps (the larger of the two rates) to both the long and short positions in the risk bucket, *i.e.,* (+$500,000*45 bps) and (−$400,000*45 bps), and get $2,250 and −$1,800 as the haircut amounts, respectively. The repo interest volatility charge for the portfolio would then be calculated by adding $2,250 and −$1,800, *i.e.,* $450.

[8] Under the proposed new formula, the repo interest volatility charge would always be a positive number because the calculation thereof is based on the absolute value of the sum of the relevant amounts. For example, assuming a portfolio contains two repo interest positions, both with half a year to settlement, one position has a repo start amount of −$1 million, and the other has a repo start amount of +$0.8 million. In this example, the two repo interest positions have the same time to settlement, so they would fall into the same risk bucket. Let's further assume that for that specific risk bucket, the long repo haircut rate is 45 bps and the short repo haircut rate is 40 bps. Under the proposed new formula, we would first calculate each repo interest position by multiplying the repo start amount and the time to settlement, *i.e.,* (−$1 million*0.5 year) = −$500,000, and then apply the applicable repo haircut rate, *i.e.,* because −$500,000 is a short position, we would apply the short repo haircut rate of 40 bps and calculate the amount for that short position as −$2,000. For the second repo interest position, we would first multiply the repo start amount (+$0.8 million) and the time to settlement (0.5 year) and get +$400,000. Given it is a long position, we would apply the long repo haircut rate of 45 bps and calculate the amount for that long position as +$1,800. For the repo interest volatility charge for the portfolio, we would take the absolute value of the sum of the two amounts, *i.e.,* abs(−$2,000+(+$1,800)) and get $200 as the repo interest volatility charge for the portfolio using the proposed new formula.

[9] Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Rule 19b–4(n)(1)(i) under the Act, if a change materially affects the nature or level of risks presented by FICC, then FICC is required to file an advance notice filing. 12 U.S.C. 5465(e)(1) and 17 CFR 240.19b–4(n)(1)(i).

[10] The Clearing Agency Model Risk Management Framework (''Framework'') sets forth the model risk management practices that FICC and its affiliates The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the ''Clearing Agencies'') follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008), 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File Nos. SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008), 92380 (July 13, 2021), 86 FR 38140 (July 19, 2021) (File No. SR–FICC–2021–006), 92381 (July 13, 2021), 86 FR 38163 (July 19, 2021) (File No. SR–NSCC–2021–008) and 92379 (July 13, 2021), 86 FR 38143 (July 19, 2021) (File No. SR–DTC–2021–003).

''3.2.4 Repo Interest Volatility Charge'' section of the QRM Methodology Document that is no longer used but had been included for historical reference.

In addition, FICC is proposing to clarify the description of the repo interest curve in ''3.2.4 Repo Interest Volatility Charge'' section of the QRM Methodology Document, including, among other things, the description the categories that a collateral security in a repo trade can be designated as and how those categories are treated in the repo interest volatility charge calculation, as well as how the repo rate indices are constructed. FICC also proposes to add that any changes or adjustments to the repo haircut rate calculation would need to go through DTCC's model governance process.

Lastly, FICC is proposing certain grammar-related technical changes in ''2.1 Market risks associated with products cleared by GSD'' and ''3.2.4 Repo Interest Volatility Charge'' sections of the QRM Methodology Document.

Implementation Timeframe

Subject to approval by the Commission, FICC would implement the proposed rule changes approximately within 30 days following such approval and would announce the effective date of the proposed change by an Important Notice posted to its website.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes that the proposed changes to the Rules and the QRM Methodology Document described above are consistent with Section 17A(b)(3)(F) of the Act, for the reasons described below.[11]

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[12]

FICC believes that the proposed changes to the QRM Methodology Document described in Item II.(A)1(1) above to revise the formula used to calculate the VaR Charge for repo interest volatility and make conforming changes to the description of this formula are designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[13] As described above, FICC believes these proposed changes would provide FICC with more flexibility with respect to the calculation of the repo interest volatility charge and thus allow FICC to respond to rapidly changing market conditions more quickly and timely, particularly when the long and short repo interest positions exhibit very different risk profiles. FICC believes that having more flexibility with respect to this calculation would help better ensure that FICC calculates and collects adequate margin from Members and thereby would assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[14]

FICC believes that the proposed technical changes described in Item II.(A)1(2) above would enhance the clarity of the QRM Methodology Document for FICC. As the QRM Methodology Document is used by FICC Risk Management personnel regarding the calculation of margin requirements, it is therefore important that FICC Risk Management has a clear description of the calculation of the margin methodology. Having a clear description of the calculation of the margin methodology would promote an accurate and smooth functioning of the margining process. Having an accurate and smooth functioning of the margining process would help better ensure that FICC calculates and collects adequate margin from Members and thereby assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible. As such, FICC believes that enhancing the clarity of the QRM Methodology Document would assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[15]

Rule 17Ad–22(e)(4)(i) under the Act[16] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. FICC believes that the proposed changes in Item II.(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(4)(i) under the Act.[17] As described above, FICC believes these proposed changes to revise the formula used to calculate the VaR Charge for repo interest volatility would (i) provide FICC with more flexibility with respect to the calculation of the repo interest volatility charge and (ii) improve backtesting coverage. FICC believes that having more flexibility with respect to the calculation of the repo interest volatility charge would allow FICC to respond to rapidly changing market conditions more quickly and timely. Having the ability to respond to rapidly changing market conditions more quickly and timely would in turn help FICC better measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes. Moreover, as the result of the Impact Study indicates, having the proposed changes would increase the backtesting coverage ratio for the repo interest volatility charge beyond 99% and thereby help ensure that FICC maintains sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. Therefore, FICC believes that the proposed changes described in Item II.(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(4)(i) under the Act.[18]

Rule 17Ad–22(e)(6)(i) under the Act[19] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. FICC believes that the proposed changes in Item II.(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(6)(i).[20]

Specifically, FICC believes the proposed new formula to allow FICC the flexibility to apply two separate repo haircut rates (one for long positions and the other for short positions) within the same risk bucket would enable FICC to be better equipped to respond to rapidly changing market conditions,

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] 17 CFR 240.17Ad–22(e)(4)(i).

[17] *Id.*

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(6)(i).

[20] *Id.*

particularly when the long and short repo interest positions exhibit very different risk profiles. FICC believes having this flexibility would help lead to a better risk management practice because it would enable FICC to refine its calculation of the repo interest volatility charge in response to fast changing market conditions. Being able to refine its calculation of the repo interest volatility charge in response to fast changing market conditions would help FICC cover its credit exposures to its participants by allowing FICC to continue to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[21]

Similarly, FICC believes that the proposed changes to replace the current detailed description of the repo haircut rate calculation for all risk buckets with a more general description, as described above, would also provide FICC with more flexibility to respond to rapidly changing market conditions more quickly and timely because FICC would be able to make adjustments to the repo haircut rate calculation without a rule filing. Having this flexibility would enable FICC to better risk manage the repo interest positions because FICC would then be able to make appropriate and timely adjustments to the repo haircut rates, as described above. Furthermore, as described above, FICC believes these proposed changes would also help counterbalance potential data availability limitation issues by enabling FICC to adjust how the repo haircut rate is calculated more quickly and timely. Being able to adjust its calculation of the repo haircut rate quickly and timely would help FICC cover its credit exposures to its participants by allowing FICC to continue to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[22]

Rule 17Ad–22(e)(6)(v) under the Act[23] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products. FICC believes that the proposed changes in Item II.(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(6)(v).[24]

Specifically, FICC believes the proposed new formula to allow FICC the flexibility to apply two separate repo haircut rates (one for long positions and the other for short positions) within the same risk bucket would enable FICC to be better equipped to respond to rapidly changing market conditions, particularly when the long and short repo interest positions exhibit very different risk profiles. FICC believes having this flexibility would help lead to a better risk management practice because it would enable FICC to refine its calculation of the repo interest volatility charge in response to fast changing market conditions. Being able to refine its calculation of the repo interest volatility charge in response to fast changing market conditions would help FICC cover its credit exposures to its participants by allowing FICC to continue to produce margin levels commensurate with relevant product risk factors and portfolio effects across products. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(v) under the Act.[25]

Similarly, FICC believes that the proposed changes to replace the current detailed description of the repo haircut rate calculation for all risk buckets with a more general description, as described above, would also provide FICC with more flexibility to respond to rapidly changing market conditions more quickly and timely because FICC would be able to make adjustments to the repo haircut rate calculation without a rule filing. Having this flexibility would enable FICC to better risk manage the repo interest positions because FICC would then be able to make appropriate and timely adjustments to the repo haircut rates, as described above. Furthermore, as described above, FICC believes these proposed changes would also help counterbalance potential data availability limitation issues by enabling FICC to adjust how the repo haircut rate is calculated more quickly and timely. Being able to adjust its calculation of the repo haircut rate quickly and timely would help FICC cover its credit exposures to its participants by allowing FICC to continue to product margin levels commensurate with relevant product risk factors and portfolio effects across products. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(v) under the Act.[26]

(B) Clearing Agency's Statement on Burden on Competition

FICC believes that the proposed changes described in Item II.(A)1(1) above may have an impact on competition because these changes could result in Members being assessed a higher margin than they would have been assessed using the current formula in calculation of the repo interest volatility charge. FICC believes that the proposed change could burden competition by potentially increasing these Members' operating costs. Nonetheless, FICC believes any burden on competition imposed by the proposed changes described in Item II.(A)1(1) would not be significant and, regardless of whether such burden on competition could be deemed significant, would be necessary and appropriate, as permitted by Section 17A(b)(3)(I) of the Act for the reasons described in this filing and further below.[27]

FICC believes any burden on competition imposed by the proposed changes described in Item II.(A)1(1) would not be significant. As the result of the Impact Study indicates, had the proposed changes been in place, approximately 62% of the GSD Member portfolios would have had an increase of approximately 3% in their average daily VaR Charge, and at a GSD level the increase would have been approximately 0.8% of the average daily VaR Charge.

However, even if the burden on competition imposed by the proposed changes described in Item II.(A)1(1) were deemed significant, FICC believes that any such burden on competition would be necessary because, as described above, the proposed changes would provide FICC with more flexibility with respect to the calculation of the repo interest volatility charge and allow FICC to respond to rapidly changing market conditions more quickly and timely, particularly when the long and short repo interest positions exhibit very different risk profiles. Having more flexibility with respect to this calculation would thus help better ensure that FICC calculates and collects adequate margin from Members and thereby assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible,

[21] *Id.*

[22] *Id.*

[23] 17 CFR 240.17Ad–22(e)(6)(v).

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(I).

consistent with Section 17A(b)(3)(F) of the Act.[28]

In addition, FICC believes the proposed changes described in Item II.(A)1(1) are necessary to support FICC's compliance with Rules 17ad–22(e)(4)(i), (e)(6)(i), and (e)(6)(v) under the Act. Specifically, as described above, FICC believes these proposed changes would provide FICC with more flexibility with respect to the calculation of the repo interest volatility charge. Having more flexibility with respect to the calculation of the repo interest volatility charge would allow FICC to respond to rapidly changing market conditions more quickly and timely. Having the ability to respond to rapidly changing market conditions more quickly and timely would in turn help FICC better measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes, consistent with the requirements of Rules 17ad–22(e)(4)(i) under the Act.[29]

FICC also believes these proposed changes would enable FICC to be better equipped to respond to rapidly changing market conditions, particularly when the long and short repo interest positions exhibit very different risk profiles. FICC believes having this flexibility would help lead to a better risk management practice because it would enable FICC to refine its calculation of the repo interest volatility charge in response to fast changing market conditions. Being able to refine its calculation of the repo interest volatility charge in response to fast changing market conditions would help FICC cover its credit exposures to its participants, consistent with the requirements of Rule 17Ad–22(e)(6)(i) and (e)(6)(v) under the Act.[30]

FICC also believes that any burden on competition imposed by the proposed changes described in Item II.(A)1(1) would be appropriate in furtherance of the Act because these proposed changes have been specifically designed to assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, as required by Section 17A(b)(3)(F) of the Act. As described above, FICC believes these proposed changes would help better ensure that FICC calculates and collects adequate margin from Member, thus enable FICC to produce margin levels more commensurate with the risks it faces as a CCP. Accordingly, FICC believes these proposed changes are appropriately designed to meet its risk management goals and regulatory obligations.

FICC believes that the proposed changes described in Item II.(A)1(1) above may also promote competition because these changes could also result in Members being assessed a lower margin than they would have been assessed using the current calculation of the repo interest volatility charge, and thereby could potentially lower operating costs for Members.[31]

With respect to the proposed changes described in Item II.(A)1(2) above to make technical changes to the QRM Methodology Document, FICC does not believe these proposed changes would have any impact on competition because these proposed changes would only enhance the clarity of the QRM Methodology Document, which would promote an accurate and smooth functioning of the margining process at FICC and would not affect the substantive rights of Members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any additional written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the 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 SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2022–005 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FICC–2022–005. 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

[28] 15 U.S.C. 78q–1(b)(3)(F)

[29] 17 CFR 240.17Ad–22(e)(4)(i).

[30] 17 CFR 240.17Ad–22(e)(6)(i) and (e)(6)(v).

[31] The proposed changes described in Item II.(A)1(1) could result in Members being assessed a lower margin than they would have been assessed using the current calculation of the repo interest volatility charge. As illustrated by the example in Item II.(A)1(1) above, when using the current formula, the repo interest volatility charge for the portfolio in the example is $400, but when using the proposed new formula, the repo interest volatility charge for the portfolio is reduced to $200 instead.

Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2022–005 and should be submitted on or before August 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15179 Filed 7–14–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95257; File No. SR–CboeBZX–2022–031]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the ARK 21Shares Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

July 12, 2022.

On May 13, 2022, Cboe BZX Exchange, Inc. (''BZX'') 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 list and trade shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on June 1, 2022.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 16, 2022. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates August 30, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2022–031).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15180 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95244; File No. SR–ICC–2022–009]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Risk Management Framework and the Risk Management Model Description

July 11, 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, ICE Clear Credit LLC (''ICC'') 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 primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Risk Management Framework (''RMF'') and the ICC Risk Management Model Description (''RMMD'') (collectively, the ''Risk Management Policies''). These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revisions to the Risk Management Policies. The proposed amendments consist of clarifications that are intended to promote consistency across related provisions in ICC's Rules and procedures and would not change any current risk methodologies, practices, or requirements. ICC believes the proposed changes will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective shortly after filing with the Commission, on or about July 18, 2022. The proposed rule change is described in detail as follows.

ICC proposes language clarifications to the Risk Management Policies to ensure consistency with the ICC Rules. Under ICC Rule 801(a)(ii), the required contribution to the Guaranty Fund

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94982 (May 25, 2022), 87 FR 33250.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[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)(1).

(''GF'') for each Clearing Participant (''CP'') is recalculated daily, and if such calculation results in an increase of 5% or more, the required contribution for such CP is reset to the higher level. The proposed changes replicate the ''increase of 5% or more'' language in related provisions in the RMF and RMMD to ensure that language in the RMF and RMMD clearly and consistently reflects ICC's current practices. Section IV.E.4 of the RMF calls for additional GF contributions if a CP's daily estimated GF requirements exceed 5% of their prior day's GF collateral on deposit. The proposed changes specify that the estimated GF requirements exceed by an increase of 5% or more the prior day's GF collateral on deposit. Under Section XI of the RMMD, ICC executes a GF call if the model GF allocation for a CP exceeds the total GF amount on deposit by more than 5%. The proposed changes specify that the model GF allocation exceed by an increase of 5% or more the total GF amount on deposit. These revisions would not change current risk methodologies, practices, or requirements and are intended to ensure that language in the RMF and RMMD clearly reflects ICC's current practices. Moreover, such changes ensure consistency across related provisions in the ICC Rules and procedures.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [5] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[6] In particular, Section 17A(b)(3)(F) of the Act [7] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest.

The proposed rule change is limited to language clarifications designed to promote consistency across related provisions in ICC's Rules and procedures. Namely, the proposed changes incorporate the ''increase of 5% or more'' language from ICC Rule 801(a)(ii) in related provisions in the RMF and RMMD to ensure that language in these documents clearly reflects ICC's current practices. The amendments would not change current risk methodologies, practices, or requirements. These amendments strengthen the Risk Management Policies as they provide clarity with respect to current practices to ensure that the RMF and RMMD remain up-to-date, transparent, and effective. Such changes also promote readability and understanding regarding current provisions associated with GF calls, thereby promoting the successful maintenance and operation of the Risk Management Policies. Accordingly, in ICC's view, the proposed rule change is consistent with the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[8]

The amendments would also satisfy relevant requirements of Rule 17Ad–22.[9] Rule 17Ad–22(e)(3)(i) [10] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by it, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by it, that are subject to review on a specified periodic basis and approved by the Board annually. ICC maintains a sound risk management framework that identifies, measures, monitors, and manages the range of risks that it faces. The Risk Management Policies are key aspects of ICC's risk management approach, and the proposed amendments would ensure further clarity and transparency in the documentation, which would promote the successful maintenance and operation of the Risk Management Policies. As such, the amendments would satisfy the requirements of Rule 17Ad–22(e)(3)(i).[11]

Rule 17Ad–22(e)(4)(ii) [12] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for ICC in extreme but plausible market conditions. The proposed changes promote uniformity across related provisions in the ICC Rules and procedures to avoid potential confusion and to ensure clarity with respect to GF calls in the Risk Management Policies, such that ICC's Rules and procedures remain consistent, effective, clear, and transparent. The changes more clearly articulate current practices regarding GF calls, thereby strengthening the Risk Management Policies by ensuring completeness and clear guidance. As such, the proposed amendments would strengthen ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad–22(e)(4)(ii).[13]

Rule 17Ad–22(e)(6)(i) [14] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. As described above, the proposed language updates promote clarity and transparency in the Risk Management Policies, ensure consistent language with the ICC Rules, and do not change current risk methodologies, practices, or requirements. ICC's margin methodology will continue to consider and produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, consistent with the requirements of Rule 17Ad–22(e)(6)(i).[15]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to the Risk Management Policies will apply uniformly across all market participants. They are limited to language

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] *Id.*

[9] 17 CFR 240.17Ad–22.

[10] 17 CFR 240.17Ad–22(e)(3)(i).

[11] *Id.*

[12] 17 CFR 240.17Ad–22(e)(4)(ii).

[13] *Id.*

[14] 17 CFR 240.17Ad–22(e)(6)(i).

[15] *Id.*

clarifications and designed to promote consistency across related provisions in ICC's Rules and procedures without changing any current risk methodologies, practices, or requirements. ICC does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICC does not believe the proposed rule change would impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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 and paragraph (f) 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–ICC–2022–009 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2022–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2022–009 and should be submitted on or before August 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15117 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–9524; File No. SR–CboeEDGA–2021–025]

Self-Regulatory Organizations; Cboe EDGA 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 11, 2022.

On November 17, 2021, Cboe EDGA 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 13.8(h) 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 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 2, 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 (CboeEDGA–2021–025).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15123 Filed 7–14–22; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93694 (December 1, 2021), 86 FR 69299. The comment letters received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboeedga-2021-025/srcboeedga2021025.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94007, 87 FR 4072 (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.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 94367, 87 FR 14058 (March 11, 2022).

[8] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedga-2021-025/srcboeedga2021025-20121776-273839.pdf.*

[9] *See* Securities Exchange Act Release No. 94782 (April 22, 2022), 87 FR 25320.

[10] *See* Securities Exchange Act Release No. 95028, 87 FR 34920 (June 8, 2022).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day Notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before August 15, 2022.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov*; (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: SBA received funds under the American Rescue Plan Act of 2021 (ARP Act), Public Law 117–2, title V, sec. 5003 (March 11, 2021), to provide direct funds to Eating and Drinking establishments that meet certain conditions. Specifically, Section 5003 of the ARP Act establishes the Restaurant Revitalization Fund (RRF) program to provide direct funds of up to $10 million dollars and limited to $5 million dollars per location to certain eligible persons or entities: a restaurant, food stand, food truck, food cart, caterer, saloon, inn, tavern, bar, lounge, brewpub, tasting room, taproom, licensed facility or premise of a beverage alcohol producer where the public may taste, sample, or purchase products, or other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink. Section 5003(c)(6) of the ARP Act, SBA requires RRF recipients to submit post award reports to confirm that funds are used fully and in accordance with program requirements. Section 5003(c)(6) of the ARP Act also requires recipients to return to the Treasury any funds that the recipient did not use for allowable expenses by the end of the covered period, or if the recipient permanently ceased operations, not later than March 11, 2023.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control 3245–0424

Title: Restaurant Revitalization Fund Program Post Award Report.

Description of Respondents: Direct funding to Eating and Drinking establishments that meet certain conditions.

Form Number: SBA Form 3173.

Total Estimated Annual Responses: 101,104.

Total Estimated Annual Hour Burden: 65,653.

Curtis B. Rich,

Agency Clearance Officer.

[FR Doc. 2022–15142 Filed 7–14–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17518 and #17519; South Dakota Disaster Number SD–00131]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of SOUTH DAKOTA (FEMA–4656–DR), dated 06/29/2022.

Incident: Severe Storm, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 05/12/2022.

DATES: Issued on 06/29/2022.

Physical Loan Application Deadline Date: 08/29/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 03/29/2023.

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: Alan 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 President's major disaster declaration on 06/29/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications 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: Aurora, Beadle, Bon Homme, Brookings, Clay, Codington, Day, Deuel, Grant, Hamlin, Hanson, Hutchinson, Kingsbury, Lake, Mccook, Miner, Minnehaha, Moody, Roberts, Turner, Flandreau Santee Sioux Tribe of South Dakota and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17518 B and for economic injury is 17519 0.

(Catalog of Federal Domestic Assistance Number 59008)

Joshua Barnes,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–15111 Filed 7–14–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) plans to seek approval from the Office of Management

and Budget (OMB) to conduct the data collection activities described below. The Paperwork Reduction Act requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information to OMB, and to allow 60 days for the public to comment in response to the notice. This notice complies with such requirements and announces the SBA's proposal to conduct a survey of small business executives who participated in the SBA's T.H.R.I.V.E. Emerging Leaders Reimagined program.

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

FOR FURTHER INFORMATION CONTACT: JoAnn Braxton, Office of Entrepreneurial Development, 409 3rd St. SW, 6th Floor, Washington, DC 20416, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This is a request for revisions of an approved collection (OMB number: 3245–0394). The SBA Emerging Leaders (EL) initiative was designed to strengthen and grow existing local entrepreneur communities in historically distressed cities. The key goals of the program are to (1) increase small business growth and survival, and (2) promote economic growth in distressed communities by providing employment opportunities as well as necessary goods and services. To achieve these goals, the program offers executives of high-growth small businesses a five-month executive leader education series, free of charge, that provide the networks, resources, and knowledge required to promote a sustainable business growth, create jobs, and contribute to the economic well-being of local communities. In 2022, the program was revamped under the new name, T.H.R.I.V.E. Emerging Leaders Reimagined. The revised program provides training that customizes content for small businesses' unique needs, increases accessibility through a virtual component, and specifically promotes business ecosystem connections among business owners, government agencies, and the financial community. This information collection is necessary for SBA to understand the progress made by the T.H.R.I.V.E. program toward achieving its goals.

The evaluation will be used to track participants' business growth, to provide guidance to the program training contractor on areas for additional assistance, and to increase SBA's understanding of the program outcome trends. This evaluation aims to examine the program participants' business growth outcomes including revenue, profits, job creation, and business survival. The evaluation also describes the population of program participants—their businesses, business management practices, experiences with the program, and satisfaction with and perceived effectiveness of the program. Over the previous years, the evaluation results have helped to track the program performance outcomes and provide suggestions for program improvements to better facilitate small business growth. The results are also expected to provide suggestions for improving future evaluations.

The following surveys are conducted with the program participants: (1) the application form before the program enrollment, (2) the intake survey before the training, (3) the module feedback form during the training, (4) the feedback survey right after the graduation, and (5) the follow-up survey annually up to three years after graduation. The application form examines the eligibility status of the enrollees, obtains their contact information, and asks for their business goals. The data from the Intake survey is used to determine baseline levels of business outcomes, the use of management practices, and the extent to which the target population for the program is reached. The module feedback form assesses the participants' experience with each of the eight modules of the training program. The feedback survey is used to measure participant satisfaction with the training activities and to suggest training adjustments, if necessary. The annual follow-up survey tracks changes in the small business owner's management practices and business outcomes for three years after graduation from the program. The data collection covers four cohorts of program participants. The given year participants complete the application form, intake survey, module feedback, and feedback survey. The three cohorts of participants who graduated from the program one, two, and three years prior complete the follow-up survey.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

PRA Number: 3245–0394.

(1) Title: SBA Emerging Leaders.

Description of Respondents: Small business executives who participated in the SBA's Emerging Leaders Reimagined program.

Total Estimated Annual Responses: 5,644.

Total Estimated Annual Hour Burden: 4,851.

Curtis B. Rich,

Agency Forms Manager.

[FR Doc. 2022–15172 Filed 7–14–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17520 and #17521; MINNESOTA Disaster Number MN–00097]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Minnesota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of MINNESOTA (FEMA–4658–DR), dated 07/08/2022.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 05/08/2022 through 05/13/2022.

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 President's major disaster declaration on 07/08/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications 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: Aitkin, Big Stone, Cass, Chippewa, Cottonwood,

Douglas, Grant, Kandiyohi, Lac Qui Parle, Lincoln, Morrison, Nobles, Pope, Redwood, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17520 B and for economic injury is 17521 0.

(Catalog of Federal Domestic Assistance Number 59008)

Joshua Barnes,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–15110 Filed 7–14–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) plans to seek approval from the Office of Management and Budget (OMB) to conduct the data collection activities described below. The Paperwork Reduction Act requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information to OMB, and to allow 60 days for the public to comment in response to the notice. This notice complies with such requirements and announces the SBA's proposal to conduct a survey of cluster administrators, small businesses, and large organizations who participated in the SBA's Regional Innovation Cluster (RIC) Initiative.

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

ADDRESSES: Send all comments to Philip T. Gibson; Office of Entrepreneurship Education; *philip.gibson@sba.gov,* 409 3rd Street SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Philip T. Gibson; Office of Entrepreneurship Education; *philip.gibson@sba.gov,* 409 3rd Street SW, Washington, DC 20416, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This is a request for a revision of a currently approved collection (OMB number: 3245–0392). Through the RIC initiative, SBA is investing in regional clusters—geographic concentrations of interconnected companies, specialized suppliers, academic institutions, service providers, and associated organizations with a specific industry focus—throughout the United States that span a variety of industries. The three primary goals of the initiative are to (1) increase opportunities for small business participation within clusters, (2) promote innovation in the industries on which the clusters are focused, and (3) enhance economic development and growth in cluster regions. To achieve these goals, the clusters provide a host of services to the target population of small and emerging businesses within their regional and industry focuses. Services include direct business advising and support and sponsoring events, such as networking opportunities with investors, large businesses and other stakeholders in the regions. This information collection is necessary for SBA to understand the progress of the RIC initiative toward achieving its goals.

The evaluation consists of two key components: an implementation evaluation and an outcome evaluation. The implementation evaluation focuses on how the Initiative is implemented across the 12 clusters and on the services that each cluster provides to its small businesses. The outcome evaluation focuses on short- and intermediate-term outcomes linked directly to the cluster services, as well as on long-term business outcomes that can be reasonably expected to result from the short- and intermediate-term outcomes. The short-term outcomes include the satisfaction and the perceived effectiveness of the program for business management and growth. The intermediate outcomes include development of new products, commercialization of new technologies, marketing and export services, improved access to capital, and industry integration. Long-term outcomes include increased revenue and employment. Over the previous years, evaluation results have helped to track the program performance outcomes and provide suggestions for program improvements to better facilitate innovation and small business growth. Furthermore, the evaluation survey data helped the SBA to better focus cluster activities on local contexts, particularly for rural and agricultural small businesses. This data will not be used to evaluate the effectiveness of an individual cluster.

The data collection effort involves three types of RIC initiative stakeholders: small businesses, large organizations, and cluster administrators. Small businesses participating in the cluster will be sent an online survey to provide data about their cluster participation experiences, satisfaction with the program and its components, the performance of their firms with respect to a variety of outcomes, and the role of cluster participation in the achievement of these outcomes. Similarly, large organizations—a broad group that includes universities, public sector agencies, nonprofit organizations, and business associations—will be asked to complete an online survey to provide data about their experiences with the RIC Initiative. The questions include reasons for the RIC participation, collaboration with and support for small businesses, and the role of cluster participation on key organizational outcomes associated with the RIC participation. The RIC administrators will be asked to complete a survey that provides the framework of the surveys that the small business and large organizations are sent. The administrator survey requests information about the services they provided to these two groups of stakeholders, and their operations in general. Cluster administrators will also be interviewed once a year to obtain information about how their operations have evolved, the adjustments they made, best practices, issues encountered, and the lessons learned.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

PRA Number: OMB 3245–0392.

(1) Title: Regional Clusters.

Description of Respondents: Small and emerging businesses.

Total Estimated Annual Responses: 248.

Total Estimated Annual Hour Burden: 196.

Curtis B. Rich,

Agency Forms Manager.

[FR Doc. 2022–15176 Filed 7–14–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 11784]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Space Between: The Modern in Korean Art'' 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 ''The Space Between: The Modern in Korean Art'' at the Los Angeles County Museum of Art, Los Angeles, California, 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. 2022–15202 Filed 7–14–22; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36529]

SMS Rail Service, Inc.—Change in Operator Exemption Including Acquisition by Lease—Salem Branch Line in Salem and Gloucester Counties, N.J.

SMS Rail Service, Inc. (SMS), a Class III rail carrier, has filed a verified notice of exemption [1] pursuant to 49 CFR 1150.41 to assume operations over approximately 19.4 miles of rail line extending from milepost 11.0 in Swedesboro, N.J., to milepost 28.4 in the Salem Rail Yard in Salem City, N.J., including the Glass House Branch Spur extending from milepost 0.0 to milepost 1.2 in Salem City, N.J. (the Line), which is owned by Salem County, N.J. (the County).[2] Currently, U S Rail Corporation (U S Rail) and JP Rail, Inc. d/b/a Southern Railroad Company of New Jersey (JP Rail), both Class III rail carriers, possess Board authority to operate the Line.[3]

According to the verified notice, SMS has entered into an agreement with the County to provide exclusive rail service over the Line, and JP Rail has consented to the proposed change in operators and discontinuance of its operating authority.[4]

As required under 49 CFR 1150.43(h), SMS certifies that the proposed transaction does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

SMS certifies that its projected revenues as a result of the transaction will not result in the creation of a Class I or Class II rail carrier but also states that its annual revenues will exceed $5 million following the transaction. Pursuant to 49 CFR 1150.42(e), if a carrier's projected revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. SMS states that it complied with the advance notice posting requirements of 49 CFR 1150.42(e) on June 29, 2022, and that SMS has been advised that no labor union represents JP Rail employees.

Under 49 CFR 1150.42(b), a change in operator exemption requires that notice be given to shippers. SMS certifies that it has provided notice of the proposed change in operator to the sole shipper on the Line.

The transaction may be consummated on or after August 28, 2022, the effective date of the exemption (60 days after SMS's certification under 49 CFR 1150.42(e)).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 19, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36529, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on SMS's representative, Robert A. Klein, Berkowitz Klein, LLP, 629 B Swedesford Road, Swedesford Corporate Center, Malvern, PA 19355–1530.

According to SMS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: July 12, 2022.

[1] SMS submitted its verified notice of exemption on June 10, 2022, and filed a supplement on June 29, 2022. In light of the supplement, June 29, 2022, is deemed the filing date of the verified notice.

[2] According to the verified notice, the trackage to be leased also includes approximately 0.8 miles of ''sidings, passing and yard tracks.''

[3] JP Rail acquired authority to operate the Line in 1995. *See JP Rail, Inc. d/b/a S. R.R. of N.J.—Notice of Exemption—Operation of Salem Branch Rail Line in Salem Cnty., N.J.,* FD 32700 (ICC served Oct. 10, 1995). U S Rail acquired authority to operate the Line in 2009. *See U S Rail Corp.—Operation Exemption—U S Rail Corp. of N.J.,* FD 35317 (STB served Nov. 27, 2009); *see also U S Rail Corp. of N.J.—Lease Exemption—Cnty. of Salem, N.J.,* FD 35310 (STB served Nov. 27, 2009). Neither rail carrier has sought Board authority to discontinue operations over the Line. *See JP Rail, Inc. d/b/a S. R.R. of N.J.—Operation Exemption—Rail Line in Salem Cnty., N.J.,* FD 35596, slip op. at 1–2 n.1 (STB served Feb. 29, 2012).

[4] According to the verified notice, SMS has attempted to contact U S Rail but the company is unreachable. Additionally, SMS states that it cannot confirm whether U S Rail currently operates in the region where the Line is located. However, an attachment to the verified notice shows that the Ohio Secretary of State website lists U S Rail as an active corporation. Because U S Rail has not consented to the discontinuance of its operating authority, this notice of exemption does not apply to U S Rail, and U S Rail retains its authority to operate the Line. However, U S Rail may seek Board authority to discontinue operations over the Line, or a third party may request that the Board authorize an ''adverse'' discontinuance of U S Rail's operating authority.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2022–15196 Filed 7–14–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36626]

OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc.—Continuance in Control Exemption—Omni River Ridge, LLC d/b/a River Ridge Railroad

OmniTRAX Holdings Combined, Inc. (OmniTRAX), and HGS Railway Holdings, Inc. (HGS) (collectively, Omni-HGS), both noncarriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Omni River Ridge, LLC d/b/a River Ridge Railroad (RRR), a noncarrier controlled by OmniTRAX, upon RRR's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Omni River Ridge, LLC d/b/a River Ridge Railroad—Operation Exemption—in Clark County, Ind.,* Docket No. FD 36625, in which RRR seeks to operate approximately 0.943 miles of track that extends from a point of connection with a line of CSX Transportation, Inc., Hoosier Subdivision, Branch NABB BR, at milepost B 0041.950 at Charlestown, Ind., roughly southward for 4,980 feet to the north end of the wye track in Clark County, Ind.

Omni-HGS states that it will continue in control of RRR upon RRRs becoming a railroad common carrier. According to the verified notice, OmniTRAX and HGS are under joint managerial and operational control. OmniTRAX currently controls 20 Class III rail carriers: Alabama & Tennessee River Railway, LLC; Brownsville & Rio Grande International Railway, LLC; Central Texas & Colorado River Railway, LLC; Chicago Rail Link, L.L.C.; Cleveland & Cuyahoga Railway, LLC; Fulton County Railway, LLC; Georgia & Florida Railway, LLC; Georgia Woodlands Railroad, L.L.C.; Great Western Railway of Colorado, L.L.C.; Illinois Railway, LLC; Kettle Falls International Railway, LLC; Manufacturers' Junction Railway, L.L.C.; Nebraska, Kansas and Colorado Railway, LLC; The Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, L.L.C.; Panhandle Northern Railroad, L.L.C.; Peru Industrial Railroad, LLC; Sand Springs Railway Company; Stockton Terminal and Eastern Railroad; and The Winchester and Western Railroad Company. HGS controls two Class III railroads: HGS–ATN, LLC; and HGS–FCR, LLC.

Omni-HGS represents that: (1) the rail line to be operated by RRR does not connect with the rail lines of any of the rail carriers controlled by Omni-HGS; [1] (2) the transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

The transaction may be consummated on or after July 29, 2022, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 22, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36626, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Omni-HGS's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to Omni-HGS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

[1] Although the map appended to the verified notice as Exhibit A–2 may not provide the detail called for under 49 CFR 1180.6(a)(6), the list of states provided under § 1180.6(a)(5) indicates that no other Class III railroad controlled by Omni-HGS operates in Indiana, where RRR proposes to operate.

Decided: July 12, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Raina White,

Clearance Clerk.

[FR Doc. 2022–15191 Filed 7–14–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36625]

Omni River Ridge, LLC d/b/a River Ridge Railroad—Operation Exemption—in Clark County, Ind.

Omni River Ridge, LLC d/b/a River Ridge Railroad (RRR), a noncarrier controlled by short line holding company OmniTRAX Holdings Combined, Inc.

(OmniTRAX) has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to operate a segment of track that extends from a point of connection with a line of CSX Transportation, Inc., Hoosier Subdivision, Branch NABB BR, at milepost B 0041.950 at Charlestown, Ind., roughly southward for 4,980 feet to the north end of the wye track (proximate to Patrol Road), a distance of approximately 0.943 miles in Clark County, Ind. (the Line).

This transaction is related to a concurrently filed verified notice of exemption in *OmniTRAX Holdings Combined, Inc.—Continuance in Control Exemption—Omni River Ridge, LLC d/b/a River Ridge Railroad,* Docket No. FD 36626, in which OmniTRAX and HGS Railway Holdings seek to continue in control of RRR upon RRR's becoming a Class III rail carrier.

According to the verified notice, the Line was historically used for non-common carrier railroad purposes. RRR states that it has acquired the title to the assets that comprise the Line and seeks Board authorization to initiate railroad common carrier operations over the Line.

RRR states that the proposed transaction does not involve any provision or agreement that would limit future interchange on the Line with a third-party connecting carrier. RRR certifies that its projected annual revenue will not exceed $5 million and that the proposed transaction will not result in RRR's becoming a Class I or II rail carrier.

The earliest this transaction may be consummated is July 29, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d)

may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 22, 2022.

All pleadings, referring to Docket No. FD 36625, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on RRR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to RRR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: July 12, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Raina White,

Clearance Clerk.

[FR Doc. 2022–15194 Filed 7–14–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2022–0844]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Air Carrier Contract Maintenance Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves information collected which will be used by air carriers and by the FAA to adequately target its inspection resources for surveillance, and make accurate risk assessments.

DATES: Written comments should be submitted by September 13, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Jim Anderson, Federal Aviation Administration, Aircraft Maintenance Division, 3180 NE Century Blvd., Hillsboro, OR 97007. FAX 503–615–3300.

FOR FURTHER INFORMATION CONTACT: Jim Anderson by email at: *jim.anderson@faa.gov;* phone: 405–666–1001.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0766.

Title: Air Carrier Contract Maintenance Requirements.

Form Numbers: There are no forms associated with this collection.

Type of Review: This is a renewal of an information collection.

Background: Air carrier maintenance has evolved from mostly an ''in-house'' operation to an extended network of maintenance providers that fulfill contracts with air carriers to perform their aircraft maintenance. Any person performing maintenance for an air carrier must follow the air carrier's maintenance manual.

The FAA has found that, although an air carrier is required to list its maintenance providers and a general description of the work to be done in its maintenance manual, these lists are not always kept up to date, are not always complete, and are not always in a format that is readily useful for FAA oversight and analysis purposes. Without accurate and complete information on the work being performed for air carriers, the FAA cannot adequately target its inspection resources for surveillance and make accurate risk assessments.

This collection of information supports regulatory requirements necessary under 14 CFR part 121 and part 135 to ensure safety of flight by requiring air carriers to provide a list that includes the name and physical (street) address, or addresses, where the work is carried out for each maintenance provider that performs work for the certificate holder, and a description of the type of maintenance, preventive maintenance, or alteration that is to be performed at each location. The list must be updated with any changes, including additions or deletions, and the updated list provided to the FAA in a format acceptable to the FAA by the last day of each calendar month.

This collection also supports the FAA's strategic goal to provide to the next level of safety, by achieving the lowest possible accident rate and always improving safety, so all users of our aviation system can arrive safely at their destinations.

Respondents: 303 air carriers (64 Part 121 air carriers and 239 part 135 air carriers).

Frequency: Monthly.

Estimated Average Burden per Response: Eight Hours.

Estimated Total Annual Burden: 2,424 hours.

Issued in Hillsboro, OR, on June 16, 2022.

James R. Anderson,

Aviation Safety Inspector, Flight Standards, Aircraft Maintenance Division, Commercial Air Carrier Group.

[FR Doc. 2022–15184 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Nos. FRA–2010–0028, –0029, –0039, –0042, –0043, –0045, –0048, –0049,–0051, –0054, –0056, –0057, –0058, –0059, –0060, –0061, –0062, –0064, –0065, and –0070]

Railroads' Joint Request To Amend Their Positive Train Control Safety Plans and Positive Train Control Systems

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on June 24, 2022, twenty host railroads submitted a joint request for amendment (RFA) to their FRA-approved Positive Train Control Safety Plans (PTCSP). As this joint RFA may involve requests for FRA's approval of proposed material modifications to FRA-certified positive train control (PTC) systems, FRA is publishing this notice and inviting public comment on railroads' joint RFA to their PTCSPs.

DATES: FRA will consider comments received by August 1, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of

valuable or necessary modifications to PTC systems.

ADDRESSES:

Comments: Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket numbers for the host railroads that filed a joint RFA to their PTCSPs are cited above and in the Supplementary Information section of this notice. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Deputy Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that host railroads' recent, joint RFA to their PTCSPs is available in their respective public PTC dockets, and this notice provides an opportunity for public comment.

On June 24, 2022, in response to FRA comments, the following 20 host railroads jointly submitted an RFA to their respective PTCSPs for their Interoperable Electronic Train Management Systems: Alaska Railroad Corporation, The Belt Railway Company of Chicago, BNSF Railway, Caltrain, Canadian National Railway, Canadian Pacific Railway, Consolidated Rail Corporation (Conrail), CSX Transportation, Inc., Kansas City Southern Railway, Kansas City Terminal Railway, National Passenger Railroad Corporation (Amtrak), New Mexico Rail Runner Express, Norfolk Southern Railway, North County Transit District, Northeast Illinois Regional Commuter Railroad Corporation (Metra), Northern Indiana Commuter Transportation District, South Florida Regional Transportation Authority, Southern California Regional Rail Authority (Metrolink), Terminal Railroad Association of St. Louis, and Union Pacific Railroad. Their joint RFA is available in Docket Numbers FRA–2010–0028, –0029, –0039, –0042, –0043, –0045, –0048, –0049, –0051, –0054, –0056, –0057, –0058, –0059, –0060, –0061, –0062, –0064, –0065, and –0070. Interested parties are invited to comment on this RFA by submitting written comments or data. During FRA's review of these railroads' joint RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to PTC systems. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny these railroads' joint RFA to their PTCSPs at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2022–15188 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2022–0020]

National Transit Database Safety and Security Reporting Changes and Clarifications

AGENCY: Federal Transit Administration, United States Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: This notice provides information on proposed changes and clarifications to the National Transit Database (NTD) Safety and Security (S&S) reporting requirements. Some of the proposed NTD changes would take place during the NTD report year (RY) 2023, which corresponds to an agency's fiscal year, while other changes will take place during calendar year (CY) 2023.

DATES: Comments are due by September 13, 2022. The Federal Transit Administration (FTA) will consider late comments to the extent practicable.

ADDRESSES: You may file comments identified by docket number FTA–2022–0020 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Send comments to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Management Facility, U.S. Department of Transportation, at (202) 493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket Number (FTA–2022–0020) for this notice, at the beginning of your comments. If sent by mail, submit two copies of your comments.

Electronic Access and Filing: This document and all comments received may be viewed online through the Federal eRulemaking portal at *http://www.regulations.gov or at the street address listed above.* Electronic submission, retrieval help, and guidelines are available on the Federal eRulemaking portal website. The website is available 24 hours each day,

365 days a year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at *https://www.federalregister.gov*.

Privacy Act: Except as provided below, all comments received into the docket will be made public in their entirety. The comments will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You should not include information in your comment that you do not want to be made public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *https://www.transportation.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Thomas Coleman, National Transit Database Program Manager, FTA Office of Budget and Policy, (202) 366–5333, *thomas.coleman@dot.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Background and Overview

The National Transit Database (NTD) was established by Congress to be the Nation's primary source for information and statistics on the transit systems of the United States. Recipients and beneficiaries of Federal Transit Administration (FTA) grants under either the Urbanized Area Formula Program (49 U.S.C. 5307) or Rural Area Formula Program (49 U.S.C. 5311) are required by law to report to the NTD. FTA grantees that own, operate, or manage transit capital assets are required to provide more limited reports to the NTD regarding Transit Asset Management.

Pursuant to 49 U.S.C. 5334(k), FTA is seeking public comment on proposed NTD S&S reporting changes and clarifications. These proposals implement changes to Federal transportation law made by the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117–58). FTA is proposing changes and clarifications on two topics: (1) assaults on a transit worker; and (2) fatalities that result from an impact with a bus. FTA seeks comments on the proposed changes and clarifications described below. The information below describes anticipated reporting impacts from each change or clarification, as well as the proposed effective date of each change. All impacts or changes described below are proposed and subject to finalization in a future notice.

B. Assaults on a Transit Worker

1. Definitions

The Bipartisan Infrastructure Law amended 49 U.S.C. 5335(c) to require that recipients of a grant under Chapter 53 submit to the NTD ''any data on assaults on transit workers of the recipients.'' The Bipartisan Infrastructure Law amended 49 U.S.C. 5302(1) to define ''assault on a transit worker:''

> [A] circumstance in which an individual knowingly, without lawful authority or permission, and with intent to endanger the safety of any individual, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates a transit worker while the transit worker is performing the duties of the transit worker.

FTA will incorporate this definition into NTD reporting without change. Because FTA is adopting the statutory language verbatim, FTA is not seeking comment on the definition of ''assault on a transit worker.'' FTA is proposing to define ''transit worker'' as: ''any employee, contractor, or volunteer working on behalf of the transit agency.''

To maintain consistency between this definition and the statutory definition of ''assault on a transit worker,'' FTA proposes to amend the definition of ''assault'' to: ''an attack by one person on another without lawful authority or permission.'' This will represent a change for the NTD program. Currently, the NTD Safety and Security Policy Manual defines ''assault'' as an ''unlawful attack by one person upon another'' for the ''Major Event Report'' (S&S–40) form.

2. Proposed Collections

Section 49 U.S.C. 5335(c) applies to ''each recipient of a grant'' under Chapter 53. Within this scope, FTA identified three different affected reporting groups: (1) full reporters; (2) reduced, tribal, and rural reporters; and (3) capital asset-only reporters. FTA proposes different ways to collect this data, depending on the reporter type as described below.

Full Reporters

FTA proposes that full reporters to the NTD report all assaults on transit workers on either the S&S–40 or S&S–50 (''Non-Major Summary Report'') forms. The S&S–40 captures safety and security ''major event'' reports such as fatalities. The S&S–50 collects monthly counts from full reporters related to 'non-major' events. An assault on a transit worker is already required to be reported on the S&S–40 form if it meets one of the FTA's major event reporting thresholds listed in the NTD safety and security manual.[1]

The S&S–40 form is detailed, requiring one unique report per event. FTA proposes adding two new questions on the S&S–40 if the event is an assault or a homicide. The first proposed question asks reporters to identify whether assault or homicide events were against operators, other transit workers, or someone else. If the first question indicates an assault against an operator or other transit worker occurred, a second proposed question asks whether the assault was physical or non-physical, which are defined as follows:

- *Physical Assault on a Transit Worker:* An assault in which the attack involves physical contact with the transit worker. This could include any physical contact with the victim from the attacker's body, a weapon, a projectile, or other item.
- *Non-Physical Assault on a Transit Worker:* An assault in which the attack involves no physical contact with the transit worker. This could include threats or intimidation that did not result in any physical contact with the transit worker.

FTA proposes to require that any assault on a transit worker that is not reported on the S&S–40 must be reported on the S&S–50 form. Currently, the S&S–50 does not identify which non-major events involved assaults. FTA proposes to add a four-by-four matrix with sixteen fields to the S&S–50 to collect counts related to assaults on a transit worker. The matrix will ask for counts to be distinguished based on whether the assaults were physical or non-physical, whether they were assaults on operators or on other transit workers, and whether the assaults occurred in a transit vehicle, a revenue facility, a non-revenue facility, or some other location.

[1] *https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-02/2022%20Safety%20and%20Security%20Policy%20Manual%20Version%201.0_0.pdf.*

The following table identifies the 16 proposed S&S–50 questions:

NEW S&S–50 QUESTIONS

Location of event	Provide a count of non-major physical assaults on operators	Provide a count of non-major non-physical assaults on operators	Provide a count of non-major physical assaults on other transit workers	Provide a count of non-major non-physical assaults on other transit workers
In transit vehicle. In revenue facility. In non-revenue facility. Other.				

FTA considered proposing an alternative reporting option for full reporters where any assault on a transit worker would require an S&S–40 report. This alternative would have created an additional major event reporting threshold for the S&S–40. Under this alternative, no assaults on transit workers would be reportable on the S&S–50, even if no other major event reporting threshold was met. FTA did not select this alternative as FTA believes it would be substantially more burdensome on agencies because the S&S–40 report requires one report per event, while the S&S–50 requires only a monthly summary tally. FTA proposes that reporting for transit worker assault data on the S&S–40 and S&S–50 begin in calendar year 2023 as soon as practicable following publication of the **Federal Register** notice finalizing the NTD reporting changes.

Reduced Reporters, Tribal Reporters, and Rural Reporters

FTA proposes that reduced, tribal, and rural reporters must begin reporting assaults on transit workers on a new annual form (S&S–60). Reduced and rural reporter types already report safety data on the RR–20 form.

At present, the NTD asks three safety questions on the RR–20 form: total fatalities from the prior year, total injuries from the prior year, and total events from the prior year. FTA proposes to remove these questions from the RR–20 form and transfer them to the new S&S–60 form. Additionally, FTA proposes asking these reporters to report transit worker assault data using matrix format. Mock-ups of a matrix for physical and non-physical assaults are shown below:

NEW S&S–60 QUESTIONS

[Physical assaults]

	Physical assaults in transit vehicle	Physical assaults in revenue facility	Physical assaults in non-revenue facility	Physical assaults in other location
Total Event Counts				
Major Safety and Security Events. Non-Major Events (non-injury).				
Injury Counts				
Operator Injuries. Other Transit Worker Injuries. Other Injuries.				
Fatality Counts				
Operator Fatalities. Other Transit Worker Fatalities. Other Fatalities.				

NEW S&S–60 QUESTIONS

[Non-physical assaults]

	Non-physical assaults in transit vehicle	Non-physical assaults in revenue facility	Non-physical assaults in non-revenue facility	Non-physical assaults in other location
Total Event Counts				
Major Safety and Security Events. Non-Major Events (non-injury).				

NEW S&S–60 QUESTIONS—Continued

[Non-physical assaults]

	Non-physical assaults in transit vehicle	Non-physical assaults in revenue facility	Non-physical assaults in non-revenue facility	Non-physical assaults in other location
Injury Counts				
Operator Injuries.				
Other Transit Worker Injuries.				
Other Injuries.				
Fatality Counts				
Operator Fatalities.				
Other Transit Worker Fatalities.				
Other Fatalities.				

The proposed S&S–60 form will collect data that is similar to the data captured from full reporters on both the S&S–40 and S&S–50 forms. This would facilitate consistent data collection from all reporters. The proposed S&S–60 questions are intended to provide annual counts of where transit worker assaults occurred, whether assaults were against operators or other transit workers, whether the assaults were physical or non-physical, whether the events were major or non-major (consistent with the S&S–40 and S&S–50 definitions), and counts of affected person-type(s). FTA proposes that reporting for transit worker assault data on the S&S–60 begin in RY 2023.

FTA considered two alternative reporting options for reduced, tribal, and rural reporters. FTA considered an option that would require an S&S–40 report for any assault on a transit worker. FTA did not select this approach as it FTA believes it would be substantially more burdensome on agencies as the S&S–40 report requires one report per event, while the S&S–60 is a monthly summary tally.

FTA also considered an option where the S&S–60 would only ask for a total tally of all annual transit worker assaults as opposed to the counts of transit worker assaults by location, major vs. non-major assault, etc. FTA did not select this proposal as it would not make the data useful to understand risk trends. For instance, risk trends change by location—transit worker assaults rates may be higher in revenue vehicles as opposed to in revenue facilities, and understanding this data is critical to identifying potential mitigations. Thus, it was determined collecting only a total tally of all annual transit worker assaults would not provide useful data.

Capital Asset-Only Reporters

FTA proposes that capital asset-only reporters must begin reporting *assaults on transit workers* on a new annual form (S&S–60). The S&S–60 is shown above, and asks for annual counts of transit worker assaults across two different matrixes. FTA considered, but did not select, two alternative reporting options for capital asset-only reporters. The first alternative would have required these reporters to report any assault on a transit worker on the S&S–40 form. FTA did not select this approach as it was determined it would be substantially more burdensome on agencies as the S&S–40 report requires one report per event, while the S&S–60 is a monthly summary tally.

FTA also considered an option where the S&S–60 would ask for a single total tally of all transit worker assaults as opposed to collecting the counts of transit worker assaults by location, major vs. non-major assault, etc. FTA did not select this proposal as it would not make the data useful to understand risk trends. For instance, risk trends change by location—transit worker assaults rates may be higher in revenue vehicles as opposed to in revenue facilities, and understanding this data is critical to identifying potential mitigations. Thus, it was determined collecting only a total tally of all annual transit worker assaults would not provide useful data.

C. Fatalities That Result From an Impact With a Bus

The Bipartisan Infrastructure Law also amended 49 U.S.C. 5335(c) to require ''each recipient of a grant'' under Chapter 53 to report ''any data on fatalities that result from an impact with a bus.'' Within this scope, FTA identified three different affected reporting groups: (1) full reporters; (2) reduced, tribal, and rural reporters; and (3) capital asset-only reporters. FTA proposes different ways to collect this data, depending on the reporter type as described below.

Full Reporters

Full NTD reporters already report all fatalities that result from an impact with a bus to the NTD because all events that result in a fatality, including those from an impact (or ''collision'') with a bus, must be reported on the S&S–40 form.[2] Nevertheless, FTA welcomes comments on whether the Bipartisan Infrastructure Law otherwise affects reporting for full reporters.

Reduced Reporters, Tribal Reporters, and Rural Reporters

Because 49 U.S.C. 5335(c) applies to all Chapter 53 recipients, FTA proposes to collect bus fatality collision data from rural, reduced, and tribal reporters on the new S&S–60 form. The RR–20 form currently collects summary annual fatality data from these reporters. However, the form combines fatality counts of all types, making fatalities that result from an impact with a bus indistinguishable from other fatalities. The RR–20 also does not distinguish major events from non-major events.

As discussed above, FTA is proposing to remove the safety-related questions from the RR–20 form and add them to the new S&S–60 form. FTA is proposing to add eleven questions on a matrix in the S&S–60. The proposed form will delineate collisions with pedestrians and vehicles, as well as major from non-major events. FTA proposes that these changes take effect in RY 2023. The proposed matrix is shown below:

[2] The NTD Safety and Security Policy Manual also defines collision as ''an accident in which there is an impact of a transit vehicle or vessel with another vehicle or object.''

Event type	Major events	Fatalities	Injuries
Collisions with Pedestrian(s).			
Collisions with Vehicle(s).			
Collisions with Other (*e.g.,* animal, manhole, shopping cart, etc.).			
Other Major Events.			
Total reportable injuries from non-major events.	Not Applicable.	Not Applicable.	

FTA also considered an alternative reporting option for reduced, tribal, and rural reporters where all fatalities that result from an impact with a bus would require an S&S–40 report. FTA did not select this approach as FTA believes it would be substantially more burdensome on agencies as the S&S–40 report requires a report per event, while the S&S–60 is a monthly summary tally.

Capital Asset-Only Reporters

FTA proposes that capital asset-only reporters must begin reporting data on fatalities that result from an impact with a bus on a new annual form (S&S–60). The S&S–60, which will replace the major event, fatality, and injury questions on the RR–20, currently does not apply to capital asset-only reporters. The relevant section of the S&S–60 is shown above, and asks for counts of major events, fatalities, and injuries.

FTA also considered an alternative reporting option for capital asset-only reporters where any fatality that resulted from an impact with a bus would require an S&S–40 report. FTA did not select this approach as FTA believes it would be substantially more burdensome on agencies as the S&S–40 report requires a report per event, while the S&S–60 is a monthly summary tally.

Nuria I. Fernandez,

Administrator.

[FR Doc. 2022–15167 Filed 7–14–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2022–0035]

Privacy Act of 1974; Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA); DOT/FMCSA 013 Safe Driver Apprenticeship Pilot (SDAP)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation (DOT) proposes a new system of records titled ''Safe Driver Apprenticeship Pilot'' (SDAP) Program. This system of records will allow DOT to collect and maintain records on safety performance and driving profiles of certain Commercial Motor Vehicle (CMV) drivers voluntarily participating in the SDAP program and receiving an exemption to operate in interstate commerce before reaching the age of 21. The information in the system will be used to analyze the safety performance of apprenticeship drivers as compared to current CMV drivers operating in intra- or inter-state commerce under current FMCSA regulations. This system maintains records on carriers, experienced drivers, and apprentice drivers who volunteer to participate in the SDAP. Records on carriers and experienced drivers are limited to those necessary to verify qualifications for participation, while records on apprentice drivers include safety, performance, and exposure data throughout their participation as an apprentice.

DATES: Comments on the system will be accepted on or before 30 days from the date of publication of this notice. The system will be effective 30 days after publication of this notice. Routine uses will be effective at that time.

ADDRESSES: You may submit comments, identified by docket number OST–2022–0035 by one of the following methods:

- *Federal e-Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 366–XXXX.
- *Mail:* Department of Transportation Docket Management, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Instructions:* You must include the agency name and docket number OST–2022–0035. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316–3317), or you may visit *https://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For system-related questions please contact: Nicole Michel, Mathematical Statistician, Department of Transportation, FMCSA, W68–310, 1200 New Jersey Ave. SE, Washington, DC 2–590. Email: *Nicole.michel@dot.gov,* Tel. (202) 366–4354. For general and privacy questions, please contact: Karyn Gorman, Acting Departmental Chief Privacy Officer, Department of Transportation, S–81, Washington, DC 20590, Email: *privacy@dot.gov,* Tel. (202) 366–3140.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, DOT is proposing a new system of records notice (SORN) titled ''Department of Transportation (DOT)/Federal Motor Carrier Safety Administration (FMCSA)—013, Safe Driver Apprenticeship Pilot (SDAP)'' to allow FMCSA to implement the ''Safe Driver Apprenticeship Pilot'' (SDAP) program to fulfill the requirements of Section 23022 of the Infrastructure

Investment and Jobs Act (IIJA). This system will collect and maintain records on participating apprentice drivers to analyze safety and performance outcomes of participating apprentices. Apprentices must have a valid commercial driver's license (CDL) and be of age 18, 19, or 20 to voluntarily participate in the program. The data collected on these drivers will be analyzed for safety and performance as compared to existing data on comparative groups of drivers (under-21 intrastate as well as over-21 interstate existing CMV operators).

This system will also collect information on experienced drivers to verify their eligibility to serve as an experienced driver but will not collect safety and performance data for experienced drivers.

Carriers will apply to participate in the program by providing their carrier name, USDOT number, physical address, phone number, email address, fleet size, type of operation (interstate vs intrastate), types of drivers employed (class A, class B, and/or class C), turnover rate, states traveled through, pay structure, annual miles traveled, an estimate on the number of experienced drivers and apprentices the carrier will enroll, their registered apprenticeship number with Department of Labor, carrier operation types, types of CMVs employed, and information regarding currently utilized technologies (Electronic Logging Devices [ELDs], Onboard Monitoring Systems [OBMS], and Video Recording systems). Carrier applications will be reviewed against published eligibility requirements. Carriers will be notified of whether or not they are accepted into the program by FMCSA. Accepted carriers will be required to attend a webinar to review participation requirements.

Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides a covered person with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. The JRA also prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act. Below is the description of the Safe Driver Apprenticeship Pilot Program System of Records. In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the OMB and to Congress.

SYSTEM NAME AND NUMBER:

DOT/FMCSA 013—Safe Driver Apprenticeship Pilot (SDAP).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by a contractor, the contract for the system is maintained at FMCSA Headquarters, 1200 New Jersey Ave SE, Washington, DC 20590.

SYSTEM MANAGER(S):

For FMCSA, the System Manager is Nicole Michel, Mathematical Statistician, 1200 New Jersey Ave SE, Washington, DC, 20590. Email: *SafeDriver@dot.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 31315; Section 23022 of the Infrastructure Investment and Jobs Act (P.L. 117–58, Nov. 15, 2021).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to collect data on carriers and drivers participating in the SDAP. The data collected will be used to determine the safety benefits or risks posed by implementing an apprenticeship program for drivers under the age of 21 to operate in interstate commerce. Data will be collected to verify qualifications for participation, to issue the necessary exemptions for carriers and drivers to participate in the SDAP program, and to monitor operational and safety performance throughout participation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records will include information about motor carriers who voluntarily apply to participate in the SDAP, current CDL holders who apply to participate as ''experienced drivers,'' and drivers who apply to participate as apprentices, *i.e.,* 18- to 20-year-old CMV operators who are voluntarily participating in the SDAP to operate in interstate commerce. These categories can be characterized as:

1. Motor Carriers,
2. Experienced Drivers, and
3. Apprentice Drivers.

All individuals covered by this system must voluntarily apply to participate in the SDAP.

CATEGORIES OF RECORDS IN THE SYSTEM:

The SDAP will collect, process, transmit, and store the following types of information on all individuals covered by this system:

1. Basic Identifying Information (*e.g.,* name, address, USDOT number of carriers or CDL number and State of Issuance for drivers) for all individuals.

The SDAP will collect, process, transmit, and store the following types of information on motor carriers only:

1. Operational Profile Information (*e.g.,* vehicle classes operated, fleet size, average annual miles traveled, types of carrier operations, types of CMVs employed)
2. A valid Department of Labor Registered Apprenticeship number

The SDAP will collect, process, transmit, and store the following types of information on experienced drivers only:

1. Employment history for the past two years (*e.g.,* employer name, USDOT number, dates of employment)
2. Qualifications and CMV Experience (*e.g.,* date CDL was acquired, total years driving a CMV, safety incidents in the past two years).

The SDAP will collect, process, transmit, and store the following types of information on apprentice drivers only:

1. Training and employment history (*e.g.,* date CDL was acquired, past driving experience if applicable, and current operating profile if applicable)
2. Safety Performance Benchmarks (*i.e.,* verification of completion of safety performance benchmarks)
3. Exposure data throughout participation (*e.g.,* miles traveled, hours on duty, hours away from home station)
4. Safety data throughout participation (*e.g.,* safety events such as hard braking or swerving, crashes, inspections)

Additionally, the SDAP will collect, process, transmit, and store information on acceptance letters, letters of disqualification, exemption letters, and other official correspondence throughout the pilot program.

RECORD SOURCE CATEGORIES:

Records are obtained from motor carriers that volunteer to participate in the pilot program and are accepted for participation into the pilot program by FMCSA. Additionally, individuals who volunteer to participate in the pilot program will submit applications through the motor carrier and the motor

carrier will submit monthly data on apprentice drivers. Records will also be generated by the Department and retrieved from existing data sources, such as the Commercial Driver License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System-Specific Routine Uses—None.

Department General Routine Uses

1. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other federal agency conducting litigation when—(a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

2b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when—(a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

3. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

4. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration (NARA) in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

5. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

6. DOT may disclose records from this system, as a routine use, to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) DOT has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DOT or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

7. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

8. DOT may disclose records from the system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

9. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically on a contractor-maintained cloud storage service.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by carrier name, driver name, CDL number, or through the randomly generated participant ID assigned by the DOT contractor.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Unscheduled records must be retained indefinitely pending the agency's submission, and NARA's approval, of a disposition schedule. DOT anticipates proposing to NARA, as an appropriate retention period for these records, two years or until no longer necessary for reference.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DOT safeguards records in this system according to applicable rules and policies, including all applicable DOT IT systems security and access policies. DOT has imposed strict controls to minimize the risk of information being compromised. Access to the records in this system is limited to those individuals who have a need to know the information in furtherance of the performance of their official duties, and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the System Manager at the address provided under ''System Manager and Address'' above. Individuals may also search the public docket at *www.regulations.gov* by their name.

When seeking records about yourself from this system of records or any other Departmental system of records, the request must conform with the Privacy Act regulations set forth in 49 CFR part 10. The individual's request must verify his/her identity by providing his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. No specific form is required.

In addition, the individual should:

- Explain why the individual believes the Department would have information on him/her;
- Identify which component(s) of the Department the individual believes may have the information about him/her;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records. Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered by the JRA, see ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Not applicable.

Issued in Washington, DC.

Karyn Gorman,

Acting Departmental Chief Privacy Officer.

[FR Doc. 2022–15145 Filed 7–14–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–GS(T)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Generation-Skipping Transfer Tax Return For Terminations.

DATES: Written comments should be received on or before September 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov*. Include ''OMB Number 1545–1145–Generation-Skipping Transfer Tax Return For Terminations'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Generation-Skipping Transfer Tax Return For Terminations.

OMB Number: 1545–1145.

Form Number: 706–GS(T).

Abstract: Form 706–GS(T) is used by trustees to compute and report the tax due on generation-skipping transfers that result from the termination of interests in a trust. The IRS uses the information to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Number of Responses: 1

Estimated Total Annual Burden Hours: 684 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be 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 has 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 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.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–15182 Filed 7–14–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–QFT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning U.S. Income Tax Return for Qualified Funeral Trusts.

DATES: Written comments should be received on or before September 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include ''OMB Number 1545–1593–U.S. Income Tax Return for Qualified Funeral Trusts'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Qualified Funeral Trusts.

OMB Number: 1545–1593.

Form Number: 1041–QFT.

Abstract: Internal Revenue Code section 685 allows the trustee of a qualified funeral trust to elect to report and pay the tax for the trust. Form 1041–QFT is used for this purpose. The IRS uses the information on the form to determine that the trustee filed the proper return and paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 15,000.

Estimated Time per Response: 18.5 hours.

Estimated Total Annual Burden Hours: 277,500.

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. Comments will be 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 has 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 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.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–15181 Filed 7–14–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8874

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning New Markets Credit.

DATES: Written comments should be received on or before September 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include ''OMB Number 1545–1804—New Markets Credit'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: New Markets Credit.

OMB Number: 1545–1804.

Form Number: 8874.

Abstract: Investors to claim a credit for equity investments made in Qualified Community Development Entities use Form 8874.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 101.

Estimated Time per Respondent: 4 hours, 52 minutes.

Estimated Total Annual Burden Hours: 492 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be 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 has 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 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.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–15178 Filed 7–14–22; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on August 3, 2022 on ''Challenges from Chinese Policy in 2022: Zero-COVID, Ukraine, and Pacific Diplomacy.''

DATES: The hearing is scheduled for Wednesday, August 3, 2022 at 9:30 a.m.

ADDRESSES: This hearing will be held with panelists and Commissioners participating in-person or online via videoconference. Members of the audience will be able to view a live webcast via the Commission's website at *www.uscc.gov.* Also, please check the Commission's website for possible changes to the hearing schedule.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov. Reservations are not required to attend the hearing.*

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: This is the seventh public hearing the Commission will hold during its 2022 report cycle. The hearing will start with a review of the impact of China's Zero-COVID policy on Party governance and social stability in China, China's economy and supply chains, and China's public health system. Next, the hearing will evaluate China's response to Russia's unprovoked invasion of Ukraine and its implications for U.S.-allied integrated deterrence in the Taiwan Strait. Finally, the hearing will examine China's activities and growing presence in the Pacific Islands.

The hearing will be co-chaired by Commissioner James Mann and Commissioner Randall Schriver. Any interested party may file a written statement by August 3, 2022 by transmitting to the contact above. A portion of the hearing will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: July 11, 2022.

Christopher P. Fioravante,

Director of Operations and Administration, U.S.-China Economic and Security Review Commission.

[FR Doc. 2022–15103 Filed 7–14–22; 8:45 am]

BILLING CODE 1137–00–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting

TIME AND DATE: July 19, 2022, 11:00 a.m. to 3:00 p.m., Eastern time.

PLACE: This meeting will take place at the Embassy Suites by Hilton San Diego Bay Downtown, 601 Pacific Highway, San Diego, California 92101 and will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 996 4282 3624, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJ0rc-ugrDgsGNC1eWqLTzqsKuNF3JDvaHpx.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will welcome attendees, introduce new Subcommittee members and the new Subcommittee Vice-Chair, call the meeting to order, call roll for the Finance Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Finance Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the UCR Finance Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Minutes From the March 31, 2022 Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the March 31, 2022 UCR Finance Subcommittee meeting via teleconference will be reviewed. The UCR Finance Subcommittee will consider action to approve.

V. Review and Approval of 2024 and 2025 Fee Level Recommendations for Consideration by the UCR Board– UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and UCR Depository Manager will present proposed 2024 and 2025 fee level recommendations for UCR Board consideration to be made to the Secretary of the U.S. Department of Transportation and the Federal Motor Carrier Safety Administration (FMCSA) as required under 49 U.S.C. Section 104504a(d)(7). The Subcommittee may take action to approve 2024 and 2025 fee level recommendations for UCR Board consideration.

VI. Development of Active Cash Management System—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will lead a discussion on developing a policy that will result in an enhanced cash management system designed to increase the interest income that is earned on both administrative reserve funds and excess fees held in the UCR Depository.

VII. Renewal of UCR Contracts With Contractors (Kellen and AAG3 LLC)—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will present proposed contract extensions between the UCR Plan and the Kellen Company (UCR Administrator) and AAG3 LLC (UCR Executive Director). The Finance Subcommittee may consider action regarding the proposed contract extensions.

VIII. Review Performance of the Three Current Pilot Projects—UCR Finance Subcommittee Chair and DSL Transportation Services, Inc. (DSL)

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and DSL will review the performance of the three current pilot projects and may make recommendations to the UCR Board to enhance, maintain, extend, or sunset certain pilot projects.

IX. Update on the State of the United States Economy—UCR Finance Subcommittee Chair and a Representative From Truist Bank

The UCR Finance Subcommittee Chair and a representative from Truist Bank will lead a discussion regarding the general macroeconomic trends that have emerged in 2022 as well as certain foresight into emerging forces that may impact the United States economy and what actions the United States Government may consider to counteract economic disruptions. Discussion will emphasize general macroeconomic trends relating to possible impacts on the motor carrier industry.

X. Review of 2022 Administrative Expenses—UCR Depository Manager

The UCR Depository Manager will review the expenditures of the UCR Plan for the first six months ended June 30, 2022 with the Finance Subcommittee. A presentation of a forecast for the remainder of 2022 and consequently the full-year will also be presented.

XI. Preview of the 2023 Administrative Expense Budget—UCR Depository Manager

The UCR Depository Manager will provide a preview of the 2023 administrative expense budget to the Finance Subcommittee.

XII. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Finance Subcommittee members would like to discuss.

XIII. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, July 12, 2022 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–15251 Filed 7–13–22; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0865]

Agency Information Collection Activity: Certification Requirements for Funeral Honors Providers

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0865.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0865'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 2402 and 38 U.S.C. 2404; 38 CFR 38.619.

Title: Certification Requirements for Funeral Honors Providers.

OMB Control Number: 2900–0865.

Type of Review: Extension of a currently approved collection.

Abstract: This information (VA Form 40–10190) is needed to ensure that funeral honors activities performed on VA property maintain the honor and dignity of the national cemetery and do

not negatively impact the safety of cemetery visitors.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 27701, May 9, 2022.

Affected Public: Individuals or households.

Estimated Annual Burden: 31.66667 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 380.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–15100 Filed 7–14–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Friday,
No. 135 July 15, 2022

Part II

Department of Labor

Wage and Hour Division

29 CFR Part 9

Nondisplacement of Qualified Workers Under Service Contracts; Proposed Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 9

RIN 1235–AA42

Nondisplacement of Qualified Workers Under Service Contracts

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Labor (Department) proposes regulations to implement Executive Order 14055, Nondisplacement of Qualified Workers Under Service Contracts, signed by President Joseph R. Biden, Jr. on November 18, 2021. The order establishes a general policy of the Federal Government that service contracts which succeed contracts for the same or similar services, and solicitations for such contracts, shall include a non-displacement clause. The non-displacement clause requires the contractor and its subcontractors to offer qualified employees employed under the predecessor contract a right of first refusal of employment under the successor contract. The Executive order also directs the Secretary of Labor (Secretary) to issue regulations to implement the requirements of this order. The order further directs that within 60 days of the Secretary issuing final regulations, the Federal Acquisition Regulatory Council (FAR Council) shall amend the Federal Acquisition Regulation (FAR) to provide for inclusion of the clause in section 3 of the order. Finally, the order requires the Director of the Office of Management and Budget (OMB) to issue guidance to implement section 6(c) of this order.

DATES: Interested persons are invited to submit written comments on this notice of proposed rulemaking (NPRM) on or before August 15, 2022.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1235–AA42, by either of the following methods:

- *Electronic Comments:* Submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Address written submissions to: Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit only one copy of your comments by only one method. Of the two methods, the Department strongly recommends that commenters submit their comments electronically via *https://www.regulations.gov* to ensure timely receipt prior to the close of the comment period, as the Department continues to experience delays in the receipt of mail. All comments must be received by 11:59 p.m. ET on August 15, 2022, for consideration in this rulemaking; comments received after the comment period closes will not be considered.

Commenters submitting file attachments on *https://www.regulations.gov* are advised that uploading text-recognized documents—*i.e.,* documents in a native file format or documents which have undergone optical character recognition (OCR)—enable staff at the Department to more easily search and retrieve specific content included in your comment for consideration. This recommendation applies particularly to mass comment submissions, when a single sponsoring individual or organization submits multiple comments on behalf of members or other affiliated third parties. The Wage and Hour Division (WHD) posts such comments as a group under a single document ID number on *https://www.regulations.gov.*

Anyone who submits a comment (including duplicate comments) should understand and expect that the comment will become a matter of public record and will be posted without change to *https://www.regulations.gov,* including any personal information provided. Accordingly, the Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this NPRM.

Docket: For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Questions of interpretation or enforcement of the agency's existing regulations may be directed to the nearest WHD district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's website at *https://www.dol.gov////local-offices* for a nationwide listing of WHD district and area offices.

SUPPLEMENTARY INFORMATION:

I. Background

On November 18, 2021, President Joseph R. Biden, Jr. issued Executive Order 14055, ''Nondisplacement of Qualified Workers Under Service Contracts.'' 86 FR 66397 (Nov. 23, 2021). This order explains that ''when a service contract expires and a follow-on contract is awarded for the same or similar services, the Federal Government's procurement interests in economy and efficiency are best served when the successor contractor or subcontractor hires the predecessor's employees, thus avoiding displacement of these employees.'' *Id.* Accordingly, Executive Order 14055 provides that contractors and subcontractors performing on covered Federal service contracts must in good faith offer service employees employed under the predecessor contract a right of first refusal of employment. *Id.*

Section 1 of Executive Order 14055 sets forth a general policy of the Federal Government that when a service contract expires, and a follow-on contract is awarded for the same or similar services, the Federal Government's procurement interests in economy and efficiency are best served when the successor contractor or subcontractor hires the predecessor's employees, thus avoiding displacement of these employees. 86 FR 66397. Using a carryover workforce reduces disruption in the delivery of services during the period of transition between contractors, maintains physical and information security, and provides the Federal Government with the benefits of an experienced and well-trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements. *Id.* Section 1 explains that these same benefits are also often realized when a successor contractor or subcontractor performs the same or similar contract work at the same location where the predecessor contract was performed. *Id.*

Section 2 of Executive Order 14055 defines ''service contract'' or ''contract'' to mean any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the Service Contract Act of 1965, as amended, (SCA) and its implementing regulations. 86 FR 66397. Section 2 also

defines ''employee'' to mean a service employee as defined in the SCA, 41 U.S.C. 6701(3). *See* 86 FR 66397. Finally, section 2 defines ''agency'' to mean an executive department or agency, including an independent establishment subject to the Federal Property and Administrative Services Act (Procurement Act), 40 U.S.C. 101 *et seq. See* 86 FR 66397 (citing 40 U.S.C. 102(4)(A)).

Section 3 of Executive Order 14055 provides the wording for a required contract clause that each agency must, to the extent permitted by law, include in solicitations for service contracts and subcontracts that succeed a contract for performance of the same or similar work. 86 FR 66397–98. Specifically, the contract clause provides that the contractor and its subcontractors must, except as otherwise provided in the clause, in good faith offer service employees, as defined in the SCA, employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of the contract or the expiration of the predecessor contract under which the employees were hired, a right of first refusal of employment under the contract in positions for which those employees are qualified. *Id.* at 66397. The contractor and its subcontractors determine the number of employees necessary for efficient performance of the contract and may elect to employ more or fewer employees than the predecessor contractor employed in connection with performance of the work. *Id.* Except as otherwise provided by the contract clause, there is to be no employment opening under the contract or subcontract, and the contractor and any subcontractors may not offer employment under the contract to any employee prior to having complied fully with the obligation to offer employment to employees on the predecessor contract. *Id.* The contractor and its subcontractors must make an express offer of employment to each employee and must state the time within which the employee must accept such offer, and an employee must be provided at least 10 business days to accept the offer of employment. *Id.* at 66397–98.

The contract clause also provides that, notwithstanding the obligation to offer employment to employees on the predecessor contract, the contractor and any subcontractors (1) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the SCA and (2) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor for whom the contractor or any of its subcontractors reasonably believes, based on reliable evidence of the particular employee's past performance, that there would be just cause to discharge the employee(s). 86 FR 66398.

The contract clause also provides that a contractor must, not fewer than 10 business days before the earlier of the completion of the contract or of its work on the contract, furnish the contracting officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance. 86 FR 66398. The list must also contain anniversary dates of employment of each service employee under the contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. *Id.* The contracting officer must provide the list to the successor contractor, and the list must be provided on request to employees or their representatives, consistent with the Privacy Act and other applicable law. *Id.* The contract clause further provides that if it is determined, pursuant to regulations issued by the Secretary of Labor, that the contractor or its subcontractors are not in compliance with the requirements of the contract clause or any regulation or order of the Secretary of Labor, the Secretary may impose appropriate sanctions against the contractor or its subcontractors, as provided in the Executive order, the regulations, and relevant orders of the Secretary, or as otherwise provided by law. *Id.*

The contract clause also provides that in every subcontract entered into in order to perform services under the contract, the contractor will include provisions that ensure that each subcontractor will honor the requirements of the clause in the prime contract with respect to the employees of a predecessor subcontractor or subcontractors working under the contract, as well as of a predecessor contractor and its subcontractors. *Id.* The subcontract must also include provisions to ensure that the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with the prime contractor's requirements. *Id.* The contractor must also take action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing these provisions, including the imposition of sanctions for noncompliance. However, if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into the litigation to protect the interests of the United States. *Id.* Finally, the contract clause states that nothing in the order must be construed to require or recommend that agencies, contractors, or subcontractors pay the relocation costs of employees who exercise their right to work for a successor contractor or subcontractor pursuant to the Executive order. *Id.*

Section 4 of Executive Order 14055 provides that when an agency prepares a solicitation for a service contract that succeeds a contract for performance of the same or similar work, the agency will consider whether performance of the work in the same locality or localities in which the contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services. 86 FR 66398. If an agency determines that performance of the contract in the same locality or localities is reasonably necessary to ensure economical and efficient provision of services, section 4 requires the agency, to the extent consistent with law, to include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality or localities. 86 FR 66399.

Section 5 of Executive Order 14055 provides exclusions. Specifically, section 5 provides that the order does not apply to (a) contracts under the simplified acquisition threshold as defined in 41 U.S.C. 134 (*i.e.,* currently contracts less than $250,000); and (b) employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of the order. 86 FR 66399.

Section 6 of Executive Order 14055 authorizes a senior official of an agency to grant an exception from the requirements of section 3 of the order for a particular contract under certain circumstances. In order to grant an exception from the requirements of section 3 of the order, the senior official must, by no later than the solicitation date, provide a specific written explanation of why at least one of the following circumstances exists with respect to the contract: (i) adhering to the requirements of section 3 would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement; (ii) based on a market analysis, adhering to the requirements of section 3 of the order would: (A) substantially reduce

the number of potential bidders so as to frustrate full and open competition; and (B) not be reasonably tailored to the agency's needs for the contract; or (iii) adhering to the requirements of section 3 would otherwise be inconsistent with Federal statutes, regulations, Executive Orders, or Presidential Memoranda. 86 FR 66399. The order also requires each agency to publish descriptions of the exceptions it has granted on a centralized public website, and any contractor granted an exception to provide written notice to affected workers and their collective bargaining representatives. *Id.* In addition, the Executive order requires each agency to report to OMB any exceptions granted on a quarterly basis. *Id.*

Section 7 of Executive Order 14055 provides that, consistent with applicable law, the Secretary will issue final regulations to implement the requirements of the order. 86 FR 66399. In addition, to the extent consistent with law, the FAR Council is to amend the FAR to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to the order. *Id.* Additionally, the Director of OMB must, to the extent consistent with law, issue guidance to implement section 6(c) of the order, requiring each agency to report to OMB any exceptions granted on a quarterly basis. *Id.*

Section 8 of Executive Order 14055 assigns responsibility for investigating and obtaining compliance with the order to the Department. 86 FR 66399. This section authorizes the Department to issue final orders in such proceedings prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. *Id.* The Department may also provide that where a contractor or subcontractor has failed to comply with any order of the Secretary or has committed willful violations of the Executive order or its implementing regulations, the contractor or subcontractor, its responsible officers, and any firm in which the contractor or subcontractor has a substantial interest, may be ineligible to be awarded any contract of the United States for a period of up to 3 years. 86 FR 66399–66400. Neither an order for debarment of any contractor or subcontractor from further Federal Government contracts nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors is to be carried out without affording the contractor or subcontractor an opportunity to present information and argument in opposition to the proposed debarment or inclusion on the list. 86 FR 66400. Section 8 also specifies that Executive Order 14055 creates no rights under the Contract Disputes Act, and that disputes regarding the requirements of the contract clause prescribed by section 3 of the order, to the extent permitted by law, will be disposed of only as provided by the Department in regulations issued under the order. *Id.*

Section 9 of Executive Order 14055 revokes Executive Order 13897 of October 31, 2019, which itself rescinded Executive Order 13495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts. 86 FR 66400. *See also* 84 FR 59709 (Nov. 5, 2019); 74 FR 6103 (Jan. 30, 2009). It also explains that Executive Order 13495 remains rescinded. 86 FR 66400.

Section 10 of Executive Order 14055 provides that if any provision of the order, or the application of any provision of the order to any person or circumstance, is held to be invalid, the remainder of the order and its application to any other person or circumstance will not be affected. 86 FR 66400.

Section 11 of Executive Order 14055 provides that the order is effective immediately and applies to solicitations issued on or after the effective date of the final regulations issued by the FAR Council under section 7 of the order. 86 FR 66400. For solicitations issued between the date of Executive Order 14055 and the date of the action taken by the FAR Council, or solicitations that were previously issued and were outstanding as of the date of Executive Order 14055, agencies are strongly encouraged, to the extent permitted by law, to include in the relevant solicitation the contract clause described in section 3 of the order. *Id.*

Section 12 of Executive Order 14055 specifies that nothing in the order is to be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof, or the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals. 86 FR 66400. In addition, the order is to be implemented consistent with applicable law and subject to the availability of appropriations. The order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities; its officers, employees, or agents; or any other person. 86 FR 66401.

Prior Relevant Executive Orders

As indicated, section 9 of Executive Order 14055 revoked Executive Order 13897, which itself rescinded Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts. On August 29, 2011, after engaging in notice-and-comment rulemaking, the Department promulgated regulations, 29 CFR part 9 (76 FR 53720), to implement Executive Order 13495, and per Executive Order 13897, rescinded them in a Notice published in the **Federal Register** on January 31, 2020 (85 FR 5567).

Executive Order 14055 is very similar to Executive Order 13495, but there are a few notable differences. For example, Executive Order 14055 requires that the contractor give an employee at least 10 business days to accept an employment offer, whereas Executive Order 13495 only required 10 calendar days. 86 FR 66398, 74 FR 6104. Similarly, Executive Order 14055 requires that the contractor must provide the contracting officer a certified list of the names of all service employees working under the contract during the last month of contract performance at least 10 business days before contract completion, whereas Executive Order 13495 only required 10 calendar days. *Id.* Executive Order 13495 required that performance of the work be at the same location for the order's requirements to apply to the successor contract, whereas Executive Order 14055 does not include a requirement that the successor contract be performed at the same location as the predecessor contract. Further, Executive Order 14055 directs an agency to consider, when preparing a solicitation for a service contract that succeeds a contract for performance of the same or similar work, whether performance of the contract in the same locality is reasonably necessary to ensure economical and efficient provision of services. If an agency determines that performance of the contract in the same locality or localities is reasonably necessary to ensure economical and efficient provision of services, then the agency will, to the extent consistent with law, include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality.

Executive Order 14055 also differs from Executive Order 13495 in its provisions regarding a contracting agency's authority to grant an exception from the requirements of the order for a particular contract. Specifically, section 6 of Executive Order 14055 provides that a senior official within an agency may except a particular contract from the requirements of section 3 of the order by, no later than the solicitation date, providing a specific written explanation of why at least one of the

particular circumstances enumerated in the order exists with respect to that contract that would warrant exception from the requirements of the order. 86 FR 66399. It also requires agencies to publish descriptions of each exception on a centralized public website and report exceptions to OMB on a quarterly basis. *Id.* Finally, agencies are required to ensure that the incumbent contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination to grant an exception. *Id.* In contrast, Executive Order 13495 provided that if the head of a contracting department or agency found that the application of any of the requirements of the order would not serve the purposes of the order or would impair the ability of the Federal Government to procure services on an economical and efficient basis, the head of such department or agency could exempt its department or agency from the requirements of any or all of the provisions of the order with respect to a particular contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders. 74 FR 6104.

II. Discussion of Proposed Rule

A. Legal Authority

President Biden issued Executive Order 14055 pursuant to his authority under ''the Constitution and the laws of the United States,'' expressly including the Procurement Act, 40 U.S.C. 101 *et seq.* 86 FR 66397. The Procurement Act authorizes the President to ''prescribe policies and directives that the President considers necessary to carry out'' the statutory purposes of ensuring ''economical and efficient'' government procurement and administration of government property. 40 U.S.C. 101, 121(a). Executive Order 14055 directs the Secretary to issue regulations to ''implement the requirements of this order.'' 86 FR 66399. The Secretary has delegated his authority to promulgate these types of regulations to the Administrator of the WHD (Administrator) and to the Deputy Administrator of the WHD if the Administrator position is vacant. Secretary's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (published Dec. 24, 2014); Secretary's Order 01–2017 (Jan. 12, 2017), 82 FR 6653 (published Jan. 19, 2017).

B. Overview of the Proposed Rule

This NPRM, which proposes to amend Title 29 of the CFR by adding part 9, proposes standards and procedures for implementing and enforcing Executive Order 14055. Proposed subpart A of part 9 relates to general matters, including the purpose and scope of the rule, as well as the definitions, coverage, exclusions, and exceptions that the rule provides pursuant to the Executive order. Proposed subpart B establishes requirements for contracting agencies and contractors to comply with the Executive order. Proposed subpart C specifies standards and procedures related to complaint intake, investigations, and remedies. Proposed subpart D specifies standards and procedures related to administrative enforcement proceedings.

The following section-by-section discussion of this proposed rule presents the contents of each section in more detail. The Department invites comments on the issues addressed in this NPRM.

Part 9 Subpart A—General

Proposed subpart A of part 9 pertains to general matters, including the purpose and scope of the rule, as well as the definitions, coverage, exclusions, and exceptions that the rule provides pursuant to the Executive order.

Section 9.1 Purpose and Scope

Proposed § 9.1(a) explains that the purpose of the proposed rule is to implement Executive Order 14055. The paragraph emphasizes that the Executive order assigns enforcement responsibility for the nondisplacement requirements to the Department.

Proposed § 9.1(b) explains the underlying policy of Executive Order 14055. First, the paragraph repeats a statement from the Executive order that the Federal Government's procurement interests in economy and efficiency are served when the successor contractor or subcontractor hires the predecessor's employees. The proposed rule elaborates that a carryover workforce minimizes disruption in the delivery of services during a period of transition between contractors, maintains physical and information security, and provides the Federal Government the benefit of an experienced and well-trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements. It is for these reasons that the Executive order concludes that requiring successor service contractors and subcontractors performing on Federal contracts to offer a right of first refusal to suitable employment under the contract to service employees under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of the successor contract will lead to improved economy and efficiency in Federal procurement.

Proposed § 9.1(b) further explains the general requirement established in section 3 of Executive Order 14055 that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include a clause that requires the contractor and its subcontractors to offer a right of first refusal of employment to service employees employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of the successor contract in positions for which the employees are qualified. Proposed § 9.1(b) also clarifies that nothing in Executive Order 14055 or part 9 is to be construed to excuse noncompliance with any applicable Executive order, regulation, or law of the United States.

Proposed § 9.1(c) outlines the scope of this proposal and provides that neither Executive Order 14055 nor part 9 creates or changes any rights under the Contract Disputes Act, 41 U.S.C. 7101 *et seq.,* or any private right of action. The Department does not interpret the Executive order as limiting existing rights under the Contract Disputes Act. The provision also restates the Executive order's directive that disputes regarding the requirements of the contract clause prescribed by the Executive order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under the Executive order. This paragraph also clarifies that neither the Executive order nor the proposed rule would preclude review of final decisions by the Secretary in accordance with the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

Section 9.2 Definitions

Proposed § 9.2 defines terms for purposes of this rule implementing Executive Order 14055. Most defined terms follow common applications and are based on either Executive Order 14055 itself or the definitions of relevant terms set forth in the text of related statutes and Executive orders or the implementing regulations for those statutes and orders. The Department notes that, while the proposed definitions discussed in this proposed rule would govern the implementation and enforcement of Executive Order 14055, nothing in the proposed rule is intended to alter the meaning of or to be interpreted inconsistently with the

definitions set forth in the FAR for purposes of that regulation.

Consistent with the definition provided in Executive Order 14055, the Department proposes to define *agency* to mean an executive department or agency, including an independent establishment subject to the Procurement Act. *See* 86 FR 66397. As used in its definition of *agency,* the Department proposes to define executive departments and agencies by adopting the definition of executive agency provided in section 2.101 of the FAR. 48 CFR 2.101. The proposed definition of *agency* therefore would include executive departments within the meaning of 5 U.S.C. 101, military departments within the meaning of 5 U.S.C. 102, independent establishments within the meaning of 5 U.S.C. 104(1), and wholly owned Government corporations within the meaning of 31 U.S.C. 9101. This proposed definition would include independent regulatory agencies.

The Department proposes to adopt the definition of *Associate Solicitor* in 29 CFR 6.2(b), which means the Associate Solicitor for Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210. Consistent with section 2(a) of the Executive order, the Department proposes to define *contract* or *service contract* to mean any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the SCA and its implementing regulations. 86 FR 66397.

The Department proposes to substantially adopt the definition of *contracting officer* in section 2.101 of the FAR, which means an agency official with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. *See* 48 CFR 2.101.

The Department proposes to define *contractor* to mean any individual or other legal entity that is awarded a Federal Government service contract or subcontract under a Federal Government service contract. The Department notes that, unless the context reflects otherwise, the term *contractor* refers collectively to both a prime contractor and all of its subcontractors of any tier on a service contract with the Federal Government. This proposed definition incorporates relevant aspects of the definitions of the term contractor in section 9.403 of the FAR, *see* 48 CFR 9.403, and the SCA's regulations at 29 CFR 4.1a(f).

Importantly, the Department notes that the fact that an individual or entity is a *contractor* under the Department's definition does not mean that such an entity has legal obligations under the Executive order. A contractor only has obligations under the Executive order if it has a service contract with the Federal Government that is covered by the order. Thus, an entity that is awarded a service contract with the Federal Government will qualify as a ''contractor'' pursuant to the Department's definition, but that entity will only be subject to the nondisplacement requirements of the Executive order in connection with a particular contract if such contractor is awarded or otherwise enters into a covered contract for the same or similar services as an existing service contract, as described in proposed § 9.3, for a solicitation issued after the effective date of the FAR Council's amendment of the FAR in accordance with section 7(b) of Executive Order 14055.

The Department proposes to define *business day* as Monday through Friday, except Federal holidays declared under 5 U.S.C. 6103 or by executive order.

Consistent with the definition provided in Executive Order 14055, the Department proposes to define *employee* to mean a service employee as defined in the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3). 86 FR 66397. Accordingly, *employee* ''means an individual engaged in the performance of'' an SCA-covered contract. 41 U.S.C. 6701(3)(A). The term *employee* ''includes an individual without regard to any contractual relationship alleged to exist between the individual and a contractor or subcontractor,'' and it therefore includes an individual who identified as an independent contractor on the contract. The term ''does not include an individual employed in a bona fide executive, administrative, or professional capacity'' as those terms are defined in 29 CFR part 541. 41 U.S.C. 6701(3)(B)–(C).

The Department proposes to define *employment opening* to mean any vacancy in a service employee position on the successor contract. This is consistent with the definition of *employment opening* in the regulations that implemented Executive Order 13495.

The Department proposes to define the term *Federal Government* as an agency or instrumentality of the United States that enters into a contract pursuant to authority derived from the Constitution or the laws of the United States. This proposed definition is based on the definition set forth in the regulations that implemented Executive Order 13495. Consistent with that definition and the SCA, the proposed definition of the term *Federal Government* includes nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces or of other Federal agencies. *See* 29 CFR 4.107(a). This proposed definition also includes independent agencies because such agencies are subject to the order's requirements. *See* 86 FR 66397. For purposes of Executive Order 14055 and part 9, the Department's proposed definition does not include the District of Columbia or any Territory or possession of the United States.

The Department proposes to define *month* under the Executive order as a period of 30 consecutive calendar days, regardless of the day of the calendar month on which it begins. The Department believes defining the term will clarify how to address partial months and will balance calendar months of different lengths. This is consistent with the definition of *month* in the regulations that implemented Executive Order 13495.

The Department proposes to define *same or similar work* to mean work that is either identical to or has primary characteristics that are alike in substance to work performed on a contract that is being replaced either by the Federal Government or by a prime contractor on a Federal service contract. This would require the work under the successor contract to, at a minimum, share the characteristics essential to the work performed under the predecessor contract. Accordingly, work under a successor contract would not be considered to be *same or similar work* where it only shares characteristics incidental to performance of the contract under the predecessor contract.

The Department proposes to define the term *Service Contract Act* (SCA) to mean the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and its implementing regulations. *See* 29 CFR 4.1a(a).

The Department proposes to define *solicitation* as any request to submit offers, bids, or quotations to the Federal Government. This definition is consistent with the definition of *solicitation* in both the regulations that implemented Executive Order 13495 and in 48 CFR 2.101. The Department broadly interprets the term *solicitation* to apply to both traditional and nontraditional methods of solicitation, including informal requests by the

Federal Government to submit offers or quotations. However, the Department notes that requests for information issued by Federal agencies and informal conversations with Federal workers are not ''solicitations'' for purposes of the Executive order.

The Department proposes to define the term *United States* as the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which all or substantially all of the stock is owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including nonappropriated fund instrumentalities. When the term is used in a geographic sense, the Department proposes that the United States means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, and Johnston Island. The geographic scope component of this proposed definition is derived from the regulations implementing the SCA at 29 CFR 4.112(a) and the SCA's definition of the term ''United States'' at 41 U.S.C. 6701(4).

Finally, the Department proposes to adopt the definitions of the terms *Administrative Review Board, Administrator, Office of Administrative Law Judges, Secretary,* and *Wage and Hour Division* set forth in the regulations that implemented Executive Order 13495.

Section 9.3 Coverage

Proposed § 9.3 addresses the coverage provisions of Executive Order 14055. Proposed § 9.3 explains the scope of the Executive order and its coverage of executive agencies and contracts.

Executive Order 14055 provides that agencies must, to the extent permitted by law, ensure that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include a clause specifying that the successor contractor and its subcontractors must, except as otherwise provided in the order, in good faith offer service employees employed under the predecessor contract and its subcontracts, whose employment would be terminated as a result of the award of the successor contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under the successor contract in positions for which those employees are qualified. Section 2 states that ''service contract'' means any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the SCA. Section 2 also defines ''agency'' to mean an executive department or agency of the Federal Government, including an independent establishment subject to the Procurement Act, 40 U.S.C. 102(4)(A). Section 5 specifies that the order would not apply to contracts under the simplified acquisition threshold as defined in 41 U.S.C. 134.

Proposed § 9.3 would implement these coverage provisions by stating in proposed § 9.3(a) that Executive Order 14055 and part 9 would apply to any contract or solicitation for a contract with an executive department or agency of the Federal Government, provided that: (1) it is a contract for services covered by the SCA; and (2) the prime contract exceeds the simplified acquisition threshold as defined in 41 U.S.C. 134. Proposed § 9.3(b) would require all contracts that satisfy the requirements of proposed § 9.3(a) to contain the contract clause set forth in Appendix A, and all contractors on such contracts to comply, without limitation, with the requirements of paragraphs (e), (f), and (g) of proposed § 9.12. Proposed § 9.3(c) would require all contracts that satisfy the requirements of proposed § 9.3(a) and that also succeed a contract for performance of the same or similar work, to contain the contract clause set forth at Appendix A, and all contractors on such contracts to comply, without limitation, with all the requirements of proposed § 9.12. Several issues relating to the coverage provisions of the Executive order and proposed § 9.3 are discussed below.

Coverage of Executive Departments and Agencies

Executive Order 14055 would apply to contracts and solicitations for contracts with the Federal Government that meet the requirements of § 9.3. The Department proposes to define Federal Government to include ''an agency or instrumentality of the United States that enters into a contract pursuant to authority derived from the Constitution or the laws of the United States.'' *See* § 9.2. Consistent with section 2(c) of the Executive order, the Department proposes to define agency as all ''[e]xecutive department[s] and agenc[ies], including independent establishment[s] subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A).'' As used in its definition of agency, the Department proposes to define executive departments and agencies by adopting the definition of executive agency provided in section 2.101 of the FAR. 48 CFR 2.101. The proposed rule therefore would interpret the Executive order as applying to contracts entered into by executive departments within the meaning of 5 U.S.C. 101, military departments within the meaning of 5 U.S.C. 102, independent establishments within the meaning of 5 U.S.C. 104(1), and wholly owned Government corporations within the meaning of 31 U.S.C. 9101. This proposed definition would include independent regulatory agencies.

The plain text of Executive Order 14055 reflects that the order applies to executive departments and agencies, including independent establishments, but only when such establishments are subject to the Procurement Act, 40 U.S.C. 121, *et seq.* Thus, for example, contracts awarded by the U.S. Postal Service would not be covered by the order or part 9 because the U.S. Postal Service is not subject to the Procurement Act. Finally, pursuant to the proposed definition of executive departments and agencies, contracts awarded by the District of Columbia and any Territory or possession of the United States would not be covered by the order.

Coverage of Contracts

Proposed § 9.3(a) provides that the requirements of the Executive order generally would apply to ''any contract or solicitation for a contract with the Federal Government.'' Section 2(a) of the Executive order defines contract to mean ''any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and its implementing regulations.'' The Department proposes to set forth a broadly inclusive definition of the term contract that is consistent with the Executive order and how the term is used in the SCA. Consistent with the definition of the term ''contract'' in the Restatement (Second) of Contracts, which was in the process of being developed when Congress enacted the SCA, an agreement is a ''contract'' for SCA purposes if it amounts to ''a promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes a duty.'' *In re Cradle of Forestry in Am. Interpretive Ass'n,* No. 99–035, 2001 WL 32813, at *3 (ARB Mar. 30, 2001) (quoting Restatement (Second) of Contracts

section 1 (Am. L. Inst. 1979)). Licenses, permits, and similar instruments thus may qualify as contracts under the SCA, *id.,* regardless of whether parties typically consider such instruments to be ''contracts'' and regardless of whether such instruments are characterized as ''contracts'' for purposes of the specific programs under which they are administered. Given the SCA's coverage of a such a wide variety of service contracts and its broad definition of covered contracts, *see, e.g., id.;* 29 CFR 4.110, the Department views the term ''contract-like instrument'' as not expanding the scope of coverage under Executive Order 14055, but rather as simply reinforcing the breadth of contract coverage under the SCA.

Proposed § 9.3(a) also provides that part 9 would apply to ''any . . . solicitation for a contract'' that meets the requirements of proposed § 9.3(a). The Department proposes to define solicitation in § 9.2 to mean ''any request to submit offers, bids, or quotations to the Federal Government.'' The Department broadly interprets the term solicitation to apply to both traditional and nontraditional methods of solicitation, including informal requests by the Federal Government to submit offers or quotations. However, requests for information issued by Federal agencies and informal conversations with Federal workers would not be ''solicitations'' for purposes of the Executive order. If the solicitation is for a contract that would be covered by part 9, then the solicitation would also be covered.

Consistent with section 2(a) of Executive Order 14055, proposed § 9.3(a)(1) clarifies that the contract must be a contract for services covered by the SCA in order to be covered by the Executive order and part 9. The SCA generally applies to every ''contract or bid specification for a contract that . . . is made by the Federal Government or the District of Columbia'' and that ''has as its principal purpose the furnishing of services in the United States through the use of service employees.'' 41 U.S.C. 6702(a)(3). The SCA is intended to cover a wide variety of service contracts with the Federal Government, so long as the principal purpose of the contract is to provide services through the use of service employees. *See, e.g.,* 29 CFR 4.130(a). As reflected in the SCA's regulations, where the principal purpose of the contract with the Federal Government is to provide services through the use of service employees, the contract is covered by the SCA. *See* 29 CFR 4.133(a). Such coverage exists regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service and irrespective of whether the contractor performs the work in its own establishment, on a Federal Government installation, or elsewhere. *Id.* Coverage of the SCA, however, does not extend to contracts for services to be performed exclusively by persons who are not service employees, *i.e.,* persons who qualify as bona fide executive, administrative, or professional employees as defined in the Fair Labor Standards Act's (FLSA) regulations at 29 CFR part 541. Similarly, a contract for professional services performed essentially by bona fide professional employees, with the use of service employees being only a minor factor in contract performance, is not covered by the SCA and thus would not be covered by the Executive order or part 9. *See* 41 U.S.C. 6702(a)(3); 29 CFR 4.113(a) and 4.156; WHD Field Operations Handbook (FOH) ¶¶ 14b05, 14c07.

Coverage of Contracts Above the Simplified Acquisition Threshold

Proposed § 9.3(a)(2) provides that a prime contract must exceed the simplified acquisition threshold to be covered by part 9. This is consistent with section 5 of Executive Order 14055, which provides that the order does not apply to contracts under the simplified acquisition threshold as defined in 41 U.S.C. 134. Unlike Executive Order 13495, which excluded ''contracts or subcontracts under the simplified acquisition threshold,'' section 5 of Executive Order 14055 expressly excludes only ''contracts under the simplified acquisition threshold[.]''Accordingly, the Department proposes that all subcontracts for services, regardless of size, would be covered by part 9 if the prime contract meets the coverage requirements of § 9.3. The Department notes, however, that the definitions sections of both Executive Order 13495 and Executive Order 14055 define ''contract'' to include ''contract or subcontract,'' which could support a continued exception for subcontracts under the simplified acquisition threshold. For this reason, the Department is seeking comment from the public on the potential impact, including any unintended consequences, of covering subcontracts below the simplified acquisition threshold.

Coverage of Successor Contracts

Proposed § 9.3(c) provides requirements that would apply only to contracts that satisfy the requirements of paragraph (a) of proposed § 9.3 and that ''*succeed* at contract for performance of the same or similar work[.]'' (emphasis added). Pursuant to section 1 of Executive Order 14055, this successor contract relationship exists when an existing service contract ''expires'' and a follow-on contract is awarded. Under the Executive order, the Department views a service contract as expired when the contract ends after a fixed period of time or is terminated. In contrast, when a term of an existing contract is simply extended pursuant to an option clause, and no solicitation is issued for a follow-on contract, the original contract is not considered expired, the extended term of the contract is not a follow-on contract under the Executive order, and the requirements of the order and this part would not apply.

In accordance with the terms of Executive Order 14055, if a contract expires, the Department would consider successor service contracts and subcontracts for performance of the same or similar work, and solicitations for such contracts and subcontracts, to be covered by the order, assuming the successor contracts meet the requirements of proposed § 9.3(a). Thus, for example, when the term of a contract ends and a follow-on contract is awarded as a result of a solicitation, a predecessor-successor relationship would exist for purposes of Executive Order 14055 if the two contracts were for the same or similar work. Similarly, if a contract is terminated, a solicitation for a follow-on contract is issued and the follow-on contract is awarded, a predecessor-successor relationship would exist for purposes of Executive Order 14055, again if the two contracts were for the same or similar work. The identity of the contractor awarded the successor contract would not impact the coverage determination. For example, when a contract expires and the same contractor is awarded the successor contract, the terms of the order and part 9 would apply. Similarly, the successor contract would not need to be awarded by the same contracting agency as the predecessor contract in order to be covered by the Executive order and this part.

Coverage of Contracts for Same or Similar Work

Consistent with section 3 of Executive Order 14055, proposed § 9.3(c) would require successor contracts that satisfy the requirements of paragraph (a) of proposed § 9.3 and that are for ''performance of the same or similar work'' to meet additional requirements of part 9. As explained in the discussion of proposed § 9.2, the Department proposes to define same or similar work

as ''work that is either identical to or has primary characteristics that are alike in substance to work performed on a contract that is being replaced by the Federal Government or a contractor on a Federal service contract.'' This definition would require the work under the successor contract to, at a minimum, share the characteristics essential to the work to be performed under the predecessor contract. Accordingly, work under a successor contract would not be considered to be same or similar work where it only shares characteristics incidental to performance of the contract under the predecessor contract.

In many instances, determining whether a contract involves the same or similar work as the predecessor contract will be straightforward. For example, when a contract for food service at a Federal building expires and a new contract for food service begins at the same location that requires many of the same job classifications as the predecessor contract, the work on the successor contract would be considered to be ''same or similar work.'' This would be true even where more limited food services are provided under the successor contract than the predecessor contract, or where work on the successor contract requires additional job classifications that were not required for work under the predecessor contract. In other instances, the particular facts and circumstances may need to be carefully scrutinized in order to determine whether a contract involves the same or similar work as the predecessor contract. For example, when a contract expires, specific requirements from the contract may be broken out and placed in a new contract or combined with requirements from other contracts into a consolidated new contract. In such circumstances, it will be necessary to evaluate the extent to which the prior and new contracts involve the same or similar functions of work and the same or similar job classifications in order to determine whether the prior and new contracts involve the same or similar services. Finally, in some instances, it will be evident that two contracts do not involve the same or similar work. For example, if an SCA-covered contract to operate a gift shop in a Federal building expires, and a new contract is awarded to operate a dry cleaning service in the same physical space as had been occupied by the gift shop, the two contracts would not involve the same or similar work because, even though the place of contract performance would be the same, the nature of the work performed under the contracts, and the job classifications performing the work, would not be the same or similar.

Coverage of Subcontracts

Consistent with sections 2 and 3 of Executive Order 14055, which specify that the nondisplacement requirements apply equally to subcontracts, the Department notes that where a prime contract is covered by the order and part 9, any subcontracts for services are also covered and subject to the requirements of the order and part 9. However, the Executive order does not apply to non-service subcontracts between a subcontractor and a prime contractor for use on a covered Federal contract. For example, a subcontract to supply napkins and utensils to a prime contractor as part of a covered contract to operate a cafeteria in a Federal building is not a covered subcontract for purposes of this order because it is a supply subcontract rather than a subcontract for services.

Geographic Scope

The Executive Order and this part would only apply to contracts with the Federal Government requiring performance in whole or in part within the United States, which is defined to mean, when used in a geographic sense, the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, and Johnston Island. Under this approach—which is consistent with the geographic scope of coverage under the SCA—the Executive order and this part would not apply to contracts with the Federal Government to be performed in their entirety outside the geographical limits of the United States as thus defined. However, if a contract with the Federal Government is to be performed in part within and in part outside these geographical limits and is otherwise covered by the Executive order and this part, the order and this part would apply to the contract and require a right of first refusal for any workers that have performed work inside the geographical limits of the United States as defined. As noted previously, contracts awarded by the District of Columbia or any Territory or possession of the United States would not be covered by the order, as neither the District of Columbia nor any Territory or possession of the United States would constitute an executive department or agency under this part.

Section 9.4 Exclusions

Pursuant to section 5(a) of Executive Order 14055, proposed § 9.4(a) addresses the exclusion for contracts under the simplified acquisition threshold, as defined in 41 U.S.C. 134. The simplified acquisition threshold currently is $250,000. 41 U.S.C. 134. The proposed regulations would omit that amount from the regulatory text in the event that a future statutory amendment changes the amount. Any such change would automatically apply to contracts subject to part 9.

Proposed § 9.4(a)(2) clarifies that the exclusion provision at § 9.4(a)(1) would apply only to prime contracts under the simplified acquisition threshold and that whether a subcontract is excluded from the requirements of part 9 is dependent on the prime contract amount. As discussed above, section 5(a) of Executive Order 14055 excludes only ''contracts under the simplified acquisition threshold[.]'' This language differs from Executive Order 13495, which excluded ''contracts *or subcontracts* under the simplified acquisition threshold'' (emphasis added). Accordingly, proposed § 9.4(a)(2) explains that subcontracts would be excluded under § 9.4(a)(1) only if the prime contract is under the simplified acquisition threshold, but, as explained above, the Department is seeking comment from the public on the potential impact, including any unintended consequences, of covering subcontracts below the simplified acquisition threshold.

Proposed § 9.4(b) would implement the exclusion in section 5(b) of Executive Order 14055 relating to employment where Federal service work constitutes only part of the employee's job.

Proposed § 9.4 does not include an exclusion for contracts awarded for services produced or provided by persons who are blind or have severe disabilities. Executive Order 14055 diverges from Executive Order 13495 with respect to such contracts. Section 3 of Executive Order 13495 specifically excluded ''contracts or subcontracts awarded pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 46–48c;'' ''guard, elevator operator, messenger, or custodial services provided to the Federal Government under contracts or subcontracts with sheltered workshops employing the severely handicapped as described in section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329;'' and ''agreements for vending facilities entered into pursuant to the preference regulations issued under the

Randolph-Sheppard Act, 20 U.S.C. 107[.]'' In contrast, section 5 of Executive Order 14055 does not enumerate any such exclusions. Accordingly, proposed § 9.4 does not exclude such contracts from the requirements of part 9.

However, section 12 of Executive Order 14055 expressly provides that nothing in the order should be construed ''to impair or otherwise affect . . . the authority granted by law'' and directs that the order be ''implemented consistent with applicable law.'' The applicable law encompassed by these sections includes, for example, the Javits-Wagner-O'Day Act, 41 U.S.C. 8501–8506, section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329, and the Randolph-Sheppard Act, 20 U.S.C. 107. Each of these laws establishes requirements for contracts awarded for services produced or provided by persons who are blind or have severe disabilities that may conflict with the requirements of Executive Order 14055 in that these laws may impose hiring requirements that preclude, in whole or in part, offering employment to the employees on the predecessor contract. Where direct legal conflicts squarely exist between the requirements of Executive Order 14055 and the requirements of another statute, regulation, Executive Order, or Presidential Memoranda under the particular factual circumstances of a specific situation, the requirements of this part would not apply. As with any determination to except a particular contract from the application of the nondisplacement requirements, a contracting agency would be obligated to follow the procedures proposed at § 9.5 to support a determination that the requirements of this part do not apply because of a direct legal conflict.

The Department recognizes that contracting agencies award contracts under a wide variety of programs, including those mentioned above, many of which have, by law, specific processes and requirements. The Department understands that some of these requirements may make implementation of the requirements of Executive Order 14055 more challenging under certain programs than others. The Department invites comment on any specific programs with contracting requirements that may conflict with Executive Order 14055 or the provisions of this proposed rule. For example, the Department recognizes that applying the requirements of Executive Order 14055 to some contracts awarded pursuant the Randolph-Sheppard Act, specifically the Randolph-Sheppard Vending Facility Program (RSVFP), may present certain challenges. The Department invites interested parties to comment on the interaction of the requirements in the proposed rule with the provisions of the Randolph-Sheppard Act.

Section 9.5 Exceptions Authorized by Agencies

Exceptions Authorized by Agencies

Section 6 of the order provides a procedure for Federal agencies to except particular contracts from the application of the nondisplacement requirements. The Department proposes to implement this procedure through language in § 9.5 of the regulations. Under section 6 of the order, and in proposed § 9.5, an agency would be permitted to grant an exception from the requirements of section 3 of the order (the incorporation of the nondisplacement contract clause) for a particular contract under certain circumstances. The determination must be made no later than the solicitation date for the contract and must include a specific written explanation of why at least one of the qualifying circumstances exists with respect to that contract.

In § 9.5(a), the Department proposes to list the qualifying circumstances for an agency exception based on the agency exceptions provision in section 6(a) of the order. These include (1) where adhering to the requirements of the order or the implementing regulations would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement; (2) where based on a market analysis, adhering to the requirements of the order or the implementing regulations would both substantially reduce the number of potential bidders so as to frustrate full and open competition and not be reasonably tailored to the agency's needs for the contract; or (3) where adhering to the requirements of the order or the implementing regulations would otherwise be inconsistent with statutes, regulations, Executive orders, or Presidential Memoranda.

The Department proposes to interpret section 6(a) of the order as allowing agencies to make exceptions only for prime contracts and not for individual subcontracts. As discussed above, whether a subcontract is covered by the order depends on whether the prime contract is covered. If the prime contract is covered, then the subcontracts under that prime contract will also be covered. If a prime contract is not covered (whether because it does not satisfy an element of coverage or because an agency has made an exception for that prime contract), then the subcontracts under that prime contract will also not covered. Under the Department's interpretation of section 6(a), there would be no mechanism for a prime contract to be covered, but for an agency to exempt individual subcontracts for services under that prime contract.

The Department's proposed interpretation of section 6(a) follows from a comparison of this section with the agency exemption provision in Executive Order 13495. In Executive Order 13495, the agency exemption provision permitted agencies to exempt ''a particular contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders.'' In Executive Order 14055, however, section 6(a) permits agencies to make exceptions only for ''a particular contract.'' Accordingly, the proposed regulatory text at § 9.5(a) only provides the authority for agencies to make an exception for ''a prime contract.'' However, the Department also recognizes that section 2(a) of the order defines the term ''contract'' as including ''subcontract,'' which could support an interpretation of section 6(a) as allowing a continued case-by-case exception for subcontracts. For this reason, the Department is seeking comment from the public on the potential impact, including any unintended consequences, of not allowing agency exceptions for particular subcontracts or classes of subcontracts.

Section 6(a) of Executive Order 14055 limits contracting agency exception decisions by requiring that a decision to except a contract must be made by a ''senior official'' within the agency. The Department interprets ''senior official'' to mean the senior procurement executive, as defined in 41 U.S.C. 1702(c). Consistent with this interpretation, the Department proposes regulatory text at § 9.5(a) that identifies the senior procurement executive as the senior official who must make an exception decision. Because the order specifically requires the decision to be made by a senior official, the Department concludes that the decision cannot be delegated by the senior procurement executive to a lower-level official. *See* 77 FR 75773 (stating the same non-delegation principle applied to the FAR rule implementing Executive Order 13495).[1]

[1] Section 4 of Executive Order 13495 also included the authority to grant a waiver of that order's effect but limited the authority to the ''head of a contracting department or agency.''

Proposed § 9.5(b) reiterates the procedural requirements that section 6(a) of the order states must be satisfied for an exception to be effective. The proposed language would require that the action to except a contract from some or all of the requirements of the Executive order or the regulations include a specific written explanation of the facts and reasoning supporting the determination. Following the text of section 6(a) of the order, the proposed language in § 9.5(b) would require that this written explanation be issued no later than the solicitation date, which is also the latest date that the action to except a contract may be taken. The proposed language in § 9.5(b) provides that any determination by an agency to exercise its exception authority that is made after the solicitation date or without the specific written explanation would be inoperative. In such a circumstance, the contract clause has been wrongly omitted and the agency would be required to take action consistent with paragraph (f) of § 9.11 of this part.

Bases for Agency Exceptions

The Department also proposes to provide additional guidance and requirements applicable to each of the three circumstances in which an agency may make an exception for a particular contract.

Proposed § 9.5(c) would address the provision in section 6(a)(i) of Executive Order 14055 permitting an exception where adhering to the requirements of the order would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement. Although the wording differs slightly, the Department interprets this circumstance to be effectively the same as the agency exemption that was included in section 4 of Executive Order 13495, which authorized an exemption where the requirements ''would not serve the purposes of [the] order'' or ''would impair the ability of the Federal Government to procure services on an economical and efficient basis.'' Both provisions require consideration of whether, in the specific circumstances of the particular contract, economy and efficiency will not be served if the contract clause is incorporated. In 2011, the Department issued detailed regulations to implement the Executive Order 13495 exemption, including factors that could be considered and others that could not be considered. *See* 76 FR 53726–29 (discussion of comments), 53754–55 (regulatory text); *see also* 29 CFR 9.4(d)(4) (2012). Because the exception authorized by section 6(a)(i) of Executive Order 14055 requires a similar consideration of economy and efficiency, the Department proposes language in § 9.5(c) that would incorporate much of that previous regulatory language.

In § 9.5(c), the Department also proposes to include language stating that the written analysis that accompanies the determination must, among other things, compare the anticipated outcomes of hiring predecessor contract employees with those of hiring a new workforce. In addition, the Department proposes to include the requirement that the consideration of cost and other factors in exercising the agency's exception authority must reflect the general findings made in section 1 of the Executive order that the government's procurement interests in economy and efficiency are normally served when the successor contractor hires the predecessor's employees, and must specify how the particular circumstances support a contrary conclusion.

In § 9.5(c)(1), the Department proposes to list factors that the contracting agency may consider in making its determination. These factors are the same factors that the Department adopted in the regulations that implemented Executive Order 13495. They would include circumstances where the use of the carryover workforce would greatly increase disruption to the delivery of services during the period of transition between contracts. This might occur where, for example, the entire predecessor workforce would require extensive training to learn new technology or processes that would not be required of a new workforce. They also could include emergency situations, such as a natural disaster or an act of war, that physically displace incumbent employees. Finally, they could include situations where the senior official at the contracting agency reasonably believes, based on the predecessor employees' past performance, that the entire predecessor workforce failed, individually as well as collectively, to perform suitably—and it would not be economical or efficient to provide supplemental training to these workers.

The determination that the entire workforce failed cannot be made lightly. A senior agency official that makes such a determination must demonstrate that their belief is reasonable and is based upon reliable evidence that has been provided by a knowledgeable source, such as department or agency officials responsible for monitoring performance under the contract. Absent an ability to demonstrate that this belief is based upon reliable evidence, such as written credible information provided by such a knowledgeable source, the employees working under the predecessor contract in the last month of performance would be presumed to have performed suitable work on the contract. The head of a contracting agency or department may demonstrate a reasonable belief that an entire workforce, in fact, failed to perform suitably on the predecessor contract through written evidence that all of the employees, collectively and individually, did not perform suitably. Alone, information regarding the general performance of the predecessor contractor is not sufficient to justify an exception. It is also less likely that the agency would be able to make this showing where the predecessor employed a large workforce.

In § 9.5(c)(2), the Department proposes to list factors that the contracting agency may not consider in making an exception determination related to economy and efficiency. These include any general presumptions that directly contravene the purpose and findings of the order, such as any general presumption—without some contract-specific facts—that the use of a carryover workforce would increase (as opposed to decrease) disruption of services during the transition between contracts. While, as described above, contract-specific factors demonstrating a potential for disruption are a potential factor that may be considered, any general presumption as to such disruption would be contrary to and inconsistent with the purpose and findings of the order. Similarly, it would not be permissible to consider hypothetical cost savings that a contractor might attempt to achieve by hiring a workforce with less seniority, given the critical benefits that an experienced contractor workforce provides to the government.

The Department proposes, as it did in the regulations that implemented Executive Order 13495, to preclude agencies from using any potential reconfiguration of the contract workforce by the successor contractor as a factor in supporting an exception. Successor contractors are permitted to reconfigure the staffing pattern to increase the number of employees employed in some positions while decreasing the number of employees in others. In such cases, providing a right of first refusal does not affect the contractor's ability to do so, except that proposed § 9.12(c)(3) would require the contractor to examine the qualifications of each employee so as to minimize displacement. Thus, any potential for

reconfiguration cannot justify excepting the entire contract from coverage.

The Department also proposes, as it did in the regulations that implemented Executive Order 13495, to prohibit any exception decision based solely on the contract performance by the predecessor contractor. This would include the termination of a service contract for default, which, standing alone, would not satisfy the exception standards of section 6(a)(i) of the Executive order. Such defaults, as well as other performance problems not leading to default, may result from poor management decisions of the predecessor contractor that have been addressed by awarding the contract to another entity. Even where contract problems can be traced to specific poor performing service employees, that is not necessarily sufficient to justify invocation of the exception, as, consistent with section 3(a) of the Executive order, the successor contractor can decline to offer the right of first refusal to employees for whom the contractor reasonably believes, based on reliable evidence of the particular employees' past performance, that there would be just cause to discharge the employee.

Finally, the Department limits contracting agencies from considering wage rates and fringe benefit rates of services employees in most circumstances. Minimum wage and fringe benefit rates are set by the SCA and will apply regardless of whether the predecessor workforce is re-hired. Thus, as a general matter, cost savings from a reduction in wage or fringe benefits is not an appropriate basis for making an exception for a contract from the order's requirements. Moreover, even where cost savings may be achieved theoretically by lowering wages and fringe benefits, such savings would be an inappropriate basis alone for an exception from the order because higher wages and benefits allow for the employment of workers with more skills and experience. *Cf.* 48 CFR 52.222–46 (stating, with regard to professional contracts not subject to the SCA, that ''[p]rofessional compensation that is unrealistically low or not in reasonable relationship to the various job categories, since it may impair the Contractor's ability to attract and retain competent professional service employees, may be viewed as evidence of failure to comprehend the complexity of the contract requirements''). While barring the consideration of wage costs in most circumstances, the proposed language in § 9.5(c)(2) would allow such costs to be considered in exceptional circumstances. These exceptional circumstances would be limited to emergency situations; where the entire workforce would need significant training; or in other similar situations in which the cost of employing a carryover workforce on the successor contract would be prohibitive.

Proposed § 9.5(d) would address the provision in section 6(a)(ii) of Executive Order 14055 providing that an exception may be appropriate where application of the nondisplacement requirements would substantially reduce the number of potential bidders so as to frustrate full and open competition and not be reasonably tailored to the agency's needs for the contract. The proposed language of § 9.5(d) would clarify that a reduction in the number of potential bidders is not, alone, sufficient to except a contract from coverage under this authority; the senior official at the contracting agency must also find that inclusion of the contract clause would frustrate full and open competition and would not be reasonably tailored to the agency's needs for the contract. The proposed language states that on finding that inclusion of the contract clause would not be reasonably tailored to the agency's needs, the agency must specify in its written explanation how it intends to more effectively achieve the benefits that would have been provided by a carryover workforce, including physical and information security and a reduction in disruption of services.

The order, and the proposed regulatory language, requires that any exercise of this authority must be based on a market analysis. As a general matter, during the acquisition process for FAR-covered procurements, an agency must ''conduct market research appropriate to the circumstances.'' 48 CFR 10.001. Thus, the extent of market research conducted for any acquisition ''will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience.'' 48 CFR 10.002. The market analysis must be an objective, contemporary, and proactive examination of these factors. To justify the exception from the nondisplacement requirements, the market analysis would have to show that adherence to the requirements would ''substantially'' reduce the number of potential bidders so as to frustrate full and open competition. The likely reduction in the number of potential offerors indicated by market analysis is not, by itself, sufficient to except a contract from coverage under this authority unless the agency concludes that adhering to the nondisplacement requirements would diminish the number of potential offerors to such a degree that adequate competition at a fair and reasonable price could not be achieved and adhering to the nondisplacement requirements would not be reasonably tailored to the agency's needs.

Consistent with section 6(a) of Executive Order 14055, as with any of the exceptions, where an agency seeks to except a particular contract under this competition-related analysis, the agency would be required to provide a ''specific written explanation'' of why the circumstance exists. Thus, the agency's market analysis—and consideration of whether the requirements are nonetheless reasonably tailored to its needs—would need to be documented in a manner sufficient to provide and support such an explanation. *See also* 48 CFR 4.801(b) (requiring sufficient documentation in contract files to support actions taken).

Proposed § 9.5(e) would address the provision in section 6(a)(iii) of Executive Order 14055 providing that an exception may be appropriate where adhering to the requirements of the order would otherwise be inconsistent with statutes, regulations, Executive orders, or Presidential Memoranda. In § 9.5(e), the Department proposes to require that contracting agencies consult with the Department prior to excepting contracts on this basis, unless: (1) the governing statute at issue is one for which the contracting agency has regulatory authority, or (2) the Department has already issued guidance finding an exception on the basis of the specific statute, rule, order, or memorandum to be appropriate. The Department proposes this requirement in order to provide consistency, to the extent possible, in the application of the order.

Reconsideration of Agency Exceptions

The Department proposes language at § 9.4(f) to provide a procedure for interested parties to request reconsideration of agency exception determinations. This proposed language mirrors the procedure that was included in the regulations that implemented Executive Order 13495. *See* 29 CFR 9.4(d)(5) (2012). In using the term ''interested parties,'' the Department intends to extend the opportunity to request reconsideration to affected workers or their representatives, in addition to actual or prospective bidders. The Department does not intend that the term be limited to actual or prospective bidders as it is under the Competition in Contracting Act. *See* 31 U.S.C. 3551(2). The Department seeks input from commenters on whether there should be a time limit within

which interested parties would have to request reconsideration, or whether the request for reconsideration instead should just have to be made before the contract is awarded.

Notification, Publication, and Reporting of Agency Exceptions

Section 6(b) of the order requires agencies, to the extent permitted by law and consistent with national security and executive branch confidentiality interests, to publish, on a centralized public website, descriptions of the exceptions it has granted under that section, and to ensure that the contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination to grant an exception. Section 6(c) of the order also requires that, on a quarterly basis, each agency must report to the OMB descriptions of the exceptions granted under this section. In § 9.5(g), the Department proposes to include a recitation of these notification, publication, and reporting requirements.

Subpart B—Requirements

Proposed subpart B of part 9 establishes the requirements that contracting agencies and contractors will undertake to comply with the nondisplacement provisions.

Section 9.11 Contracting Agency Requirements

Proposed § 9.11 would implement section 3 of Executive Order 14055, which directs agencies to ensure that covered contracts and solicitations include the nondisplacement contract clause. The proposed section specifies contracting agency responsibilities to incorporate the nondisplacement contract clause in covered contracts, provide notice to employees on predecessor contracts of their possible right to an offer of employment, and to consider whether performance of the work in the same locality or localities in which a predecessor contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services. The proposed section also specifies contracting agency responsibilities to provide the list of employees on the predecessor contract to the successor, to forward complaints and other pertinent information to WHD when there are allegations of contractor non-compliance with the Executive order and this part, and to retroactively incorporate the contract clause when it was not initially incorporated.

Section 3 of Executive Order 14055 specifies a contract clause that must be included in solicitations and contracts for services that succeed contracts for the performance of the same or similar work. 86 FR 66397. Proposed § 9.11(a) provides the regulatory requirement to incorporate the contract clause specified in Appendix A in covered service contracts, and solicitations for such contracts, that succeed contracts for performance of the same or similar work, except for procurement contracts subject to the FAR. For procurement contracts subject to the FAR, contracting agencies will use the clause set forth in the FAR developed to implement this rule; that clause must both accomplish the same purposes as the clause set forth in Appendix A and be consistent with the requirements set forth in this rule.

Including the full contract clause in a covered contract is an effective and practical means of ensuring that contractors receive notice of their obligations under Executive Order 14055. Therefore, the Department prefers that covered contracts include the contract clause in full. However, the Department notes that there could be instances in which a contracting agency, or a contractor, does not include the entire contract clause verbatim in a covered contract or solicitation for a covered contract, but the facts and circumstances establish that the contracting agency, or contractor, sufficiently apprised a prime or lower-tier contractor that the Executive order and its requirements apply to the contract. In such instances, the Department believes it would be appropriate to find that the full contract clause has been properly incorporated by reference. *See Nat'l Electro-Coatings, Inc.* v. *Brock,* Case No. C86–2188, 1988 WL 125784 (N.D. Ohio 1988); *In re Progressive Design & Build, Inc.,* WAB Case No. 87–31, 1990 WL 484308 (WAB Feb. 21, 1990). The Department specifically notes that the full contract clause will be deemed to have been incorporated by reference in a covered contract if the contract provides that ''Executive Order 14055 (Nondisplacement of Qualified Workers Under Service Contracts), and its implementing regulations, including the applicable contract clause, are incorporated by reference into this contract as if fully set forth in this contract,'' with a citation to a web page that contains the contract clause in full or to the provision of the Code of Federal Regulations containing the contract clause set forth at Appendix A.

Contract clause paragraphs (a) through (e) of proposed Appendix A repeat the clause in paragraphs (a) through (e) of the Executive Order verbatim, with one exception. The proposed modification of the contract clause would insert the number of the Executive order, 14055, to replace the blank line that appears in paragraph (d) of the contract clause contained in the order, as its number was not known at the time the President signed the order.

Proposed contract clause paragraph (a) would require the successor contractor and its subcontractors to provide the service employees employed under the predecessor contract (including its subcontracts) the right of first refusal of employment in positions for which the employees are qualified. Proposed contract clause paragraph (b) would create two exceptions to the right of first refusal. One is for employees who are not service employees and the other is for any employee for whom there would be just cause to discharge based on evidence of the particular employee's past performance. Proposed contract clause paragraph (c) would require contractors to furnish the contracting officer with a list of employees that the contracting officer will provide to the successor contractor to ensure the successor contractor has the information necessary to provide the employees with the right of first refusal. Proposed contract clause paragraph (d) provides that the Secretary may pursue sanctions against a contractor for its failure to comply with Executive Order 14055. Proposed contract clause paragraph (e) would require contractors to include provisions in their subcontracts that ensure that each subcontractor will honor the requirements of paragraphs (a) through (c), and require contractors to take any action with respect to any such subcontract as may be directed by the Secretary as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

Proposed Appendix A sets forth additional provisions that are necessary to implement the order. The additional paragraphs would appear in paragraphs (f) through (i) of the contract clause contained in Appendix A to part 9. Specifically, proposed contract clause paragraph (f)(1) provides notice that the contractor must furnish the contracting officer with a certified list of names of all service employees working under the contract (including its subcontracts) at the time the list is submitted. The list must also include anniversary dates of employment of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Proposed paragraph (f)(1) further explains that if there are changes to the workforce made after the

submission of this certified list, the contractor must, in accordance with proposed paragraph (c), furnish the contracting officer with an updated certified list of all service employees employed within the last month of contract performance, including anniversary dates of employment and dates of separation, if applicable.

Proposed contract clause paragraph (f)(2) provides notice that under certain circumstances the contracting officer will, upon their own action or upon written request of the Administrator, withhold or cause to be withheld as much of the accrued payments due on either the contract or any other contract between the contractor and the Government that the Administrator requests or that the contracting officer decides may be necessary to pay unpaid wages or to provide other appropriate relief due under part 9.

Proposed contract clause paragraph (g) would require the contractor to maintain certain records to demonstrate compliance with the substantive requirements of part 9. This proposed paragraph would enable contractors to understand their obligations and provide a readily accessible list of records that contractors would be required to maintain. The proposed paragraph specifies that the contractor would be required to maintain the particular records (regardless of format, *e.g.,* paper or electronic) for 3 years. The specified records would include copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made; a copy of any record that forms the basis for any exclusion or exception claimed under part 9; a copy of the employee list(s) provided to or received from the contracting agency; and, an entry on the pay records for an employee of the amount of any retroactive payment of wages or compensation under the supervision of the WHD Administrator, the period covered by such payment, the date of payment, along with a copy of any receipt form provided by or authorized by WHD. The proposed clause also states that the contractor is to deliver a copy of the receipt form provided by or authorized by WHD to the employee and, as evidence of payment by the contractor, file the original receipt signed by the employee with the Administrator within 10 business days after payment is made.

Proposed contract clause paragraph (h) would require the contractor, as a condition of the contract award, to cooperate in any investigation by the contracting agency or the Department into possible violations of the provisions of the nondisplacement clause and to make records requested by such official(s) available for inspection, copying, or transcription upon request. Proposed contract clause paragraph (i) provides that disputes concerning the requirements of the nondisplacement clause would not be subject to the general disputes clause of the contract. Instead, such disputes would be resolved in accordance with the procedures in part 9.

Proposed § 9.11(b) specifies that when a contract will be awarded to a successor for the same or similar work, the contracting officer must take steps to ensure that the predecessor contractor provides written notice to service employees employed under the predecessor contract of their possible right to an offer of employment, consistent with the requirements in § 9.12(e)(3).

Proposed § 9.11(c) would implement the location continuity requirements in section 4 of the order. In § 9.11(c)(1), the proposed regulatory language restates the requirement in section 4(a) of the order that, in preparing covered solicitations, contracting agencies ''consider whether performance of the work in the same locality or localities in which the contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services.'' In § 9.11(c)(2), the proposed regulatory language also restates the requirement in section 4(b) of the order, that, if a contracting agency determines that performance in the same locality is reasonably necessary, then the agency must, ''to the extent consistent with law, include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality or localities.''

In § 9.11(c)(3), the Department proposes procedural safeguards for the required location continuity determination. The Department proposes to require that agencies complete the location continuity analysis prior to the date of issuance of the solicitation. The Department also proposes to require that any agency determination not to include a location continuity requirement or preference must be made in writing by the agency's senior procurement executive. The requirement that the determination be made in writing is consistent with 48 CFR 4.801(b) of the FAR, which requires sufficient documentation in contract files to support actions taken. The Department seeks input from commenters regarding these proposed procedural safeguards and any alternative safeguards that might assist agencies in ensuring that the location continuity determination is carried out as required by the order.

Proposed § 9.11(c)(3) includes safeguards to ensure that interested parties are able to request reconsideration of a determination not to include a location continuity requirement or preference. Where an agency has conducted the location continuity analysis and determined that no such requirement or preference is warranted, the proposed language would require that the agency include a statement to that effect in the solicitation. The statement in the solicitation would assist interested parties by clarifying that the agency conducted the location continuity analysis and determined not to include the requirement or preference, and did not simply fail to conduct the analysis at all. The agency would also be required to ensure that the incumbent contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination not to include a location continuity requirement or preference and of the workers' right to request reconsideration. This notification, and the contractor's confirmation to the agency that the notification has been made, would need to occur within 5 business days after the solicitation is issued. The Department has proposed language in the nondisplacement contract clause set forth in Appendix A that would require contractors to agree to provide this notification. Finally, § 9.11(c)(3) would provide that any request by an interested party for reconsideration of an agency's decision to include, or not to include, a location continuity requirement or preference must be directed to the head of the contracting department or agency. This provision for requesting reconsideration is similar to the approach the Department proposes with regard to agency exceptions in § 9.5 of the regulations. As in that section, the use of the term ''interested parties'' is intended to include workers and worker representatives in addition to contractors and prospective bidders. The Department seeks input from commenters on an appropriate time limit within which interested parties

would have to request reconsideration, or whether the request for reconsideration instead should just have to be made before the contract is awarded.

In § 9.11(c)(4), the Department proposes language that restates, in part, the language from section 3(b) of the order, which clarifies that nothing in the order should be interpreted as requiring or recommending that contractors, subcontractors, or contracting agencies must pay relocation costs for employees of predecessor contractors hired pursuant to their exercise of their rights under the order. The Department proposes similar language, directed at contractors and subcontractors specifically, in § 9.12(b)(6).

The location continuity provision in the order and the proposed implementing regulations serve an important purpose. Like Executive Order 13495, Executive Order 14055 reflects that there is a relationship between the effectiveness of the nondisplacement order and the location of a successor contract. In sections 1 and 5 of Executive Order 13495, the order limited coverage only to contracts for similar services at the ''same location.'' While Executive Order 14055 does not contain a similar limitation to contracts at the ''same location,'' it contains the provision at section 4 that requires contracting agencies to consider requiring location continuity for all covered contracts.

Executive 14055 also contains additional interrelated provisions governing how the order will apply related to the location of covered contracts. As an initial matter, because there is no ''same location'' requirement, the order applies regardless of the location of the successor contract. Thus, even if the place of performance for a successor contract will be in a different locality from the predecessor contract, the successor contract would still be required to include the nondisplacement contract clause and the successor contractor would still be required to provide workers on the predecessor contract with a right of first refusal for positions on the new contract. Section 3(b) of the order, however, clarifies that it should not be construed to require or recommend the payment of relocation costs to workers who exercise their right to take a new position under those circumstances.

The central location continuity provisions, in section 1 and section 4 of Executive Order 14055, reflect the basic conclusion that the right of first refusal in the contract clause may have a more limited effect if a contract is moved beyond commuting distance from the predecessor contract. Section 1 states that location continuity can often provide the same benefits that stem from the core nondisplacement requirement—which, the order explains, includes reducing disruption in the delivery of services between contracts, maintaining physical and information security, and providing experienced and well-trained workforces that are familiar with the Federal Government's personnel, facilities, and requirements. The benefits of using a carryover workforce and location continuity are intertwined because, for many contracts, moving performance to a different locality will mean that most (or all) of the incumbent contractor's workers will ultimately not be able or willing to relocate and therefore will not provide a carryover workforce. In such circumstances, imposing a location continuity requirement or preference may be the best way to ensure the effectiveness of Executive Order 14055. For that reason, section 4 of the order requires that for each covered contract, the contracting officer consider whether to include a requirement or preference for location continuity.

In many cases, contracts may already require location continuity for reasons other than those stated in the Executive order. For example, where the services are related to the physical security or maintenance of a specific Federal facility, the location of the contract performance will not be in question. In other circumstances, where the Federal employees who receive services from or provide oversight for the contract at issue are located at a specific Federal facility, location continuity or a related geographic limitation may be appropriate to ensure continuity of services or facilitate site visits to the contractor's facilities for oversight or collaboration purposes. *See, e.g., Matter of: Novad Mgmt. Consulting, LLC,* B–419194.5 (July 1, 2021) (finding geographic limitation to locate contracted loan services within 50 miles of Tulsa to be appropriate to facilitate oversight and monitoring of contractor facility by agency's Tulsa office). In still other cases, however, where the place of performance would otherwise be unspecified, a location continuity requirement may be reasonably necessary to secure the economy and efficiency benefits identified by Executive Order 14055.

Executive Order 14055 does not suggest that a location continuity requirement is appropriate in all circumstances. Rather, it instructs contracting agencies to consider whether to impose such a requirement or preference on a case-by-case basis. In some cases, location continuity may be particularly important because the use of a carryover workforce provides critical benefits. This may be particularly true, for example, where the incumbent workforce on the contract handles classified information or sensitive information, such as personal financial or identifiable information. For such workforces, the contracting agency may have an overriding interest in keeping the contract's incumbent employees—whose dependability and trust have already been tested—rather than starting over with a new set of contractor employees. In other cases, the contracting agency's basic interest in a carryover workforce may be outweighed by an agency re-organization that creates different location needs. If, for example, an agency moves the Federal facility that will be providing oversight for the contract from one state to another, it may make sense not to require or prefer location continuity but instead to move the preferred contract locality along with the related Federal facility even if it may have a detrimental effect on contract-employee retention.

Given the order's requirement that contracting agencies consider these questions, the Department is contemplating whether the proposed regulatory provision at § 9.11(c) should provide additional guidance on the relevant factors that an agency should consider when it is considering location continuity. The Department seeks comment on whether the factors should be provided in the regulatory text, and, if so, which factors to include and whether to provide guidance regarding any particular weight that should be given to each of them. In this regard, the Department notes that the ultimate question here—of economy and efficiency—may also be at issue in the determination of whether a contract should be excepted entirely from the application of the order, as detailed in proposed § 9.5. The location continuity determination thus presents some of the same questions as those exception determinations. For example, given the purpose and policy of the order, to what extent should contracting agencies be required to start with a presumption in favor of location continuity in order to secure the full benefits of the nondisplacement clause on workforce retention? When, if ever, is it appropriate for contracting officers to consider costs—such as the potential to reduce labor costs by moving operations to a lower-cost locality—as a reason to decline to require location continuity? What other factors may weigh in favor

of location continuity? For example, where there have been significant training investments in the incumbent contract workforce, or where the incumbent workforce has been particularly successful in achieving contract objectives? How might the HUBZone program or other procurement-related programs factor into a location continuity analysis? How should an agency weigh the history of remote work or telework by incumbent contractor employees in the importance of location continuity? Are there circumstances in which the contracting agency should indicate in the solicitation that telework is permitted or require the successor contractor to allow workers to telework?

Finally, as discussed further in proposed § 9.5 regarding exceptions authorized by agencies, the Department is proposing regulatory language that would make an exception determination ineffective as a matter of law if the agency does not follow the procedural requirements for such an exception. The Department seeks comment on whether a similar provision is appropriate for addressing agency failures to follow location continuity procedures. The Department also seeks comment on whether the regulations should include specific remedies for workers or sanctions for contractors in the circumstances in which a contractor fails to timely provide the workers or workers' representative the required notice that a contracting agency has determined not to include location continuity requirements or preferences in the solicitation for a successor contract.

Proposed § 9.11(d) would require the contracting officer to provide the predecessor contractor's list of employees referenced in proposed § 9.12(e)(1) to the successor contractor and that, on request, the list will be provided to employees or their representatives, consistent with the Privacy Act, 5 U.S.C. 552a, and other applicable law. The predecessor contractor's list of employees must be provided no later than 21 calendar days prior to the beginning of performance on the contract, and if an updated list is provided by the predecessor contractor pursuant to § 9.12(e)(2), the updated list must be provided within 7 calendar days of the beginning of performance on the contract. However, if the contract is awarded less than 30 days before the beginning of performance, then the predecessor contractor and the contracting agency must transmit the list as soon as practicable.

Although the Department anticipates that contracting officers typically will be able to provide the successor contractor with the seniority list almost immediately after receiving it from the predecessor contractor, there may be circumstances (such as if the contracting officer has questions about the accuracy of the list) in which the contracting officer needs several days to check or verify the list before transmitting it to the successor contractor. The proposed deadlines set forth in § 9.11(d) take such circumstances into account while also providing specific deadlines by which the seniority list must be transmitted to the successor contractor in order to ensure the successor has sufficient time to provide the workers with the right of first refusal and to ensure continuity of performance on the contract.

Proposed § 9.11(e) addresses contracting officers' responsibilities regarding complaints of alleged violations of part 9. The proposal states that the contracting officer would be responsible for reporting complaint information to the WHD within 15 calendar days of WHD's request for such information. The Department believes 15 calendar days is an appropriate timeframe within which to require production of information necessary to evaluate the complaint. The proposed section elaborates that the contracting officer must provide to WHD any complaint of contractor noncompliance with this part; available statements by the employee or the contractor regarding the alleged violation; evidence that a seniority list was issued by the predecessor and provided to the successor; a copy of the seniority list; evidence that the nondisplacement contract clause was included in the contract or that the contract was excepted by the agency; information concerning known settlement negotiations between the parties (if applicable); and other pertinent information the contracting officer chooses to disclose.

When the nondisplacement contract clause is erroneously excluded from the contract, proposed § 9.11(f) would require a contracting agency to retroactively incorporate the nondisplacement contract clause on its own initiative or within 15 calendar days of notification by an authorized representative from the Department. There may be limited circumstances where only prospective, rather than retroactive, application of the contract clause is warranted. For example, solely prospective relief might be warranted where the contracting officer omitted the clause in good faith because, based on the available information at the time, a predecessor-successor relationship was not evident. Proposed § 9.11(f) acknowledges this and permits the Administrator, at their discretion, to determine that the circumstances warrant prospective, rather than retroactive, incorporation of the contract clause. The requirements for successor contractors on how to proceed when the nondisplacement clause is retroactively incorporated into a contract after the successor contractor already has begun performance on the contract are detailed in § 9.12(b)(8). If the erroneous omission of the contract clause from a solicitation is discovered before contract award, proposed § 9.11(f) would also require the contracting agency to amend the solicitation.

Section 9.12 Contractor Requirements and Prerogatives

Proposed § 9.12 would implement contractors' requirements and prerogatives under the nondisplacement requirements. The proposed section would consist of the general obligation to offer employment, the method of the job offer, exceptions, reduced staffing, obligations near the end of the contract, recordkeeping, and obligations to cooperate with reviews and investigations.

Proposed § 9.12(a)(1) would implement the requirement that the successor contractor and any subcontractors offer employment to the employees on the predecessor contract prior to filling employment openings. Specifically, the proposal provides that, except as provided under the exclusion listed in proposed § 9.4(b) or the exceptions listed in paragraph (c) of proposed § 9.12, a successor contractor or subcontractor must not fill any employment openings under the contract prior to making good faith offers of employment, in positions for which the employees are qualified, to those employees employed under the predecessor contract whose employment will be terminated as a result of award of the contract or the expiration of the contract under which the employees were hired. Because the term *employee* ''includes an individual without regard to any contractual relationship alleged to exist between the individual and a contractor or subcontractor,'' the obligation to make good faith offers of employment extends to independent contractor service employees performing work under the predecessor contract. In making such an offer, a successor contractor may hire as an employee a worker who was an independent contractor under the predecessor contract. To the extent necessary to meet its anticipated staffing pattern and in accordance with the requirements described at 9.12(d), the

successor contractor and its subcontractors would be required to make a bona fide, express offer of employment to each employee to a position for which the employee is qualified and state the time within which the employee must accept such offer. Although the offer must be for a position for which the employee is qualified, it does not necessarily need to be for the same or similar position as the employee held on the predecessor contract, as discussed in proposed § 9.12(b)(4). In no case may the contractor or subcontractor give an employee fewer than 10 business days to consider and accept the offer of employment.

Proposed § 9.12(a)(2) would clarify that the successor contractor's obligation to offer a right of first refusal exists even if the successor contractor were not provided a list of the predecessor contractor's employees or if the list did not contain the names of all employees employed during the final month of contract performance.

Proposed § 9.12(a)(3) discusses how a successor contractor should determine employee eligibility for a job offer. Under this proposal, an employee would be entitled to a job offer if the employee's name is included on the certified list of all service employees working under the predecessor's contract or subcontracts during the last month of contract performance. In addition, a successor contractor would also be required to accept other reliable evidence of an employee's entitlement to a job offer. The successor contractor would be allowed to verify the information as a condition of accepting it. For example, even if an employee's name does not appear on the list of employees on the predecessor contract, an employee's assertion of an assignment to work on a contract during the predecessor's last month of performance coupled with contracting agency staff verification could constitute credible evidence of an employee's entitlement to a job offer. Similarly, an employee could demonstrate eligibility by producing a paycheck stub that identifies the work location and dates worked for the predecessor or that otherwise reflects that the employee worked on the predecessor contract during the last month of performance. The successor contractor could verify the claim with the contracting agency, the predecessor, or another person who worked at the facility, though if the successor contractor is unable to verify the claim, the paycheck stub would be considered sufficient to demonstrate eligibility absent evidence from the predecessor employer indicating otherwise.

Proposed § 9.12(a)(4) proposes to clarify that contractors and subcontractors have an affirmative obligation to ensure that any covered contracts they hold contain the contract clause. The contractor or subcontractor must notify the contracting officer as soon as possible if the contracting officer did not incorporate the required contract clause into a covered contract.

Proposed § 9.12(b) discusses the method of the job offer. Proposed § 9.12(b)(1) would require that, except as otherwise provided in part 9, a contractor must make a bona fide, express offer of employment to each qualified employee on the predecessor contract before offering employment on the contract to any other employee. To determine whether an employee is entitled to a bona fide, express offer of employment, a contractor may consider the exceptions set forth in proposed § 9.12(c) and the conditions detailed in § 9.12(d). Proposed § 9.12(b)(1) would clarify that a contractor may only use employment screening processes, such as drug tests, background checks, security clearance checks, and similar pre-employment screening mechanisms under certain circumstances. These employment screening processes may only be used when they are specifically provided for by the contracting agency, are conditions of the service contract, and are consistent with Executive Order 14055 and applicable local, state, and Federal laws. Proposed § 9.12(b)(1) also would clarify that while the results of such screenings may show that an employee is unqualified for a position and thus not entitled to an offer of employment, a contractor may not use the requirement of an employment screening process by itself to conclude an employee is unqualified because they have not yet completed that screening process. For example, a successor contractor that requires all employees to undergo a background check cannot deem predecessor employees unqualified solely because they have not completed the specific background check the successor contractor requires before receiving a job offer.

Proposed § 9.12(b)(2) discusses the time limit in which the employee has a right to accept the offer, which the contractor determines, but which in no case can be fewer than 10 business days. The obligation to offer employment to a particular employee would cease upon the employee's first refusal of a bona fide offer to employment on the contract.

Proposed § 9.12(b)(3) provides the process for making the job offer. As proposed, the successor contractor would be required to make a specific oral or written employment offer to each employee. An invitation to apply for a job, for example, is not a bona fide offer. In order to ensure that the offer is effectively communicated, the successor contractor must take reasonable efforts to make the offer in a language that each worker understands. The proposed rule contains an example of how if the successor contractor holds a meeting for a group of employees on the predecessor contract, it could satisfy this provision by having a co-worker or other person translate for employees who are not fluent in English. Where offers are not made in person, the offers should be sent by registered or certified mail to the employees' last known address or by any other means normally ensuring delivery. Examples of such other means include, but are not limited to, email to the last known email address, delivery to the last known address by commercial courier or express delivery services, or by personal service to the last known address.

Proposed § 9.12(b)(4) would clarify that the employment offer may be for a different job position on the contract. More specifically, an offer of employment on the successor's contract would generally be presumed to be a bona fide offer of employment, even if it were not for a position similar to the one the employee previously held, if it were for a position for which the employee were qualified. If a question arises concerning an employee's qualifications, that question would be decided based upon the employee's education and employment history, with particular emphasis on the employee's experience on the predecessor contract. A contractor would have to base its decision regarding an employee's qualifications on reliable information provided by a knowledgeable source, such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. For example, an oral or written outline of job duties or skills used in prior employment, school transcripts, or copies of relevant certificates and diplomas all would be credible information.

Proposed § 9.12(b)(5) would allow for an offer of employment to a position providing different employment terms and conditions than the employee held with the predecessor contractor, provided the offer is still bona fide, *i.e.,* the different employment terms and conditions are not offered to discourage the employee from accepting the offer. This would include changes to pay or benefits. The Department also proposes

language in § 9.12(b)(5) that addresses how this principle would apply to telework or remote work. If a successor contractor places limitations on telework or remote work for predecessor employees that it does not consistently place on other, similarly situated workers, that may reflect that those limitations are intended to cause the predecessor employees to refuse the offer. Therefore, such a difference likely would be impermissible under the order. Accordingly, under this proposed language, where the successor contractor has had or will have any employees who work or will work entirely in a remote capacity, and the successor contractor has employment openings on the successor contract in the same or similar occupational classifications as the positions held by those successor employees, the successor contractor's employment offer to qualified predecessor employees for such openings must include the option of remote work under terms and conditions that are reasonably similar to those afforded to the other employees of the successor contractor. Such employment, where it is permitted on a successor contract and is consistent with security and privacy requirements, would generally assist with workforce carryover even in circumstances where the location of contract performance is changing.

In § 9.12(b)(6), the Department proposes to repeat, in part, the statement in section 3(b) of Executive Order 14055 that nothing in the order should be interpreted as requiring or recommending that contractors, subcontractors, or contracting agencies must pay relocation costs for employees of predecessor contractors hired pursuant to their exercise of their rights under the order. The Department proposes similar language, directed at contracting agencies specifically, in § 9.11(c)(3). The Department notes that this language does not forbid the voluntary payment of relocation expenses or the payment of any such expenses if they are otherwise required by contract or law. Proposed § 9.12(b)(7) would provide that, where an employee is terminated under circumstances suggesting the offer of employment may not have been bona fide, the facts and circumstances of the offer and the termination would be closely examined to determine whether the offer was bona fide.

Proposed § 9.12(b)(8) would provide requirements for successor contractors for proceeding when the contracting agency retroactively incorporates the nondisplacement clause into a contract after the successor contractor has already begun performance on the contract. Pursuant to proposed § 9.11(f), when the nondisplacement contract clause has been erroneously excluded from a contract, contracting agencies would be required to retroactively incorporate it. Upon retroactive incorporation, the successor contractor would be required to offer a right of first refusal of employment to the employees on the predecessor contract in accordance with the requirements of Executive Order 14055 and this part. Consistent with proposed § 9.11(f), proposed § 9.12(b)(8) acknowledges that the Administrator may exercise their discretion and require only prospective application of the contract clause in certain circumstances. In such cases, the successor contractor and its subcontractors would be required to provide employees on the predecessor contract a right of first refusal for any positions that remain open. In the event of a vacancy within 90 calendar days of the first date of contract performance, under proposed § 9.12(b)(8), the successor contractor and its subcontractors would be required to provide the employees under the predecessor contract the right of first refusal as well, regardless of whether incorporation of the contract clause is retroactive or prospective. The Department believes these requirements strike an appropriate balance between the interests of the employees on the predecessor and successor contracts.

Proposed § 9.12(c) addresses the exceptions to the general obligation to offer employment under Executive Order 14055. The exceptions would be included in the contract clause established in section 3 of the Order and are distinct from the exclusions and agency exceptions discussed in proposed § 9.4. The exclusions and agency exceptions specify both certain classes of contracts and certain employees that either would be or may be excluded from the provisions of Executive Order 14055. In contrast, the exceptions in proposed § 9.12(c)—exceptions from the successor contractor's obligation to offer employment on a contract to employees on the predecessor contract prior to making an offer to anyone else—would not relieve the contractor of other requirements of this part (*e.g.,* the obligation near the end of the contract to provide a list of employees who worked on the contract during the last month). Under this proposal, the exceptions in proposed § 9.12(c) would be construed narrowly and the contractor would bear the burden of proof regarding the applicability of any exception.

Under proposed § 9.12(c)(1), a successor contractor or subcontractor would not be required to offer employment to any employee of the predecessor whom the predecessor contractor will retain. The successor contractor is required to presume that all employees hired to work under a predecessor's Federal service contract would be terminated as a result of the award of the successor contract, unless the successor contractor can demonstrate a reasonable belief to the contrary, based upon reliable information provided by a knowledgeable source, such as the predecessor contractor, the employee, or the contracting agency.

Under proposed § 9.12(c)(2), the successor contractor or subcontractor would not be required to offer employment to any worker on the predecessor contract who is not a service employee. Consistent with the definition of service employee in proposed § 9.2, this exception would apply to a person employed on the predecessor contract in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The successor contractor would be required to presume that all workers appearing on the list required by § 9.12(e) or who have demonstrated they should have been included on the list were service employees, unless the successor contractor can demonstrate a reasonable belief to the contrary, based upon reliable information provided by a knowledgeable source, such as the predecessor contractor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry would not be sufficient for purposes of this exception.

Under proposed § 9.12(c)(3), a successor contractor or subcontractor would not be required to offer employment to any employee on the predecessor contract if the successor contractor or any of its subcontractors reasonably believes, based on reliable evidence of the particular employee's past performance, that there would be just cause to discharge the employee if employed by the successor contractor or any subcontractors. Again, the successor contractor would be required to presume that there is no just cause to discharge any employees working under the predecessor contract in the last month of performance, unless the successor contractor can demonstrate a reasonable belief to the contrary, based upon reliable evidence provided by a

knowledgeable source, such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. For example, a successor contractor could demonstrate its reasonable belief that there would be just cause to discharge an employee through reliable evidence that the predecessor contractor initiated a process to terminate the employee for conduct warranting termination prior to the expiration of the contract, but the termination process was not completed before the contract expired. Similarly, conclusive evidence that an employee on the predecessor contract engaged in misconduct warranting discharge, such as sexual harassment or serious safety violations, would provide the successor contractor with a reasonable belief that there would be just cause to discharge the employee, even if the predecessor contractor elected to impose discipline rather than discharge the employee. However, evidence that the predecessor contractor took disciplinary action against an employee for poor performance but stopped short of recommending termination would not generally constitute sufficient evidence of just cause to discharge the employee. The determination that this exception applies must be made on an individual basis for each employee. Information regarding the general performance of the predecessor contractor or any subcontractors, or their respective workforces, would not be sufficient for purposes of this exception. The Department is seeking comment on whether there are other instances that would constitute just cause to discharge an employee that the Department should take into consideration to support the policy laid out in the Executive Order.

Under proposed § 9.12(c)(4), a successor contractor or subcontractor would not be required to offer employment to a service employee that provided services under both a predecessor's Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part. The successor contractor would be required to presume that all employees hired to work under a predecessor's Federal service contract did not work on one or more nonfederal service contracts as part of a single job, unless the successor could demonstrate a reasonable belief to the contrary, based upon reliable evidence provided by a knowledgeable source, such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. In making such a reasonable determination, the successor must also reasonably determine that the predecessor did not deploy workers to both Federal and non-federal contractors purposely to evade the requirements of this part. Information regarding the general business practices of the predecessor contractor or the industry would not be sufficient for purposes of this exception. Knowledge that contractors generally deploy workers to both Federal and other clients would not be sufficient for the successor to claim the exception, because such general practices may not have been observed on the particular predecessor contract.

For example, claims from several employees who state a janitorial contractor reassigned its janitorial workers who previously worked exclusively in a Federal building to both Federal and other clients as part of a single job may indicate that the predecessor deployed workers to avoid the purposes of the nondisplacement provisions, which include Federal interests in economy and efficiency that would be served when the successor hires the predecessor's employees. Conversely, where the employees on the predecessor contract were traditionally deployed to Federal and nonfederal service work as part of their job, the successor would not be required to offer employment to the workers.

Proposed § 9.12(d) addresses the provision in paragraph (a) of Executive Order 14055's contract clause that allows the successor contractor to reduce staffing. Proposed § 9.12(d)(1) recognizes that the contractor or subcontractor may determine the number of employees necessary for efficient performance of the contract and, for bona fide staffing or work assignment reasons, permits the successor contractor or subcontractor to elect to employ fewer employees than the predecessor contractor employed in performance of the work. Thus, generally, the successor contractor or subcontractor would not be required to offer employment on the contract to all employees on the predecessor contract, but must offer employment to the number of eligible employees the successor contractor believes would be necessary to meet its anticipated staffing pattern. However, where a successor contractor does not offer employment to all the predecessor contract employees, the obligation to offer employment would continue for 90 calendar days after the successor contractor's first date of performance on the contract. The contractor's obligation under this part would end either when all of the predecessor contract employees have received a bona fide job offer or when 90 calendar days have passed from the successor contractor's first date of performance on the contract. The proposed regulation provides several examples to demonstrate the principle.

A successor prime contractor may choose to use a different configuration of subcontractors than the predecessor prime contractor, but any change in the number of subcontracts or the scope of work that particular subcontractors perform does not by itself constitute reduced staffing under proposed § 9.12(d) or otherwise alter the requirements of Executive Order 14055 and this part. Consistent with proposed § 9.13, a prime contractor is responsible for ensuring that all qualified service employees working under the predecessor contract (whether they were employed directly by the predecessor prime contractor or by any subcontractors working under the predecessor contract) receive an offer of employment under the successor contract in accordance with the requirements of Executive Order 14055 and this part. Where a prime successor contractor chooses to use subcontractors, the prime contractor is responsible for ensuring that any of its subcontractors and lower-tier subcontractors offer employment to employees employed under the predecessor contract (including the predecessor subcontracts) in accordance with the requirements of Executive Order 14055 and this part. Where a prime successor contractor chooses to use fewer subcontractors than the predecessor prime contractor used, and instead chooses to employ more workers directly, the prime successor contractor must offer direct employment to the number of eligible employees employed under the predecessor contract (including workers employed by predecessor subcontractors) necessary to meet the prime successor contractor's anticipated staffing pattern and as otherwise required by Executive Order 14055 and this part.

Proposed § 9.12(d)(2) acknowledges that in some cases a successor contractor may reconfigure the staffing pattern to increase the number of employees employed in some positions while decreasing the number of employees in others. In such cases, proposed § 9.12(d)(2) would require the successor contractor to examine the qualifications of each employee in order to offer the greatest possible number of predecessor contract employees positions equivalent to those they held under the predecessor contract, thereby

minimizing displacement. The proposed regulation provides examples to demonstrate this principle.

Proposed § 9.12(d)(3) clarifies that subject to provisions of this part and other applicable restrictions (including non-discrimination laws and regulations), the successor contractor may determine to which employees it will offer employment. Consistent with proposed § 9.1(b), this paragraph is not to be construed to excuse noncompliance with any applicable Executive order, regulation, or Federal, state, or local laws. For example, a contractor could not use this provision to justify unlawful discrimination against any worker. While WHD would not make determinations regarding Federal contractors' compliance with nondiscrimination requirements administered by other agencies, a finding by the Department's Office of Federal Contract Compliance Programs, another agency, or by a court that a contractor has unlawfully discriminated against a worker would be considered in determining whether the discriminatory action has also violated the nondisplacement requirements.

Proposed § 9.12(e) specifies an incumbent contractor's obligations near the end of the contract. Proposed § 9.12(e)(1) would require a contractor to, no less than 30 calendar days before completion of the contractor's performance of services on a contract, furnish the contracting officer a list of the names of all service employees under the contract and its subcontracts at that time. This list must also contain the anniversary dates of employment for each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. A service employee is considered employed under the contract if they are in a leave status with the predecessor prime contractor or any of its subcontractors, whether paid or unpaid, and whether for medical or other reasons, during the last month of contract performance. Proposed § 9.12(e)(1) would allow a contractor to satisfy these requirements using the list it submits or that it plans to submit to satisfy the requirements of the SCA contract clause specified at 29 CFR 4.6(l)(2), assuming there are no changes to the workforce before the contract is completed.

Where changes to the workforce are made after the submission of this certified list pursuant to proposed § 9.12(e)(1), proposed § 9.12(e)(2) would require a contractor to furnish the contracting officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance not less than 10 business days before completion of the contract. This list must include the anniversary dates of employment with either the current or predecessor contractors or their subcontractors, and, where applicable, dates of separation of each service employee. The contractor may use the list submitted to satisfy the requirements of the SCA contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

Proposed § 9.12(e)(3) requires the predecessor contractor to, before contract completion, provide written notice to service employees employed under the predecessor contractor of their possible right to an offer of employment on the successor contract. Such notice must be either posted in a conspicuous place at the worksite or delivered to the employees individually. The text of the proposed notice is set forth in the Appendix B to part 9. The Department intends to translate the notice into several common foreign languages and make the English and translated versions available online in a poster format to allow easy access. Another form with the same information may be used. Proposed § 9.12(e)(3) further explains that where the predecessor contractor's workforce is comprised of a significant portion of workers who are not fluent in English, the notice must be provided in both English and a language in which the employees are fluent. Multiple foreign language notices would be required to be provided where significant portions of the workforce speak different foreign languages and there is no common language. If, for example, a significant portion of a workforce speaks Korean and another significant portion of the same workforce speaks Spanish, then the information must be provided in English, Korean, and Spanish. If there is a question of whether a portion of the workforce is significant and the Department has a poster in the language common to those workers, the notice should be posted in that language. The Department solicits comments on whether it should establish a percentage threshold for determining what constitutes a ''significant portion of the workforce.''

Proposed § 9.12(f) addresses recordkeeping requirements. Proposed § 9.12(f)(1) clarifies that this part prescribes no particular order or form of records for contractors, and that the recordkeeping requirements apply to all records regardless of their format (*e.g.,* paper or electronic). A contractor would be allowed to use records developed for any purpose to satisfy the requirements of part 9, provided the records otherwise meet the requirements and purposes of this part.

Proposed § 9.12(f)(2) specifies the records contractors must maintain, including copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made. Proposed § 9.12(f)(2) also requires contractors to maintain a copy of any record that forms the basis for any exclusion or exception claimed under this part, the employee list provided to the contracting agency, and the employee list received from the contracting agency. In addition, every contractor that makes retroactive payment of wages or compensation under the supervision of WHD pursuant to proposed § 9.23(b) would be required to record and preserve as an entry in the pay records the amount of such payment to each employee, the period covered by the payment, and the date of payment to each employee, and to report each such payment on a receipt form authorized by WHD. Finally, proposed § 9.12(f)(2) requires contractors to maintain evidence of any notices that they have provided to workers, or workers' collective bargaining representatives, to satisfy the requirements of the order or these regulations. These would include records of notices of the possibility of employment on the successor contract that are required under § 9.12(e)(3) of the regulations; notices of agency exceptions that a contracting agency requires a contractor to provide under § 9.5(g) of the regulations and section 6(b) of the order; and notices that a contracting agency has declined to include location continuity requirements or preferences in a solicitation, pursuant to § 9.11(c)(3) of the regulations. WHD will use the records that are retained pursuant to § 9.12(f)(2) in determining a contractor's compliance and whether debarment is warranted. All contractors must retain the records listed in proposed § 9.12(f)(2) for at least 3 years from the date the records were created and must provide copies of such records upon request of any authorized representative of the contracting agency or the Department.

Proposed § 9.12(g) outlines the contractor's obligations to cooperate

during any investigation to determine compliance with part 9 and to not discriminate against any person because such person has cooperated in an investigation or proceeding under part 9 or has attempted to exercise any rights afforded under part 9. As proposed, this obligation to cooperate with investigations would not be limited to investigations of the contractor's own actions, but would also include investigations related to other contractors (*e.g.,* predecessor and subsequent contractors) and subcontractors.

Section 9.13 Subcontracts

Proposed § 9.13(a) discusses the responsibilities and liabilities of prime contractors and subcontractors with respect to subcontractor compliance with the nondisplacement clause. The proposed section would require prime contractors to ensure the inclusion of the nondisplacement clause contained in Appendix A in any subcontracts and would require any subcontractors to include the nondisplacement clause in Appendix A in any lower-tier subcontracts. Requiring that the contract clause be inserted in all subcontracts, including lower-tier subcontracts, notifies subcontractors of their obligation to provide employees the right of first refusal and of the enforcement methods WHD may use when subcontractors are found to be in violation of the Executive order, including the withholding of contract funds.

Proposed § 9.13(a) also clarifies that prime contractors would be responsible for the compliance of any subcontractor or lower-tier subcontractor with the contract clause in Appendix A. In the event of a violation of the contract clause, both the prime contractor and any subcontractor(s) responsible would be held jointly and severally liable. The prime contractors' contractual liability for subcontractor violations would be a strict liability that would not require that the prime contractor knew of or should have known of the subcontractors' violations. The requirements of this proposed section would ensure contractors cannot avoid the requirements of part 9 by subcontracting the work to other contractors. Thus, this section helps to ensure that all covered contractors and subcontractors of any tier are subject to the requirements of Executive Order 14055 and this part, and that employees receive the protections of the order and this part regardless of whether they are employed by the prime contractor or a subcontractor of any tier.

Proposed § 9.13(b) explains a prime contractor's responsibility to a subcontractor's employees when it discontinues the services of a subcontractor at any time during the contract and performs those services itself. Specifically, under this proposed section, the prime contractor must offer employment to qualified employees of the subcontractor who would otherwise be displaced.

Subpart C—Enforcement

Section 8 of Executive Order 14055, titled ''Enforcement,'' grants the Secretary ''authority to investigate potential violations of, and obtain compliance with, this order.'' 86 FR 66399. This proposed subpart addresses the process for filing complaints, investigations, and remedies and penalties for violations.

Section 9.21 Complaints

The Department proposes a procedure for filing complaints in § 9.21. Section 9.21(a) outlines the procedure to file a complaint with any office of WHD. It additionally provides that a complaint may be filed orally or in writing and that WHD will accept a complaint in any language. Section 9.21(b) states the well-established policy of the Department with respect to confidential sources. *See* 29 CFR 4.191(a); 29 CFR 5.6(a)(5).

Section 9.22 Wage and Hour Division Investigation

Proposed § 9.22(a), which outlines WHD's investigative authority, would permit the Administrator to initiate an investigation either as the result of a complaint or at any time on the Administrator's own initiative. As part of the investigation, the Administrator would be able to inspect the relevant records of the relevant contractors (and make copies or transcriptions thereof) as well as interview representatives and employees of those contractors. The Administrator would additionally be able to interview any of the contractors' workers at the worksite during normal work hours and require the production of any documents or other evidence deemed necessary for inspection to determine whether a violation of this part (including conduct warranting imposition of debarment pursuant to § 9.23(d) of this part) has occurred. The section would also require Federal agencies and contractors to cooperate with authorized representatives of the Department in the inspection of records, in interviews with workers, and in all aspects of investigations. This section is consistent with WHD's investigative authority under the acts administered by WHD.

Proposed § 9.22(b) addresses subsequent investigations and allows the Administrator to conduct a new investigation or issue a new determination if the Administrator concludes the circumstances warrant additional action. Situations where additional action may be warranted include, for example, situations where proceedings before an Administrative Law Judge (ALJ) reveal that there may have been violations with respect to other employees of the contractor, where imposition of ineligibility sanctions is appropriate, or where the contractor has failed to comply with an order of the Secretary.

Section 9.23 Remedies and Sanctions for Violations of This Part

Proposed § 9.23 discusses remedies and sanctions for violations of Executive Order 14055 and this part. Proposed § 9.23(a) reiterates the authority granted to the Secretary in section 8 of Executive Order 14055, providing the Secretary the authority to issue orders prescribing appropriate sanctions and remedies, including, but not limited to, requiring the contractor to offer employment to employees from the predecessor contract and payment of wages lost.

Proposed § 9.23(b) provides that, in addition to satisfying any costs imposed by an administrative order under proposed §§ 9.34(j) or 9.35(d), a contractor that violates part 9 would be required to take appropriate action to remedy the violation, which could include hiring the affected employee(s) in a position on the contract for which the employee is qualified, together with compensation (including lost wages and interest) and other terms, conditions, and privileges of that employment. Proposed § 9.23(b) would also require the contractor to pay interest on any underpayment of wages. A payment of interest is consistent with the instruction in section 8 of the Executive order that the Secretary will have the authority to issue final orders prescribing appropriate sanctions and remedies. The payment of interest is an appropriate remedial measure to make a worker fully whole with a back-pay award. The proposed language provides that interest would be calculated from the date of the underpayment or loss, using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621, and would be compounded daily. Various OSHA whistleblower regulations use the tax underpayment rate and daily compounding because that accounting best achieves the make-

whole purpose of a back-pay award. *See* Procedures for the Handling of Retaliation Complaints Under Section 806 of the Sarbanes-Oxley Act of 2002, as Amended, Final Rule, 80 FR 11865, 11872 (Mar. 5, 2015). The Department believes that a similar approach is warranted in implementing Executive Order 14055.

Proposed § 9.23(c) addresses the withholding of contract funds for non-compliance. Under proposed § 9.23(c)(1), the Administrator may direct that payments due on the contract or any other contract between the contractor and the Federal Government be withheld in such amounts as may be necessary to pay unpaid wages or to provide other appropriate relief. Proposed § 9.23(c)(1) permits the cross-withholding of monies due. Cross-withholding is a procedure through which contracting agencies withhold monies due a contractor from contracts other than those on which the alleged violations occurred, and it applies to require withholding regardless of whether the contract on which monies are to be withheld is held by a different agency from the agency that held the contract on which the alleged violations occurred. The provision further provides that where monies are withheld, upon final order of the Secretary that unpaid wages or other monetary relief are due, the Administrator may direct that withheld funds be transferred to the Department for disbursement. Withholding is a long-established remedy for a contractor's failure to fulfill its labor standards obligations under the SCA. The SCA provides for withholding to ensure the availability of monies for the payment of back wages to covered workers when a contractor or subcontractor has failed to pay the full amount of required wages. 29 CFR 4.6(i). The Department believes that withholding will be an important enforcement tool to effectively enforce the requirements of Executive Order 14055.

Proposed § 9.23(c)(2) similarly provides for the suspension of the payment of funds if the contracting officer or the Administrator finds that the predecessor contractor has failed to provide the required list of service employees working under the contract and its subcontracts as required by § 9.12(e). Proposed § 9.23(c)(3) clarifies that if the Administrator directs a contracting agency to withhold funds from a contractor pursuant to § 9.23(c), the Administrator or contracting agency must notify the affected contractor.

Proposed § 9.23(d) provides for debarment from Federal contract work for up to 3 years for noncompliance with any order of the Secretary or for willful violations of Executive Order 14055 or the regulations in this part. The proposed provision provides that a contractor would have the opportunity for a hearing before an order of debarment is carried out and before the contractor is included on a published list of contractors subject to debarment. Like withholding, debarment is a long-established remedy for a contractor's failure to fulfill its labor standard obligations under the SCA. 41 U.S.C. 6706(b); 29 CFR 4.188(a). The possibility that a contractor will be unable to obtain government contracts for a fixed period of time due to debarment promotes contractor compliance with the SCA, and the Department expects such a remedy would enhance contractor compliance with Executive Order 14055 as well.

Proposed § 9.23(e) states that the Administrator may require a contractor to provide any relief appropriate, including employment, reinstatement, promotion, and the payment of lost wages, including interest, when the Administrator finds that a contractor has interfered with the Administrator's investigation or has in any manner discriminated against any person because they cooperated in the Administrator's investigation or attempted to exercise any rights afforded them under this part. The Department believes that such a provision would help ensure effective enforcement of Executive Order 14055, as effective enforcement requires worker cooperation. Consistent with the Supreme Court's observation in interpreting the scope of the FLSA's antiretaliation provision, enforcement of Executive Order 14055 will depend ''upon information and complaints received from employees seeking to vindicate rights claimed to have been denied.'' *Kasten* v. *Saint-Gobain Performance Plastics Corp.,* 563 U.S. 1, 11 (2011) (internal quotation marks omitted). The antiretaliation provision is to be construed broadly to effectuate its remedial purpose. Importantly, and consistent with the Supreme Court's interpretation of the FLSA's antiretaliation provision, the Department's proposed rule would protect workers who file oral as well as written complaints. *See Kasten,* 563 U.S. at 17. The Department's proposed rule also would protect workers from retaliation for filing complaints regardless of whether they are filed with their employer, a higher-tier subcontractor or prime contractor, with the Department or another federal agency, or from retaliation for otherwise taking reasonable action with the intent to seek compliance with or enforcement of the order.

While Section 8 of the order authorizes the Secretary to prescribe appropriate sanctions and remedies, the Department does not interpret this affirmative direction to the Secretary to limit contracting agencies from employing any sanctions or remedies otherwise available to them under applicable law or to limit contracting agencies from including noncompliance with nondisplacement contractual or regulatory provisions in past performance reports.

Subpart D—Administrator's Determination, Mediation, and Administrative Proceedings

Proposed subpart D addresses informal and formal proceedings to determine compliance with the requirements of part 9 and resolution of disputes.

Section 9.31 Determination of the Administrator

Proposed § 9.31(a) provides that when an investigation is completed, the Administrator would issue a written determination of whether a violation occurred. A written determination would contain a statement of the investigation findings and would address the appropriate relief and the issue of debarment where appropriate. Notice of the determination would be sent by registered or certified mail to the parties' last known address or by any other means normally ensuring delivery. Examples of such other means include, but are not limited to, email to the last known email address, delivery to the last known address by commercial courier or express delivery services, or by personal service to the last known address. As has been recently highlighted during the COVID–19 pandemic, while registered or certified mail may generally be a reliable means of delivery, in some circumstances other delivery methods may be just as reliable or even more successful at assuring delivery. This flexibility would allow the Department to choose methods to ensure that the necessary notifications are effectively delivered to the parties.

Proposed § 9.31(b)(1) explains that where the Administrator has concluded that relevant facts are in dispute, the notice of determination would advise that the Administrator's determination becomes the final order of the Secretary and is not appealable in any administrative or judicial proceeding unless a request for a hearing is sent within 20 calendar days of the date of the Administrator's determination, in

accordance with proposed § 9.32(b)(1). Determining when a request for a hearing or any other notification under this section was sent will depend on the means of delivery, such as by the date stamp on an email or the delivery confirmation provided by a commercial delivery service. The proposed section also states that such a request may be sent by letter or by any other means normally assuring delivery, and that a detailed statement of the reasons why the Administrator's determination is in error, including the facts alleged to be in dispute, if any, must be submitted with the request for hearing. The proposed regulation further explains that the Administrator's determination not to seek debarment is not appealable.

Proposed § 9.31(b)(2) would apply to situations where the Administrator has concluded that there are no relevant facts in dispute. The Administrator would advise the parties and their representatives, if any, that the Administrator has concluded that no relevant facts are in dispute and that the determination will become the final order of the Secretary and will not be appealable in any administrative or judicial proceeding unless a petition for review is properly filed within 20 days of the date of the determination with the Administrative Review Board (ARB). The Administrator's determination would also advise that if an aggrieved party disagrees with the Administrator's factual findings or believes there are relevant facts in dispute, the party may advise the Administrator of the disputed facts and request a hearing by letter or by any other means normally assuring delivery, sent within 20 calendar days of the date of the Administrator's determination. Upon such a request, the Administrator will either refer the request for a hearing to the Chief Administrative Law Judge or notify the parties and their representatives of the Administrator's determination that there are still no relevant issues of fact and that a petition for review may be filed with the ARB in accordance with proposed § 9.32(b)(2).

Section 9.32 Requesting Appeals

Proposed § 9.32 provides procedures for requesting appeals. Proposed § 9.32(a) provides that any party desiring review of the Administrator's determination, including judicial review, must first request a hearing with an ALJ or file a petition for review with the ARB, as appropriate, in accordance with the requirements of proposed § 9.31(b) of this part.

Proposed § 9.32(b)(1)(i) states that any aggrieved party may request a hearing by an ALJ within 20 days of the date of the determination of the Administrator. To request a hearing, the aggrieved party must send the request to the Chief Administrative Law Judge (ALJ) of the Office of Administrative Law Judges (OALJ) by letter or by any other means normally assuring delivery and the request must include a copy of the Administrator's determination. The proposed section further requires that the party send a copy of the request for hearing to the complainant(s) or successor contractor, and their representatives, if any, and to the Administrator and the Associate Solicitor.

Proposed § 9.32(b)(1)(ii) provides that a complainant or any other interested party may request a hearing where the Administrator determines that there is no basis for a finding that the employer has committed violations(s), or where the complainant or other interested party believes that the Administrator has ordered inadequate monetary relief. The proposed section explains that in such a proceeding, the party requesting the hearing would be the prosecuting party and the employer would be the respondent. The Administrator may intervene in the proceeding as a party or as amicus curiae at any time at the Administrator's discretion. Proposed § 9.32(b)(1)(iii) provides that the employer or any other interested party may request a hearing where the Administrator determines, after investigation, that the employer has committed violation(s). The proposed section provides that in such a proceeding, the Administrator would be the prosecuting party and the employer would be the respondent.

Proposed § 9.32(b)(2)(i) explains that any aggrieved party desiring a review of the Administrator's determination in which there were no relevant facts in dispute, or of an ALJ's decision, must file a petition for review with the ARB within 20 calendar days of the date of the determination or decision. The petition must be served on all parties, including the Chief ALJ if the case involves an appeal from an ALJ's decision. Proposed § 9.32(b)(2)(ii)(A) and (B) state that a petition for review must refer to the specific findings of fact, conclusions of law, or order at issue and that copies of the petition and all briefs filed by the parties must be served on the Administrator and the Associate Solicitor. Proposed § 9.32(b)(2)(ii)(C) further provides that if a timely request for a hearing or petition for review is filed, the Administrator's determination or the ALJ's decision, as appropriate, would be inoperative unless and until the ARB issues an order affirming the determination or decision, or the determination or decision otherwise becomes a final order of the Secretary. If a petition for review concerns only the imposition of debarment, however, the remainder of the decision would be immediately effective. The proposed section clarifies that no judicial review would be available to parties unless a petition for review to the ARB is first filed.

Section 9.33 Mediation

In order to resolve disputes by efficient and informal alternative dispute resolution methods to the extent practicable, proposed § 9.33 generally encourages parties to use settlement judges to mediate settlement negotiations pursuant to the procedures and requirements of 29 CFR 18.13. Proposed § 9.33 also provides that the assigned administrative law judge must approve any settlement agreement reached by the parties consistent with the procedures and requirements of 29 CFR 18.71.

Section 9.34 Administrative Law Judge Hearings

Proposed § 9.34(a) provides for the OALJ to hear and decide in its discretion appeals concerning questions of law and fact from determinations of the Administrator issued under proposed § 9.31. The ALJ assigned to the case would act fully and finally as the authorized representative of the Secretary, subject to any appeal filed with the ARB, and subject to certain limits.

Proposed § 9.34(a)(2) details the limits on the scope of review for proceedings before the ALJ. Proposed § 9.34(a)(2)(i) would exclude from the ALJ's authority any jurisdiction to pass on the validity of any provision of part 9. Proposed § 9.34(a)(2)(ii) provides that the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. 504, would not apply to proceedings under part 9. The proceedings proposed in subpart D are not required by an underlying statute to be determined on the record after an opportunity for an agency hearing. Therefore, an ALJ has no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the EAJA for any proceeding under part 9.

Proposed § 9.34(b) states that absent a stay to attempt settlement, the ALJ would notify the parties and any representatives within 15 calendar days following receipt of the request for hearing of the day, time, and place for hearing. The hearing would be held within 60 days from the date of receipt of the hearing request under proposed § 9.34(b).

Proposed § 9.34(c) provides that the ALJ may dismiss a party's challenge to a determination of the Administrator if the party or the party's representative requests a hearing and fails to attend the hearing without good cause. Proposed § 9.34(c) also provides that the ALJ may dismiss a challenge to a determination of the Administrator if a party fails to comply with a lawful order of the ALJ.

Under proposed § 9.34(d), the Administrator would have the right, at the Administrator's discretion, to participate as a party or as amicus curiae at any time in the proceedings. This would include the right to petition for review of an ALJ's decision in a case in which the Administrator has not previously participated. The Administrator would be required to participate as a party in any proceeding in which the Administrator has determined that part 9 has been violated, except where the proceeding only concerns a challenge to the amount of monetary relief awarded.

Under proposed § 9.34(e), a Federal agency that is interested in a proceeding would be able to participate as amicus curiae at any time in the proceedings. The proposed section also states that copies of all pleadings in a proceeding must be served on the interested Federal agency at the request of such Federal agency, even if the Federal agency is not participating in the proceeding.

Proposed § 9.34(f) provides that copies of the request for hearing under this part would be sent to the WHD Administrator and the Associate Solicitor, regardless of whether the Administrator is participating in the proceeding.

With certain exceptions, proposed § 9.34(g) would apply the rules of practice and procedure for administrative hearings before the OALJ at 29 CFR part 18, subpart A, to administrative proceedings under this part 9. The exceptions provide that part 9 would be controlling to the extent it provides any rules of special application that may be inconsistent with the rules in part 18, subpart A. In addition, proposed § 9.34(g) provides that the Rules of Evidence at 29 CFR part 18, subpart B, would be inapplicable to administrative proceedings under this part. This proposed section clarifies that rules or principles designed to assure production of the most probative evidence available would be applied, and that the ALJ may exclude immaterial, irrelevant, or unduly repetitive evidence.

Proposed § 9.34(h) would require ALJ decisions (containing appropriate findings, conclusions, and an order) to be issued within 60 days after completion of the proceeding and to be served upon all parties to the proceeding.

Under proposed § 9.34(i), upon the issuance of a decision that a violation has occurred, the ALJ would order the successor contractor to take appropriate action to remedy the violation. The remedies may include ordering the successor contractor to hire each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. If the Administrator has sought debarment, the order would also be required to address whether debarment is appropriate.

Proposed § 9.34(j) would allow the ALJ to assess against a successor contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding when an order finding the successor contractor violated part 9 is issued. This amount would be awarded in addition to any unpaid wages or other relief due.

Proposed § 9.34(k) provides that the ALJ's decision would become the final order of the Secretary, unless a timely appeal is filed with the ARB.

Section 9.35 Administrative Review Board Proceedings

Proposed § 9.35 describes the ARB's jurisdiction and provides the procedures for appealing an ALJ decision to the ARB under Executive Order 14055.

Proposed § 9.35(a)(1) states the ARB has jurisdiction to hear and decide in its discretion appeals from the Administrator's determinations issued under § 9.31, and from ALJ decisions issued under § 9.34.

Proposed § 9.35(a)(2) identifies the limitations on the ARB's scope of review, including a restriction on passing on the validity of any provision of part 9, a general prohibition on receiving new evidence in the record (because the ARB is an appellate body and must decide cases before it based on substantial evidence in the existing record), and a bar on granting attorney fees or other litigation expenses under the EAJA.

Proposed § 9.35(b) provides that the ARB would issue a final decision within 90 days following receipt of the petition for review and would serve the decision by mail on all parties at their last known address, and on the Chief ALJ, if the case involves an appeal from an ALJ's decision.

Proposed § 9.35(c) requires the ARB's order to mandate action to remedy the violation if the ARB concludes a violation occurred. Such action may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. If the Administrator has sought debarment, the ARB would be required to determine whether debarment is appropriate. Proposed § 9.35(c) also provides that the ARB's order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 or any successor to that order. *See* Secretary of Labor's Order, 01–2020 (Feb. 21, 2020), 85 FR 13186 (Mar. 6, 2020).

Proposed § 9.35(d) allows the ARB to assess against a successor contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding. This amount would be awarded in addition to any unpaid wages or other relief due under § 9.23(b) of this part.

Proposed § 9.35(e) provides that the ARB's decision will become the Secretary's final order in the matter in accordance with Secretary's Order 01–2020 (or any successor to that order), which provides for discretionary review of such orders by the Secretary. *See id.*

Section 9.36 Severability

Section 10 of Executive Order 14055 states that if any provision of the order, or the application of any such provision to any person or circumstance, is held to be invalid, the remainder of the order and the application shall not be affected. *See* 86 FR 66400. Consistent with this directive, the Department proposes to include a severability clause in part 9. Proposed § 9.36 explains that each provision would be capable of operating independently from one another. If any provision of part 9 is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the Department intends that the remaining provisions would remain in effect.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections, their practical utility, the impact of paperwork and other information collection burdens imposed on the public, and how to minimize

those burdens. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8.

This rulemaking would require the creation of a new information collection as well as modification to the burdens for an existing collection. As required by the PRA, the Department has submitted information collections, including a new information collection and a revision of an existing collection, to OMB for review to reflect new burdens and changes to existing burdens that will result from the implementation of Executive Order 14055.

Summary: This rulemaking proposes to enact regulations implementing Executive Order 14055, which generally requires Federal service contracts, subcontracts, and their solicitations to include a clause requiring the successor contractor, and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services, to offer service employees employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract a right of first refusal of employment in positions for which they are qualified. Section 5 of Executive Order 14055 contains exclusions, directing that the order will not apply to contracts under the simplified acquisition threshold or employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of the Executive order. Section 6 of the order permits agencies to except certain contracts from the requirements of the Executive Order in certain circumstances. Section 8 of Executive Order 14055 grants the Secretary of Labor authority to investigate potential violations of, and obtain compliance with, the order.

Purpose and use: This proposed rule, which would implement Executive Order 14055, contains the following provisions that could be considered to entail collections of information: (1) The requirement in proposed § 9.12(e) that contractors submit a list of the names of all service employees working under the contract and it subcontractors to the contracting officer before contract completion; (2) disclosure and recordkeeping requirements for covered contractors described in proposed § 9.12(f); (3) the complaint process described in proposed § 9.21; (4) disclosure and records requirements under proposed § 9.5; and (5) the administrative proceedings described in proposed subpart D.

Proposed § 9.12 states compliance requirements for contractors covered by Executive Order 14055. Proposed § 9.12 would require, with certain exceptions, a successor contractor and its subcontractors to make good faith employment offers to qualified service employees employed on the predecessor contract whose employment will be terminated as a result of award of the successor contract or the expiration of the predecessor contract. Proposed § 9.12(e) would require a predecessor contractor to furnish the contracting officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance. Additionally, proposed § 9.12(e)(3) would require a contractor to provide service employees with written notice of their possible right to an offer of employment on a successor contract. Proposed § 9.11 would require the contracting officer to furnish that list to the successor contractor prior to the start of performance of the successor's contract. The successor contractor would then use that list to aid in satisfying the requirements of § 9.12(a). Proposed § 9.12(e)(2) permits the contractor to submit and retain the list submitted to satisfy the requirements of 29 CFR 4.6(l)(2) (see OMB Control Number 1235–0007) to meet these provisions. As contractors are already required to develop this list to comply with the SCA, the Department believes that this requirement does not impose any additional information collection requirements on contractors. However, under proposed § 9.11(c)(3), when an agency decides not to include a location continuity requirement, the agency must ensure that the contractor notifies affected workers in writing of the agency determination and the right of interested parties to request reconsideration. The contractor is required to confirm to the contracting agency that such notice was provided.

In order to verify compliance with the requirements in part 9, proposed § 9.12(f) would require contractors to maintain for 3 years copies of certain records that are subject to OMB clearance under the PRA, including (1) any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended; a summary of each meeting; a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made; (2) any record that forms the basis for any exclusion or exception claimed from the nondisplacement requirements; and (3) a copy of the employee list received from the contracting agency and the employee list provided to the contracting agency. *See* 44 U.S.C. 3502(3), 3518(c)(1); 5 CFR 1320.3(c), –.4(a)(2), –.4(c). Additionally, proposed § 9.12(f)(2) requires contractors to maintain evidence of any notices that they have provided to workers, or workers' collective bargaining representatives, to satisfy the requirements of the order or these regulations. These would include records of notices of the possibility of employment on the successor contract that are required under § 9.12(e)(3) of the regulations; notices of agency exceptions that a contracting agency requires a contractor to provide under section 6(b) of the order, and as described in § 9.5(g) of the regulations; and notices that a contracting agency has declined to include location continuity requirements or preferences in a solicitation, pursuant to § 9.11(c)(3) of the regulations.

WHD obtains PRA clearance under control number 1235–0021 for an information collection covering complaints alleging violations of various labor standards that the agency already administers and enforces. An Information Collection Request (ICR) has been submitted to revise the approval to incorporate the regulatory citations in this proposed rule applicable to complaints and adjust burden estimates to reflect any increase in the number of complaints filed.

Proposed subpart D establishes administrative proceedings to resolve investigation findings. Particularly with respect to hearings, the rule would impose information collection requirements. The Department notes that information exchanged between the target of a civil or an administrative action and the agency in order to resolve the action would be exempt from PRA requirements. *See* 44 U.S.C. 3518(c)(1)(B); 5 CFR 1320.4(a)(2). This exemption applies throughout the civil or administrative action (such as an investigation and any related administrative hearings). Therefore, the Department has determined the administrative requirements contained in subpart D of this proposed rule are exempt from needing OMB approval under the PRA.

Information and technology: There is no particular order or form of records prescribed by the proposed regulations.

A contractor may meet the requirements of this proposed rule using paper or electronic means. WHD, in order to reduce burden caused by the filing of complaints that are not actionable by the agency, uses a complaint filing process in which complainants discuss their concerns with WHD professional staff. This process allows agency staff to refer complainants raising concerns that are not actionable under wage and hour laws and regulations to an agency that may be able to offer assistance.

Public comments: The Department seeks comments on its analysis that this NPRM creates a slight increase in paperwork burden associated with ICR 1235–0021 and creates a new collection and supporting burdens on the regulated community in 1235–ONEW. Commenters may send their views on the Department's PRA analysis in the same way they send comments in response to the NPRM as a whole (*e.g.,* through the *www.regulations.gov* website), including as part of a comment responding to the broader NPRM. Alternatively, commenters may submit a comment specific to this PRA analysis by sending an email to *WHDPRAComments@dol.gov*. While much of the information provided to OMB in support of the information collection request appears in the preamble, interested parties may obtain a copy of the supporting statements for the new recordkeeping collection and revised complaint process collection by sending a written request to the mail address shown in the **ADDRESSES** section at the beginning of this preamble. Alternatively, a copy of the new ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website. Similarly, the complaint process ICR is available by visiting *http://www.reginfo.gov/public/do/PRAMain* website. As previously indicated, written comments directed to the Department may be submitted within 30 days of publication of this notification.

OMB and the Department are particularly interested in comments that:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Total burden for the new and complaint process information collections, including the burdens that will be unaffected by this proposed rule and any changes are summarized as follows:

Type of review: Revision to currently approved information collections.

Agency: Wage and Hour Division, Department of Labor.

Title: Employment Information Form.

OMB Control Number: 1235–0021.

Affected public: Private sector, businesses or other for-profits and Individuals or Households.

Estimated number of respondents: 38,254 (10 from this rulemaking).

Estimated number of responses: 38,254 (10 from this rulemaking).

Frequency of response: On occasion.

Estimated annual burden hours: 12,751 (3 burden hours due to this NPRM).

Estimated annual burden costs (capital/startup): $0 ($0 from this rulemaking).

Estimated annual burden costs (*operations/maintenance*): $0 ($0 from this rulemaking).

Estimated annual burden costs: $559,896 ($132 from this rulemaking).

Type of Review: New Collection.

Title: Nondisplacement of Qualified Workers Under Service Contracts.

OMB Control Number: 1235–0NEW.

Affected public: Private sector, businesses or other for-profits and Individuals or Households.

Estimated number of respondents: 249,400.

Estimated number of responses: 4,257,000.

Frequency of response: Various.

Estimated annual burden hours: 230,050.

Estimated annual burden costs: $14,237,795.

IV. Executive Order 12866, Regulatory Planning and Review; Executive Order 13563, Improved Regulation and Regulatory Review

Under Executive Order 12866, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and OMB review.[2] Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OIRA has determined that this proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and is economically significant.

Executive Order 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; that it is tailored to impose the least burden on society, consistent with obtaining the regulatory objectives; and that, in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Executive Order 13563 recognizes that some costs and benefits are difficult to quantify and provides that, when appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. The analysis below outlines the impacts that the Department anticipates may result from this proposed rule and was prepared pursuant to the above-mentioned executive orders.

A. Introduction

On November 18, 2021, President Joseph R. Biden, Jr. issued Executive Order 14055, ''Nondisplacement of Qualified Workers Under Service Contracts.'' 86 FR 66397 (Nov. 23, 2021). This order explains that ''[w]hen a service contract expires, and a follow-on contract is awarded for the same or similar services, the Federal Government's procurement interests in economy and efficiency are best served when the successor contractor or

[2] *See* 58 FR 51735, 51741 (Oct. 4, 1993).

subcontractor hires the predecessor's employees, thus avoiding displacement of these employees.'' Accordingly, Executive Order 14055 provides that contractors and subcontractors performing on covered Federal service contracts must in good faith offer service employees employed under the predecessor contract a right of first refusal of employment. The order applies to all contracts that are covered by the SCA.

This proposed rule requires that contracting agencies incorporate into every covered Federal service contract the contract clause included in Executive Order 14055. That clause requires a successor contractor and its subcontractors to make bona fide, express offers of employment to service employees employed under the predecessor contract whose employment would be terminated with the change of contract. The required contract clause also forbids successor contractors or subcontractors from filling any contract employment openings prior to making such good faith offers of employment to employees of the predecessor contractor or subcontractor. See section II.B. for an in-depth discussion of the provisions of the Executive order.

B. Number of Potentially Affected Contractor Firms and Workers

1. Number of Potentially Affected Contractor Firms

To determine the number of firms that could potentially be affected by this rulemaking, the Department estimated a range of potentially affected firms. The more narrowly defined population (firms actively holding SCA-covered contracts) includes 119,700 firms (Table 1). The broader population (including those bidding on SCA contracts but without active contracts, or those considering bidding in the future) includes 449,200 firms.

i. Firms Currently Holding SCA Contracts

USASpending.gov—the official source for spending data for the U.S. Government—contains Government award data from the Federal Procurement Data System Next Generation (FPDS–NG), which is the system of record for Federal procurement data. The Department used these data to identify the number of firms that currently hold SCA contracts.[3] [4] Although more recent data are available, the Department used data from 2019 to avoid any shifts in the data associated with the COVID–19 pandemic in 2020. Because many Federal employees were working remotely throughout 2020 and 2021, reliance on service contracts for Federal buildings may have been reduced during those years and may not reflect the level of employment on and incidence of SCA contracts going forward.[5] The Department welcomes comments and data on how the COVID–19 pandemic has impacted firms and workers on SCA contracts.

To identify firms with SCA contracts, the Department included all firms with the ''Labor Standards'' element equal to ''Y'' for any of their contracts, meaning that the contracting agency flagged the contract as covered by the SCA. However, because this flag is often listed as ''not applicable'' and appears to be reported with error, the Department also included some other firms. Of the contracts not flagged as SCA, the Department excluded (1) those for the purchase of goods[6] and (2) those covered by the DBA.[7] The Department also excluded (1) awards for financial assistance such as direct payments, loans, and insurance; and (2) contracts performed outside the U.S. because SCA coverage is limited to the 50 states, the District of Columbia, and the U.S. territories. The firms for the remaining contracts are included as potentially impacted by this rulemaking.

In 2019, there were 86,000 unique prime contractors in USASpending that fit the parameters discussed above, and the Department has used this number as an estimate of prime contractors with active SCA contracts. However, subcontractors are also impacted by this proposed rule. The Department examined 5 years of USASpending data (2015 through 2019) and identified 33,700 unique subcontractors that did not hold contracts as prime contractors in 2019.[8] The Department used 5 years of data for the count of subcontractors to compensate for lower-tier subcontractors that may not be included in *USASpending.gov*.

In total, the Department estimates 119,700 firms currently hold SCA contracts and could potentially be affected by this rulemaking under the narrow definition. Table 1 shows these firms by 2-digit NAICS code.[9] [10]

ii. All Potentially Affected Contractors

The Department also cast a wider net to identify other potentially affected contractors, both those directly affected (*i.e.,* holding contracts) and those that plan to bid on SCA-covered contracts in the future. To determine the number of these firms, the Department identified firms registered in the General Services Administration's (GSA) System for Award Management (SAM) since all entities bidding on Federal procurement contracts as a prime or grants must register in SAM. The Department believes that firms registered in SAM represent those that may be affected if they decide to bid on an SCA contract as a prime in the future. However, it is also possible that some firms that are not already registered in SAM could decide to bid on SCA-covered contracts after this proposed rulemaking; these firms are not included in the Department's estimate. The proposed

[3] The Department recognizes that some SCA-covered contracts that would be covered by this rule are not reflected in *USASpending.gov* (*i.e.,* they are SCA-covered contracts that are not procuring services directly for the Federal Government, including certain licenses, permits, cooperative agreements, and concessions contracts, such as, for example, delegated leases of space on a military base from an agency to a contractor whereby the contractor operates a barber shop). However, the Department estimates that the number of firms holding such SCA-covered nonprocurement contracts is a small fraction of the number of firms identified based on *USASpending.gov*.

[4] The Department also acknowledges that prime contracts that are less than $250,000 and their subcontracts would not be covered by this regulation but has not made an adjustment for these contracts in the estimation of covered contractors. Therefore, this estimate may be an overestimate of the number of contractors that are actually affected.

[5] The Department estimated the number of prime contractors using the 2021 USASpending data and found that there were fewer contractors in 2021 than in 2019. The number of prime contractors in 2019 was 85,987 and the number of prime contractors in 2021 was 78,347. This finding is in line with our hypothesis that remote work for federal employees could have reduced the demand for SCA contractors in 2021.

[6] For example, the government purchases pencils; however, a contract solely to purchase pencils is not covered by the SCA and so would not be covered by the Executive order. Contracts for goods were identified in the USASpending.gov data if the product or service code begins with a number (the code for services begins with a letter).

[7] Contracts covered by DBA were identified in the USASpending.gov data where the ''Construction Wage Rate Requirements'' element for a contract is marked ''Y,'' meaning that the contracting agency flagged that the contract is covered by the DBA.

[8] For subcontractors, the Department was unable to make restrictions to limit the data to SCA contracts because none of the necessary variables are available in the USASpending database (*i.e.,* the Labor Standards variable, the Construction Wage Rate Requirements variable, or the product or service code variable).

[9] The North American Industry Classification System (NAICS) is a method by which Federal statistical agencies classify business establishments in order to collect, analyze, and publish data about certain industries. Each industry is categorized by a sequence of codes ranging from 2 digits (most aggregated level) to 6 digits (most granular level). *https://www.census.gov/naics/*.

[10] In the data, a NAICS code is assigned to the contract and identifies the industry in which the contract work is typically performed. If a firm has contracts in several NAICS, the Department has assigned it to only one NAICS based on the ordering of the contracts in the data (this approximates a random assignment to one NAICS).

rule could also impact such firms if they are awarded a future contract.

Because SAM provides a more recent snapshot of data, the Department used February 2022 SAM data and identified 415,500 registered firms.[11] The Department excluded firms with expired registrations, firms only applying for grants,[12] government entities (such as city or county governments),[13] foreign organizations, and companies that only sell products and do not provide services. SAM includes all prime contractors and some subcontractors (those that are also prime contractors or that have otherwise registered in SAM). However, the Department is unable to determine the number of subcontractors that are not in the SAM database. Therefore, the Department added the subcontractors identified in USASpending to this estimate. Adding these 33,700 firms identified in USASpending to the number of firms in SAM results in 449,200 potentially affected firms.

TABLE 1—RANGE OF NUMBER OF POTENTIALLY AFFECTED FIRMS

Industry	NAICS	Lower-bound estimate			Upper-bound estimate		
		Total	Primes from USASpending	Subcontractors from USASpending	Total	Firms from SAM	Subcontractors from USASpending
Agriculture, forestry, fishing and hunting	11	2,482	2,482	0	5,389	5,389	0
Mining	21	145	102	43	1,010	967	43
Utilities	22	1,596	1,541	55	2,470	2,415	55
Construction	23	13,708	5,457	8,251	57,587	49,336	8,251
Manufacturing	31–33	13,958	5,637	8,321	52,331	44,010	8,321
Wholesale trade	42	1,205	564	641	18,804	18,163	641
Retail trade	44–45	344	317	27	8,467	8,440	27
Transportation and warehousing	48–49	3,387	2,998	389	17,473	17,084	389
Information	51	4,061	3,735	326	13,515	13,189	326
Finance and insurance	52	475	429	46	3,577	3,531	46
Real estate and rental and leasing	53	2,822	2,821	1	19,482	19,481	1
Professional, scientific, and technical services	54	37,739	26,103	11,636	116,120	104,484	11,636
Management of companies and enterprises	55	3	3	0	598	598	0
Administrative and waste services	56	15,120	11,509	3,611	37,613	34,002	3,611
Educational services	61	3,609	3,359	250	17,433	17,183	250
Health care and social assistance	62	7,004	6,987	17	36,376	36,359	17
Arts, entertainment, and recreation	71	916	915	1	5,562	5,561	1
Accommodation and food services	72	3,037	3,031	6	11,170	11,164	6
Other services	81	8,084	7,997	87	24,191	24,104	87
Total private	.....	119,695	85,987	33,708	449,168	415,460	33,708

2. Number of Potentially Affected Workers

There are no readily available data on the number of workers working on SCA contracts; therefore, to estimate the number of these workers, the Department employed the approach used in the 2021 final rule, ''Increasing the Minimum Wage for Federal Contractors,'' which implements Executive Order 14026.[14] That methodology is based on the 2016 rulemaking implementing Executive Order 13706's (Establishing Paid Sick Leave for Federal Contractors) paid sick leave requirements, which contained an updated version of the methodology used in the 2014 rulemaking for Executive Order 13658 (Establishing a Minimum Wage for Contractors).[15] Using this methodology, the Department estimated the number of workers who work on SCA contracts, representing the number of ''potentially affected workers,'' is 1.4 million potentially affected workers. This number is likely an overestimate because some workers will be in positions not covered by this rule (*e.g.,* high-level management, non-service employees).

The Department estimated the number of potentially affected workers in two parts. First, the Department estimated employees and self-employed workers working on SCA contracts in the 50 States and the District of Columbia. Second, the Department estimated the number of SCA workers in the U.S. territories.

iii. Workers on SCA Contracts in the 50 States and the District of Columbia

SCA contract employees on covered contracts were estimated by taking the ratio of covered Federal contracting expenditures to total output, by industry. Total output is the market value of the goods and services produced by an industry. This ratio is then applied to total private employment in that industry (Table 2).

$$Potentially\ Affected\ Employees = \frac{Expenditures}{Total\ Output} \times Employment$$

To estimate SCA contracting expenditures, the Department used USASpending.gov data and the same methodology as used above for estimating affected firms. The Department included all contracts with

[11] Data released in monthly files. Available at: *https://www.sam.gov/SAM/pages/public/extracts/samPublicAccessData.jsf.*

[12] Entities registering in SAM are asked if they wish to bid on contracts. If the firm answers ''yes,'' then they are included as ''All Awards'' in the ''Purpose of Registration'' column in the SAM data. The Department included only firms with a value of ''Z2,'' which denotes ''All Awards.''

[13] While there are certain circumstances in which state and local government entities act as contractors that enter into contracts covered by the SCA, the number of such entities is minimal and including all government entities would result in an inappropriate overestimation.

[14] *See* 86 FR 38816, 38816–38898.

[15] *See* 81 FR 9591, 9591–9671 and 79 FR 60634–60733.

the ''Labor Standards'' element equal to ''Y,'' meaning that the contracting agency flagged the contract as covered by SCA. Of the contracts not flagged as SCA, the Department excluded (1) those for the purchase of goods and (2) those covered by DBA.[16] The firms for the remaining contracts are also included as potentially impacted by this rulemaking. The Department also excluded (1) awards for financial assistance such as direct payments, loans, and insurance; and (2) contracts performed outside the U.S. because SCA coverage is limited to the 50 states, the District of Columbia, and the U.S. territories.

To determine the share of all output associated with SCA contracts, the Department divided contracting expenditures by gross output, in each 2-digit NAICS code.[17] This results in 0.93 percent of output being covered by SCA contracts (Table 2). The Department then multiplied the ratio of covered-to-gross output by private sector employment for each NAICS to estimate the share of employees working on SCA contracts. The Department's private sector employment number is primarily comprised of employment from the May 2019 Occupational Employment and Wage Statistics (OEWS), formerly the Occupational Employment Statistics.[18] However, the OEWS excludes unincorporated self-employed workers, so the Department supplemented OEWS data with data from the 2019 Current Population Survey Merged Outgoing Rotation Group (CPS MORG) to include unincorporated self-employed workers in the estimate of workers.

According to this methodology, the Department estimated there are 1.4 million workers on SCA covered contracts in the 50 States and the District of Columbia (see Table 2 below). This methodology represents the number of year-round-equivalent potentially affected workers who work exclusively on SCA contracts. Thus, when the Department refers to potentially affected employees in this analysis, the Department is referring to this conceptual number of people working exclusively on covered contracts. The total number of potentially affected workers will likely exceed this number because not all workers work exclusively on SCA contracts. However, some of the total number of potentially affected workers may not be covered by this rulemaking.

iv. Workers on SCA Contracts in the U.S. Territories

The methodology used to estimate potentially affected workers in certain U.S. territories (American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands) is similar to the methodology used above for the 50 States and the District of Columbia. The primary difference is that data on gross output in the U.S. territories are not available, and so the Department had to make some additional assumptions. The Department approximated gross output in the U.S. territories by calculating the ratio of gross output to Gross Domestic Product (GDP) for the U.S. (1.5), then multiplying that ratio by GDP in each territory to estimate total gross output.[19] [20] The other difference is the analysis is not performed by NAICS because the GDP data are not available at that level of disaggregation.

The rest of the methodology follows the methodology for the 50 States and the District of Columbia. To determine the share of all output associated with SCA contracts, the Department divided contract expenditures from USASpending.gov, for each territory, by gross output. The Department then multiplied the ratio of covered contract spending to gross output by private sector employment (from the OEWS) to estimate the number of workers working on covered contracts (9,900).[21]

TABLE 2—NUMBER OF POTENTIALLY AFFECTED WORKERS

NAICS	Total private output (billions) [a]	Covered contracting output (millions) [b]	Share output from covered contracting (percent)	Private sector workers (1,000s) [c]	Workers on SCA contracts (1,000s) [d]
11	$450	$431	0.10	1,168	1
21	577	104	0.02	699	0
22	498	2,350	0.47	547	3
23	1,662	7,218	0.43	9,100	40
31–33	6,266	42,023	0.67	12,958	87
42	2,098	183	0.01	5,955	1
44–45	1,929	331	0.02	16,488	3
48–49	1,289	14,288	1.11	6,215	69
51	1,942	10,308	0.53	2,971	16
52	3,161	12,474	0.39	6,180	24
53	4,143	968	0.02	2,699	1
54	2,487	151,809	6.10	10,581	646
55	675	0	0.00	2,470	0
56	1,141	36,238	3.18	10,158	323
61	381	4,140	1.09	3,271	36
62	2,648	11,130	0.42	20,791	87
71	382	82	0.02	2,949	1
72	1,192	1,019	0.09	14,303	12
81	772	2,699	0.35	5,260	18

[16] Identified when the ''Construction Wage Rate Requirements'' element is ''Y,'' meaning that the contracting agency flagged that the contract is covered by DBA.

[17] Bureau of Economic Analysis (BEA) (2020). Table 8. Gross Output by Industry Group. *https://www.bea.gov/news/2020/gross-domestic-product-industry-fourth-quarter-and-year-2019*. The BEA provides the definition: ''Gross output of an industry is the market value of the goods and services produced by an industry, including commodity taxes. The components of gross output include sales or receipts and other operating income, commodity taxes, plus inventory change. Gross output differs from value added, which measures the contribution of the industry's labor and capital to its gross output.''

[18] Bureau of Labor Statistics. OEWS. May 2019. Available at: *http://www.bls.gov/oes/*.

[19] GDP is limited to personal consumption expenditures and gross private domestic investment.

[20] For example, in Puerto Rico, personal consumption expenditures plus gross private domestic investment equaled $73.4 billion. Therefore, Puerto Rico gross output was calculated as $73.4 billion × 1.5 = $110.1 billion.

[21] For the U.S. territories, the unincorporated self-employed are excluded because CPS data are not available on the number of unincorporated self-employed workers in U.S. territories.

TABLE 2—NUMBER OF POTENTIALLY AFFECTED WORKERS—Continued

NAICS	Total private output (billions) [a]	Covered contracting output (millions) [b]	Share output from covered contracting (percent)	Private sector workers (1,000s) [c]	Workers on SCA contracts (1,000s) [d]
Territories	156	1,501	[e]	963	9.9
Total	33,691	297,794	0.88%	134,761	1,376

[a] Bureau of Economic Analysis, NIPA Tables, Gross output. 2019. For territories, gross output is estimated by multiplying total GDP for the territory by the ratio of total gross output to total GDP for the U.S.
[b] *USASpending.gov.* Contracting expenditures for covered contracts in 2019.
[c] OEWS May 2019. Excludes Federal U.S. Postal service employees, employees of government hospitals, and employees of government educational institutions. For non-territories, added to the OWES employee estimates were unincorporated self-employed workers from the 2019 CPS MORG data.
[d] Assumes share of expenditures on contracting is same as share of employment. Assumes employees work exclusively, year-round on Federal contracts. Thus, this may be an underestimate if some employees are not working entirely on Federal contracts.
[e] Varies based on U.S. territory.

Because there is no readily available data source on workers on SCA contracts, and employment is spread throughout many industries, the Department was unable to provide any estimates of demographic information for potentially affected workers. The Department welcomes any data sources that would allow it to analyze the demographic composition of SCA contract workers, so that it can better assess any equity impacts of this rulemaking.

C. Costs

1. Rule Familiarization Costs

The proposed rule would impose direct costs on some covered contractors that will review the regulations to understand their responsibilities. Both firms that currently hold contracts that may be awarded to a successor contractor in the future and firms that are considering bidding on an SCA contract may be interested in reviewing this rule, so the Department used the upper-bound estimate of 449,168 potentially affected firms to calculate rule familiarization costs. This is an overestimate, because not all of the firms that are registered in SAM are predecessor contractors or will bid on an SCA contract. Those that are not interested in bidding would not need to review the rule.

The Department estimates that, on average, 30 minutes of a human resources staff member's time will be spent reviewing the rulemaking. Some firms will spend more time reviewing the rule, but as discussed above, many others will spend less or no time reviewing the rule, so the Department believes that this average estimate is appropriate. Many firms will also just rely on third-party summaries of the rule or the comprehensive compliance assistance materials published by the Department. This rule is also substantially similar to the 2011 final rule implementing Executive Order 13495 (Nondisplacement of Qualified Workers Under Service Contracts), with which many firms were already familiar. Thus, this proposed regulation would not introduce an entirely novel policy that would require substantively more time for rule familiarization. This time estimate only represents the cost of reviewing the rule; any implementation costs are calculated separately below. The cost of this time is the median loaded wage for a Compensation, Benefits, and Job Analysis Specialist of $50.25 per hour.[22] Therefore, the Department has estimated regulatory familiarization costs to be $11,285,346 ($50.25 per hour × 0.5 hour × 449,168 contractors). The Department has included all regulatory familiarization costs in Year 1. The Department welcomes comments on these rule familiarization estimates.

2. Implementation Costs

This proposed rule contains various requirements for contractors. The proposal includes a contract clause provision requiring contracting agencies to ensure that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include the nondisplacement contract clause. This provision comes directly from Executive Order 14055, and the Department estimates that it will take an average of 30 minutes total for contractors to incorporate the contract clause into their covered subcontracts. This estimate is similar to the one used in the Executive Order 13495 final rule. Additionally, a contractor must notify affected workers and their collective bargaining representatives, if any, in writing of the agency's determination to grant an exception. When an agency decides not to include a location continuity requirement or preference, the contractor must notify affected workers and their collective bargaining representatives, if any, in writing of the agency's determination and the right of interested parties to request reconsideration. Additionally, predecessor contractors are required to provide written notice to service employees employed under the contract of their possible right to an offer of employment on the successor contract. The Department estimates that these requirements would take an average of 30 minutes for each contractor. The Department believes that this average estimate is appropriate because these requirements would not apply to all potentially affected contractors; they would only apply when an agency grants an exception or when the agency decides not to include a location continuity requirement or preference.

For these cost estimates, the Department used the lower-bound of potentially affected firms (119,695), because only the firms that will have a covered contract would incur these implementation costs. The cost of this time is the median loaded wage for a Compensation, Benefits, and Job Analysis Specialist of $50.25 per hour. Therefore, the Department has estimated the cost of these requirements to be $6,014,674 ($50.25 per hour × 1 hour × 119,695 contractors). This estimate is likely an overestimate, because many SCA contracts can last for several years. Therefore, only a fraction of these firms would need to include the required contract clause each year since firms only need to include the clause in new contracts (which under Executive Order

[22] This includes the median base wage of $30.83 from the 2021 OEWS plus benefits paid at a rate of 46 percent of the base wage, as estimated from the BLS's Employer Costs for Employee Compensation (ECEC) data, and overhead costs of 17 percent. OEWS data available at: *https://www.bls.gov/news.release/ocwage.t01.htm.*

14055 and this rule do not include options or other extensions). The Department does not have data on the average length of SCA contracts but welcomes comments and data to help inform this estimate.

Under this proposed rule, contracting agencies would, among other things, be required to ensure contractors provide notice to employees on predecessor contracts of their possible right to an offer of employment, and consider whether performance of the work in the same locality or localities in which a predecessor contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services. Contracting agencies would also be required to provide the list of employees on the predecessor contract to the successor contractor, to forward complaints and other pertinent information to WHD, and to retroactively incorporate the contract clause when it was not initially incorporated. Please see section II.B. for a more in-depth discussion of contracting agency requirements. The Department estimates that it will take the contracting agencies an extra 2.5 hours of work on average on each covered contract, and that the work will be performed by a GS 14, Step 1 Federal employee contracting officer, with a fully loaded hourly wage of $97.04.[23] This includes the median base wage of $52.17 from Office of Personnel Management salary tables,[24] plus benefits paid at a rate of 69 percent of the base wage,[25] and overhead costs of 17 percent. Using the USASpending data mentioned above, the Department estimated that there were 576,122 contracts. In order to estimate the share of these contracts that are new in a given year, the Department has used 20 percent (115,224), because SCA contracts tend to average about 5 years. The Department welcomes comments and data on the appropriate contract length to use in this estimate. Therefore, the estimated cost to contracting agencies is $27,953,342 ($97.04 per hour × 2.5 hours × 115,224).

3. Recordkeeping Costs

This proposed rule would require a predecessor contractor to, no less than 30 calendar days before completion of the contractor's performance of services on a contract, furnish the contracting officer a list of the names of all service employees under the contract and its subcontracts at that time. This list must also contain the anniversary dates of employment for each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. If changes to the workforce are made after the submission of this certified list, this proposed rule would also require a contractor to furnish the contracting officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance not less than 10 business days before completion of the contract.

This NPRM also specifies the records successor contractors would be required to maintain, including copies of or documentation of any written or oral offers of employment, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made. The NPRM would also require contractors to maintain a copy of any record that forms the basis for any exclusion or exception claimed, the employee list provided to the contracting agency, and the employee list received from the contracting agency.

The Department estimates that the extra time associated with keeping and providing these records, including the list of employees, to be an average of 1 hour per firm per year, and that the work will be completed by a Compensation, Benefits, and Job Analysis Specialist, at a rate of $50.25 per hour. The estimated recordkeeping cost is $6,014,674 ($50.25 per hour × 1 hour × 119,695).

4. Summary of Costs

Costs in Year 1 consist of $11,285,346 in rule familiarization costs, $33,968,016 in implementation costs ($6,014,674 for contractors and $27,953,342 for contracting agencies), and $6,014,674 in recordkeeping costs. Therefore, total Year 1 costs are $51,268,036. Costs in the following years consist only of implementation and recordkeeping costs and amount to $39,982,690. Average annualized costs over 10 years are $41.5 million using a 7 percent discount rate, and $50.1 million using a 3 percent discount rate.

5. Other Potential Impacts

This proposed rule requires successor contractors and subcontractors to make a bona fide, express offer of employment to each employee to a position for which the employee is qualified, and to state the time within which the employee must accept such offer. To match employees with suitable jobs under this proposed rule, successor contractors would have to spend time evaluating the predecessor contract employees and available positions. However, those successor contractors that currently hire new employees for a contract already must recruit workers and evaluate their qualifications for positions on the contract; thus, successor contractors would likely spend an equal amount of time determining job suitability under the proposed rule as under current practices. If, in the absence of this rule, a successor contractor would need to hire an entirely new workforce when it is awarded a contract, the requirement for it to make offers of employment to the predecessor contractor's workforce could save the contractor time if the predecessor contract employees hold the same positions that the successor contractor is looking to fill. It may be easier to determine job suitability for workers already working in those positions on the contract than it would be for workers who are new to both the contract and the successor contractor. The Department welcomes comments and data on these assumptions, specifically if time spent allocating employees to available positions would change as a result of this proposed rule.

Many successor contractors may already be keeping the predecessor contractor's employees on the contract, so the Executive Order and this proposed rule would not impact any existing hiring practices for these firms. The Department welcomes comments with data on how prevalent it is for successor contractors to keep the employees of the predecessor contractor.

There may be some limited cases in which the successor contractor had existing employees that it planned to assign to a newly-awarded contract, but the requirement to offer employment to predecessor contract workers would

[23] Because the contracting agency may be split amongst different positions, the Department has used the wage of a more senior position for the estimate.

[24] The Department has used the 2021 Rest of United States salary table to estimate salary expenses. *See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/RUS_h.aspx.*

[25] Based on a 2017 study from CBO. Congressional Budget Office, ''Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015,'' April 25, 2017, *https://www.cbo.gov/publication/52637.*

make the successor contractor's existing employees redundant. In this situation, if the successor contractor truly could not find another position for the employee on the new contract or on any of their other existing projects, the continued employment of a predecessor contract worker could be offset by the successor contract worker being laid off. While this could potentially happen in certain circumstances immediately following the publication of this regulation, the Department expects that this situation would become relatively uncommon in the future once contractors are familiar with the requirements of the rule and can plan their staffing accordingly. Furthermore, these workers may themselves also be protected by the Executive Order. If the contract on which they are currently working is awarded to another contractor, they would also receive offers of employment from the successor contractor. The Department welcomes comments on the staffing practices of contractors, and to what extent that they have existing employees that they would not be able to find positions for if they are required to make offers of employment to predecessor contract employees following the award of a new contract.

This proposed rule would not affect wages that contractors will pay employees, because other applicable laws already establish the minimum wage rate for each occupation to be incorporated into the contract. This rule does not require successor contractors to pay wages higher than the rate required by the SCA. Executive Order 14055 and this proposed rule also do not require the successor contractor to pay workers the same wages that they were paid on the predecessor contract. Although workers' wages may increase or decrease with the changing of contracts, any change would not be a result of this proposed rule. What this rule would do is ensure that these workers have continued employment, saving them the costs of finding a new job. The requirement for successor contracts to make bona fide offers of employment could also prevent unemployment and increase job security for predecessor contract workers. This, in turn, could reduce reliance on social safety net programs and improve well-being for such workers. As discussed above, this impact could be offset in limited short-term cases in which the successor contractor has existing employees for which it is are unable to find positions because of the requirements of this proposed rule.

D. Benefits

Executive Order 14055 states that using a carryover workforce reduces disruption in the delivery of services during the period of transition between contractors, maintains physical and information security, and provides the Federal Government with the benefits of an experienced and well-trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements. A 2020 report from IBM estimated that data breaches in the public sector cost about $1.6 million per breach, and about 28 percent of data breaches are due to human error.[26] Maintaining the same staff on a Federal Government contract could reduce the occurrence of these costly data breaches. The Department welcomes data on the impact of contract employee turnover on data security.

The requirements of the Executive Order and this proposed rule also would help reduce training costs, which can be costly for firms, and therefore for the agency that contracts with them. Training costs are a component of turnover costs. One study found a modest cost associated with employee turnover, finding 10 percent turnover is about as costly as a 0.6 percent wage increase.[27] Another paper conducted an analysis of case studies and found that turnover costs represent 39.6 percent of a position's annual wage.[28]

V. Initial Regulatory Flexibility Act (IRFA) Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 604.

A. Why the Department Is Considering Action

On November 18, 2021, President Joseph R. Biden, Jr. issued Executive Order 14055, ''Nondisplacement of Qualified Workers Under Service Contracts.'' 86 FR 66397 (Nov. 23, 2021). This order explains that when a service contract expires, and a follow-on contract is awarded for the same or similar services, the Federal Government's procurement interests in economy and efficiency are best served when the successor contractor or subcontractor hires the predecessor's employees, thus avoiding displacement of these employees. The Department is issuing this proposed rule to comply with the directives of the Executive Order.

B. Objectives of and the Legal Basis for the Proposed Rule

President Biden issued Executive Order 14055 pursuant to his authority under ''the Constitution and the laws of the United States,'' expressly including the Procurement Act. 86 FR 66397. The Procurement Act authorizes the President to ''prescribe policies and directives that the President considers necessary to carry out'' the statutory purposes of ensuring ''economical and efficient'' government procurement and administration of government property. 40 U.S.C. 101, 121(a). Executive Order 14055 directs the Secretary to issue regulations to ''implement the requirements of this order.'' 86 FR 66399.

C. Estimating the Number of Small Businesses Affected by the Rulemaking

In order to determine the number of small businesses that would be affected by the rulemaking, the Department followed the same methodology laid out in section V.B.1. of the economic analysis.[29] For the data from *USASpending.gov*, the business determination was based on the inclusion of ''small'' or ''SBA'' in the business type. For GSA's System for Award Management (SAM) for February 2022, if a company qualified as a small business in any reported NAICS, they

[26] *https://www.govtech.com/data/ibm-government-data-breaches-becoming-less-costly.html.*

[27] Kuhn, Peter and Lizi Yu. 2021. ''How Costly is Turnover? Evidence from Retail.'' Journal of Labor Economics 39(2), 461–496. *https://www.journals.uchicago.edu/doi/10.1086/710359.*

[28] Bahn, Kate and Carmen Sanchez Cumming. 2020. ''Improving U.S. labor standards and the quality of jobs to reduce the costs of employee turnover to U.S. companies.'' Washington Center for Equitable Growth Issue Brief. *https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies/.*

[29] The Department also acknowledges that prime contracts that are less than $250,000 and their subcontracts would not be covered by this regulation but has not made an adjustment for these contracts in the estimation of covered contractors. Therefore, this estimate may be an overestimate of the number of contractors that are actually affected.

were classified as small. Table 3 shows the range of potentially affected small firms by industry. The total number of potentially affected small firms ranges from 74,097 to 329,470.

TABLE 3—RANGE OF POTENTIALLY AFFECTED SMALL FIRMS

Industry	NAICS	Lower-bound estimate			Upper-bound estimate		
		Total	Small primes from USASpending	Small subcontractors from USASpending	Total	Small firms from SAM	Small subcontractors from USASpending
Agriculture, forestry, fishing and hunting	11	2,198	2,198	0	3,849	3,849	0
Mining	21	94	72	22	888	866	22
Utilities	22	374	358	16	1,601	1,585	16
Construction	23	8,290	4,348	3,942	45,683	41,741	3,942
Manufacturing	31–33	6,621	4,243	2,378	39,631	37,253	2,378
Wholesale trade	42	516	411	105	15,810	15,705	105
Retail trade	44–45	227	222	5	7,500	7,495	5
Transportation and warehousing	48–49	2,120	1,989	131	14,854	14,723	131
Information	51	2,352	2,218	134	11,208	11,074	134
Finance and insurance	52	179	154	25	2,299	2,274	25
Real estate and rental and leasing	53	2,068	2,068	0	7,654	7,654	0
Professional, scientific, and technical services	54	24,371	20,164	4,207	90,547	86,340	4,207
Management of companies and enterprises	55	0	0	0	290	290	0
Administrative and waste services	56	10,251	9,060	1,191	30,932	29,741	1,191
Educational services	61	2,224	2,123	101	11,800	11,699	101
Health care and social assistance	62	4,060	4,054	6	16,904	16,898	6
Arts, entertainment, and recreation	71	546	546	0	3,944	3,944	0
Accommodation and food services	72	2,102	2,098	4	9,321	9,317	4
Other services	81	5,504	5,479	25	14,755	14,730	25
Total private	.....	74,097	61,805	12,292	329,470	317,178	12,292

D. Compliance Requirements of the Proposed Rule, Including Reporting and Recordkeeping

The proposed rule includes a contract clause provision requiring contracting agencies to ensure that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include the non-displacement contract clause. The rule also requires contracting agencies to incorporate the non-displacement contract clause in applicable contracts, ensure contractors provide notice to employees on predecessor contracts of their possible right to an offer of employment, and to consider whether performance of the work in the same locality or localities in which a predecessor contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services. Contracting agencies would also be required, among other things, to provide the list of employees on the predecessor contract to the successor, to forward complaints and other pertinent information to WHD, and to retroactively incorporate the contract clause when it was not initially incorporated. See Section II.B. for a more in-depth discussion of contracting agency requirements.

This proposed rule would require a contractor to, no less than 30 calendar days before completion of the contractor's performance of services on a contract, furnish the contracting officer a list of the names of all service employees under the contract and its subcontracts at that time. This list must also contain the anniversary dates of employment for each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. If changes to the workforce are made after the submission of this certified list, this proposed rule would also require a contractor to furnish the contracting officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance not less than 10 business days before completion of the contract. See section II.B. for a more in-depth discussion of requirements for contractors.

E. Calculating the Impact of the Proposed Rule on Small Business Firms

This proposed rule could result in costs for small business firms in the form of rule familiarization costs, implementation costs, and recordkeeping costs. See section V.C. for an in-depth discussion of these costs.

For rule familiarization costs, the Department estimates that on average, 30 minutes of a human resources staff member's time will be spent reviewing the rulemaking. Some firms will spend more time reviewing the rule, but many others will spend less or no time reviewing the rule, so the Department believes that this average estimate is appropriate. This rule is also substantially similar to the 2011 final rule implementing Executive Order 13495, with which many firms were already familiar. The cost of this time is the median loaded wage for a Compensation, Benefits, and Job Analysis Specialist of $50.25 per hour.[30] Therefore, the Department has estimated regulatory familiarization costs to be $25.13 per small firm ($50.25 per hour $\times$ 0.5 hour). The Department welcomes comments on these rule familiarization estimates.

For implementation costs, the Department estimates that it will take an average of 30 minutes total for contractors to incorporate the contract clause into their covered subcontracts, and another 30 minutes for the other contractor requirements discussed in Section IV.C.2. The cost of this time is the median loaded wage for a Compensation, Benefits, and Job Analysis Specialist of $50.25 per hour. Therefore, the Department has estimated the cost of including the required

[30] This includes the median base wage of $32.30 from the 2020 OEWS plus benefits paid at a rate of 46 percent of the base wage, as estimated from the BLS's Employer Costs for Employee Compensation (ECEC) data, and overhead costs of 17 percent. OEWS data available at: *http://www.bls.gov/oes/current/oes131141.htm.*

contract clause to be $50.25 per small firm ($50.25 per hour × 1 hour).

For recordkeeping costs, the Department estimates that the extra time associated with keeping and providing these records to be an average of 1 hour and be completed by Compensation, Benefits, and Job Analysis Specialist of $50.25 per hour. The estimated recordkeeping cost is $50.25 per firm.

Therefore, the small firms that are impacted by this proposed rule could each have additional costs of $125.63 in Year 1 ($25.13 + $50.25 + $50.25).

As discussed in section V.C.5., the Department does not expect there to be additional costs for successor contracts associated with evaluating predecessor contract employees and available positions beyond what they already would have incurred. In absence of this proposed rule, the successor contractor would incur costs associated with hiring a new workforce and assigning them to positions on the contract. The benefits discussed in section IV.D. would also apply to small firms.

F. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Proposed Rule

The Department is not aware of any relevant Federal rules that conflict with this NPRM.

G. Alternatives to the Proposed Rule

The Department is issuing a proposed rulemaking to implement Executive Order 14055 and cannot deviate from the language of the Executive order, therefore, there are limited instances in which there is discretion to offer regulatory alternatives. However, the Department has discussed a few specific provisions here in which limited alternatives are possible.

First, in cases where a prime contract is above the simplified acquisition threshold, but their subcontract falls below this threshold, the Department could potentially have discretion to exclude these subcontracts from the requirements of this proposed rule. However, the Department believes that based on the way the Executive Order is worded, the intent was not to exclude these subcontracts.

Second, the Department has some discretion in defining the specific analysis that must be completed by contracting agencies regarding location continuity. The Department is considering whether to require contracting officers to analyze additional factors when determining whether to decline to require location continuity. Any requirement of a more in-depth analysis could potentially increase costs for contracting agencies.

There are also a few places in this proposed rule where the Department has developed additional requirements beyond what is laid out in Executive Order 14055. For example, Executive Order 14055 does not address the issue of remote work or telework, including whether it is permissible for a successor contractor to allow its incumbent employees in similar positions to use remote work or telework but not offer remote work or telework to predecessor employees in similar positions. However, based on the Department's previous enforcement experience, lack of clarity on this issue leads to confusion on the part of stakeholders and difficulties in enforcement when trying to determine whether the successor contractor has offered different employment terms and conditions to predecessor employees to discourage them from accepting employment offers. Accordingly, the Department has proposed the additional requirement that the successor contractor must offer employees of the predecessor contractor the option of remote work under reasonably similar terms and conditions, where the successor contractor has or will have any employees in the same or similar occupational classifications who work or will work entirely in a remote capacity. The Department has also proposed specific procedural guidelines for the location continuity analysis that is generally required by the text of the Executive order. Although an alternative would be to issue a proposed rule without these types of more-specific requirements, the Department believes that they are reasonably necessary to effectively implement the Executive order.

VI. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, requires agencies to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing any unfunded Federal mandate that may result in excess of $100 million (adjusted annually for inflation) in expenditures in any one year by State, local, and tribal governments in the aggregate, or by the private sector. This rulemaking is not expected to impose unfunded mandates that exceed that threshold. *See* section V. for an assessment of anticipated costs and benefits.

VII. Executive Order 13132, Federalism

The Department has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism and determined that it does not have federalism implications. The proposed rule would 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.

VIII. Executive Order 13175, Indian Tribal Governments

This proposed rule would not have tribal implications under Executive Order 13175 that would require a tribal summary impact statement. The proposed rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects

Employment, Federal buildings and facilities, Government contracts, Law enforcement, Labor.

Signed this 8th day of July, 2022.

Jessica Looman,

Acting Administrator, Wage and Hour Division.

■ For the reasons set out in the preamble, the Department of Labor proposes to amend Title 29 of the Code of Federal Regulations by adding part 9.

PART 9—NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS

Subpart A—General

Subpart B—Requirements

Subpart C—Enforcement

Subpart D—Administrator's Determination, Mediation, and Administrative Proceedings

Authority: 5 U.S.C. 301; section 6, E.O. 14055, 86 FR 66397; Secretary of Labor's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

Subpart A—General

§ 9.1 Purpose and scope.

(a) *Purpose.* This part contains the Department of Labor's (Department) rules relating to the administration of Executive Order 14055 (Executive order or the order), ''Nondisplacement of Qualified Workers Under Service Contracts,'' and implements the enforcement provisions of the Executive order. The Executive order assigns enforcement responsibility for the nondisplacement requirements to the Department.

(b) *Policy.* (1) The Executive order states that the Federal Government's procurement interests in economy and efficiency are served when the successor contractor or subcontractor hires the predecessor's employees. A carryover workforce minimizes disruption in the delivery of services during a period of transition between contractors, maintains physical and information security, and provides the Federal Government the benefit of an experienced and well-trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements. Accordingly, Executive Order 14055 sets forth a general position of the Federal Government that requiring successor service contractors and subcontractors performing on Federal contracts to offer a right of first refusal to suitable employment (*i.e.,* a job for which the employee is qualified) under the contract to those employees under the predecessor contract and its subcontracts whose employment will be terminated as a result of the award of the successor contract will lead to improved economy and efficiency in Federal procurement.

(2) The Executive order provides that executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, shall, to the extent permitted by law, ensure that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include a clause that requires the contractor and its subcontractors to offer a right of first refusal of employment to service employees employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of the successor contract in positions for which the employees are qualified. Nothing in Executive Order 14055 or this part shall be construed to permit a contractor or subcontractor to fail to comply with any provision of any other Executive order, regulation, or law of the United States.

(c) *Scope.* Neither Executive Order 14055 nor this part creates or changes any rights under the Contract Disputes Act, 41 U.S.C. 7101 *et seq.,* or any private right of action that may exist under other applicable laws. The Executive order provides that disputes regarding the requirement of the contract clause prescribed by section 3 of the order, to the extent permitted by law, shall be disposed of only as provided by the Secretary of Labor (Secretary) in regulations issued under the order. The order, however, does not preclude review of final decisions by the Secretary in accordance with the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701 *et seq.* Additionally, the Executive order also provides that it is to be implemented consistent with applicable law and subject to the availability of appropriations.

§ 9.2 Definitions.

For purposes of this part:

Administrative Review Board (ARB) means the Administrative Review Board, U.S. Department of Labor.

Administrator means the Administrator of the Wage and Hour Division and includes any official of the Wage and Hour Division authorized to perform any of the functions of the Administrator under this part.

Agency means an executive department or agency, including an independent establishment subject to the Federal Property and Administrative Services Act.

Associate Solicitor means the Associate Solicitor for Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210.

Contract or service contract means any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the Service Contract Act (SCA). Contract or contract-like instrument means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services and another party to pay for them. The term *contract* includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing, to the extent such contracts and subcontracts are subject to the SCA. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; exercised contract options; and bilateral contract modifications.

Contracting officer means an agency official with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. This term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer.

Contractor means any individual or other legal entity that is awarded a Federal Government service contract or subcontract under a Federal Government service contract. Unless the context of the provision reflects otherwise, the term ''contractor'' refers collectively to a prime contractor and all of its subcontractors of any tier on a service contract with the Federal Government. The term ''employer'' is used interchangeably with the terms ''contractor'' and ''subcontractor'' in various sections of this part. The U.S. Government, its agencies, and instrumentalities are not contractors, subcontractors, employers, or joint employers for purposes of compliance with the provisions of the Executive order.

Business day means Monday through Friday, except the legal public holidays specified in 5 U.S.C. 6103, any day declared to be a holiday by federal statute or executive order, or any day with respect to which the U.S. Office of Personnel Management has announced that Federal agencies in the Washington, DC, area are closed.

Employee or service employee means a service employee as defined in the Service Contract Act, 41 U.S.C. 6701(3), and its implementing regulations.

Employment opening means any vacancy in a position on the contract, including any vacancy caused by replacing an employee from the predecessor contract with a different employee.

Federal Government means an agency or instrumentality of the United States that enters into a contract pursuant to authority derived from the Constitution or the laws of the United States. This definition does not include the District of Columbia or any Territory or possession of the United States.

Month means a period of 30 consecutive calendar days, regardless of the day of the calendar month on which it begins.

Office of Administrative Law Judges means the Office of Administrative Law Judges, U.S. Department of Labor.

Secretary means the U.S. Secretary of Labor or an authorized representative of the Secretary.

Same or similar work means work that is either identical to or has primary characteristics that are alike in substance to work performed on a contract that is being replaced by the Federal Government or a contractor on a Federal service contract.

Service Contract Act means the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and the implementing regulations in this subtitle.

Solicitation means any request to submit offers, bids, or quotations to the Federal Government.

United States means the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which all or substantially all of the stock is owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including non-appropriated fund instrumentalities. When used in a geographic sense, the United States means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, and Johnston Island.

Wage and Hour Division means the Wage and Hour Division, U.S. Department of Labor.

§ 9.3 Coverage.

(a) This part applies to any contract or solicitation for a contract with an agency, provided that:

(1) It is a contract for services covered by the Service Contract Act; and

(2) The prime contract exceeds the simplified acquisition threshold as defined in 41 U.S.C. 134.

(b) Contracts that satisfy the requirements of paragraph (a) of this section must contain the contract clause set forth at Appendix A, and all contractors on such contracts must comply, unless otherwise excluded or excepted under this part, with the requirements of §§ 9.12(e), (f), and (g).

(c) Contracts and solicitations that satisfy the requirements of paragraph (a) of this section, and that succeed a contract for performance of the same or similar work, must contain the contract clause set forth at Appendix A, and contractors on such contracts must comply, unless otherwise excluded or excepted under this part, with all the requirements of § 9.12.

§ 9.4 Exclusions.

(a) *Small contracts*—(1) *General.* The requirements of this part do not apply to prime contracts under the simplified acquisition threshold set by the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 134), and any subcontracts of any tier under such prime contracts.

(2) *Application to subcontracts.* The amount of the prime contract determines whether a subcontract is excluded from the requirements of this part. If a prime contract is under the simplified acquisition threshold, then each subcontract under that prime contract will also be excluded from the requirements of this part. If a prime contract meets or exceeds the simplified acquisition threshold and meets the other coverage requirements of § 9.3, then each subcontract for services under that prime contract will also be subject to the requirements of this part, even if the value of an individual subcontract is under the simplified acquisition threshold.

(b) *Federal service work constituting only part of employee's job.* This part does not apply to employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of Executive Order 14055.

§ 9.5 Exceptions authorized by Federal agencies.

(a) A contracting agency may waive the application of some or all of the provisions of this part as to a prime contract if the senior procurement executive within the agency issues a written determination that at least one of the following circumstances exists with respect to that contract:

(1) Adhering to the requirements of the order or this part would not advance the Federal Government's interest in achieving economy and efficiency in Federal procurement;

(2) Based on a market analysis, adhering to the requirements of the order or this part would:

(i) Substantially reduce the number of potential bidders so as to frustrate full and open competition, and

(ii) Not be reasonably tailored to the agency's needs for the contract; or

(3) Adhering to the requirements of the order or this part would otherwise be inconsistent with statutes, regulations, Executive Orders, or Presidential Memoranda.

(b) Any agency determination to exercise its exception authority under section 6 of the Executive order and paragraph (c)(1) of this section must include a specific written explanation, including the facts and reasoning supporting the determination, and must be issued no later than the solicitation date. Any agency determination to exercise its exception authority under section 6 of the Executive order and paragraph (c)(1) of this section made after the solicitation date or without a specific written explanation will be inoperative. In such a circumstance, the agency must take action, consistent with § 9.11(f), to incorporate the contract clause set forth in Appendix A of this part into the relevant solicitation or contract.

(c) In exercising the authority to grant an exception for a contract because adhering to the requirements of the order or this part would not advance economy and efficiency, the agency's written analysis must, among other things, compare the anticipated outcomes of hiring predecessor contract employees with those of hiring a new workforce. The consideration of cost and other factors in exercising the agency's exception authority must reflect the general findings in section 1 of the Executive order that the Federal Government's procurement interests in economy and efficiency are normally served when the successor contractor hires the predecessor's employees and must specify how the particular circumstances support a contrary conclusion. General assertions or presumptions of an inability to procure services on an economical and efficient basis using a carryover workforce are insufficient.

(1) Factors that the agency may consider include, but are not limited to, the following:

(i) Whether factors specific to the contract at issue suggest that the use of a carryover workforce would greatly increase disruption to the delivery of services during the period of transition between contracts (*e.g.,* the carryover workforce in its entirety would not be an experienced and trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements as pertinent to the contract at issue and would require extensive training to learn new technology or processes that would not be required of a new workforce).

(ii) Emergency situations, such as a natural disaster or an act of war, that physically displace incumbent employees from the location of the service contract work and make it impossible or impracticable to extend offers to hire as required by the Executive order.

(iii) Situations where the senior procurement executive reasonably believes, based on the predecessor employees' past performance, that the entire predecessor workforce failed, individually as well as collectively to perform suitably on the job and that it is not in the interest of economy and efficiency to provide supplemental training to the predecessor's workers.

(2) Factors the senior procurement executive may not consider in making an exception determination related to economy and efficiency include any general assumption that the use of carryover workforces usually or always greatly increase disruption to the delivery of services during the period of transition between contracts; the job performance of the predecessor contractor (unless a determination has been made that the entire predecessor workforce failed, individually as well as collectively); the seniority of the workforce; and the reconfiguration of the contract work by a successor contractor. The agency also may not consider wage rates and fringe benefits of service employees in making an exception determination except in the following exceptional circumstances:

(i) In emergency situations, such as a natural disaster or an act of war, that physically displace incumbent employees from the locations of the service contract work and make it impossible or impracticable to extend offers to hire as required by the Executive order;

(ii) When a carryover workforce in its entirety would not constitute an experienced and trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements but rather would require extensive training to learn new technology or processes that would not be required of a new workforce; or

(iii) Other, similar circumstances in which the cost of employing a carryover workforce on the successor contract would be prohibitive.

(d) In exercising the authority to grant an exception to a contract because adhering to the requirements of the order or this part would substantially reduce the number of potential bidders so as to frustrate full and open competition, the contracting agency must carry out a market analysis. A likely reduction in the number of potential offerors indicated by market analysis is not, by itself, sufficient to except a contract from coverage under this authority unless the agency concludes that adhering to the nondisplacement requirements would diminish the number of potential offerors to such a degree that adequate competition requirements at a fair and reasonable price could not be achieved and adhering to the requirements of the order would not be reasonably tailored to the agency's needs. In finding that inclusion of the contract clause would not be reasonably tailored to the agency's needs, the agency must specify how it intends to more effectively achieve the benefits that would have been provided by a carryover workforce, including physical and information security and a reduction in disruption of services.

(e) Before exercising the authority to grant an exception to a contract because adhering to the requirements of the order or this part would otherwise be inconsistent with statutes, regulations, Executive orders, or Presidential Memoranda, the contracting agency must consult with the Department of Labor, unless the agency has regulatory authority for implementing and interpreting the statute at issue, or the Department has already issued guidance finding an exception on the basis at issue to be appropriate.

(f) Any request by interested parties for reconsideration of an agency's determination to exercise its exception authority under section 6 of the Executive order shall be directed to the head of the contracting department or agency.

(g) Section 6 of Executive Order 14055 requires that, to the extent permitted by law and consistent with national security and executive branch confidentiality interests, each agency must publish, on a centralized public website, descriptions of the exceptions it has granted under this section. Each agency must also ensure that the contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination to grant an exception. Each agency also must, on a quarterly basis, report to the Office of Management and Budget descriptions of the exceptions granted under this section.

Subpart B—Requirements

§ 9.11 Contracting agency requirements.

(a) *Contract Clause.* The contract clause set forth in Appendix A of this part must be included in covered service contracts, and solicitations for such contracts, that succeed contracts for performance of the same or similar work, except for procurement contracts subject to the FAR. The contract clause in Appendix A affords employees who worked on the prior contract a right of first refusal pursuant to Executive Order 14055. For procurement contracts subject to the FAR, contracting agencies must use the clause set forth in the FAR developed to implement this section. Such clause will accomplish the same purposes as the clause set forth in appendix A of this part and be consistent with the requirements set forth in this section.

(b) *Notice.* Where a contract will be awarded to a successor for the same or similar work, the contracting officer must take steps to ensure that the predecessor contractor provides written notice to service employees employed under the predecessor contract of their possible right to an offer of employment, consistent with the requirements in § 9.12(e)(3).

(c) *Location Continuity.* (1) When an agency prepares a solicitation for a service contract that succeeds a contract for performance of the same or similar work, the agency must consider whether performance of the work in the same locality or localities in which the contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services.

(2) If an agency determines that performance of the contract in the same locality or localities is reasonably necessary to ensure economical and efficient provision of services, then the agency must, to the extent consistent with law, include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality or localities.

(3) Agencies must complete the location continuity analysis required under paragraph (c)(1) of this section prior to the date of issuance of the solicitation. Any agency determination to decline to include a requirement or preference for location continuity in the

solicitation must be made in writing by the agency's senior procurement executive, and the agency must include in the solicitation a statement that the analysis required by paragraph (c)(1) of this section has been conducted and that the agency has determined that no such requirement or preference is warranted. When an agency decides not to include a location continuity requirement or preference, the agency must ensure that the contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination and the right of interested parties to request reconsideration. The contracting agency must ensure that the contractor provides this notice within 5 business days after the solicitation is issued and confirms to the agency that such notice has been provided. Any request by interested parties for reconsideration of an agency's decision regarding a location continuity requirement or preference must be directed to the head of the contracting department or agency.

(4) If the successor contract will be performed in a new locality, nothing in this part requires the contracting agency or the successor contractor to pay the relocation costs of employees who exercise their right to work for the successor contractor or subcontractor under the contract clause.

(d) *Disclosures.* The contracting officer must provide the incumbent contractor's list of employees referenced in § 9.12(e) to the successor contractor no later than 21 calendar days prior to the start of performance on the successor's contract and, on request, the predecessor contractor must provide the employee list to employees or their representatives, consistent with the Privacy Act, 5 U.S.C. 552a, and other applicable law When the incumbent contractor provides the contracting agency with an updated employee list pursuant to § 9.12(e)(2), the contracting agency will provide the updated list to the successor contractor no later than 7 calendar days prior to the start of performance on the successor contract. However, if the contract is awarded less than 30 days before the beginning of performance, then the predecessor contractor and the contracting agency must transmit the list as soon as practicable.

(e) *Actions on complaints*—(1) *Reporting*—(i) *Reporting time frame.* Within 15 calendar days of receiving a complaint or being contacted by the Wage and Hour Division with a request for the information in paragraph (e)(1)(ii) of this section, the contracting officer will forward all information listed in paragraph (e)(1)(ii) of this section to the local Wage and Hour office.

(ii) *Report contents:* The contracting officer will forward to the Wage and Hour Division any:

(A) Complaint of contractor noncompliance with this part;

(B) Available statements by the employee or the contractor regarding the alleged violation;

(C) Evidence that a seniority list was issued by the predecessor and provided to the successor;

(D) A copy of the seniority list;

(E) Evidence that the nondisplacement contract clause was included in the contract or that the contract was excepted by the contracting agency;

(F) Information concerning known settlement negotiations between the parties, if applicable;

(G) Any other relevant facts known to the contracting officer or other information requested by the Wage and Hour Division.

(2) [Reserved]

(f) *Incorporation of omitted contract clause.* Where the Department or the contracting agency discovers or determines, whether before or subsequent to a contract award, that a contracting agency made an erroneous determination that Executive Order 14055 or this part did not apply to a particular contract and/or failed to include the applicable contract clause in a contract to which the Executive order applies, the contracting agency will incorporate the contract clause in the contract retroactive to commencement of performance under the contract through the exercise of any and all authority that may be needed (including, where necessary, its authority to negotiate or amend, its authority to pay any necessary additional costs, and its authority under any contract provision authorizing changes, cancellation and termination). Such incorporation must happen either on the initiative of the contracting agency or within 15 calendar days of notification by an authorized representative of the Department of Labor. Where the circumstances so warrant, the Administrator may, at their discretion, require solely prospective incorporation of the contract clause from the date of incorporation.

§ 9.12 Contractor requirements and prerogatives.

(a) *General*—(1) *No filling of employment openings prior to right of first refusal.* Except as provided under the exclusion listed in § 9.4(b) or the exceptions listed in paragraph (c) of this section, a successor contractor or subcontractor must not fill any employment openings for positions subject to the SCA under the contract prior to making good faith offers of employment (*i.e.,* a right of first refusal to employment on the contract), in positions for which the employees are qualified, to those employees employed under the predecessor contract whose employment will be terminated as a result of award of the successor contract or the expiration of the contract under which the employees were hired. To the extent necessary to meet its anticipated staffing pattern and in accordance with the requirements described at 9.12(d), the contractor and its subcontractors must make a bona fide, express offer of employment to each employee to a position for which the employee is qualified and must state the time within which the employee must accept such offer. In no case may the contractor or subcontractor give an employee fewer than 10 business days to consider and accept the offer of employment.

(2) *Right of first refusal exists when no seniority list is available.* The successor contractor's obligation to offer a right of first refusal exists even if the successor contractor has not been provided a list of the predecessor contractor's and subcontractor(s)' employees or if the list does not contain the names of all persons employed during the final month of contract performance.

(3) *Determining eligibility.* While a person's entitlement to a job offer under this part usually will be based on whether the person is named on the certified list of all service employees working under the predecessor's contract or subcontracts during the last month of contract performance, a contractor must also accept other reliable evidence of an employee's entitlement to a job offer under this part. For example, even if a person's name does not appear on the list of employees on the predecessor contract, an employee's assertion of an assignment to work on the predecessor contract during the predecessor's last month of performance, coupled with contracting agency staff verification, could constitute reliable evidence of an employee's entitlement to a job offer under this part. Similarly, an employee could demonstrate eligibility by producing a paycheck stub identifying the work location and dates worked or otherwise reflecting that the employee worked on the predecessor contract during the last month of performance.

(4) *Obligation to ensure proper placement of contract clause.* A contractor or subcontractor has an affirmative obligation to ensure its covered contract contains the contract

clause. The contractor or subcontractor must notify the contracting officer as soon as possible if the contracting officer did not incorporate the required contract clause into a contract.

(b) *Method of job offer*—(1) *Bona-fide offers to qualified employees.* Except as otherwise provided in this part, a contractor must make a bona fide, express offer of employment to each qualified employee on the predecessor contract before offering employment on the contract to any other person. In determining whether an employee is entitled to a bona fide, express offer of employment, a contractor may consider the exceptions set forth in paragraph (c) of this section and the conditions detailed in paragraph (d) of this section. A contractor may only use employment screening processes (*i.e.,* drug tests, background checks, security clearance checks, and similar pre-employment screening mechanisms) when such processes are provided for by the contracting agency, are conditions of the service contract, and are consistent with the Executive order. While the results of such screenings may show that an employee is unqualified for a position and thus not entitled to an offer of employment, a contractor may not use the requirement of an employment screening process by itself to conclude an employee is unqualified because they have not yet completed that screening process.

(2) *Establishing time limit for employee response.* The contractor must state the time within which an employee must accept an employment offer. In no case may the period in which the employee has to accept the offer be less than 10 business days. The obligation to offer employment under this part will cease upon the employee's first refusal of a bona fide offer of employment on the contract.

(3) *Process.* The successor contractor must, in writing or orally, offer employment to each employee. See also paragraph (f) of this section, Recordkeeping. In order to ensure that the offer is effectively communicated, the successor contractor should make reasonable efforts to make the offer in a language that each worker understands. For example, if the successor contractor holds a meeting for a group of employees on the predecessor contract in order to extend the employment offers, having a co-worker or other person who fluently translates for employees who are not fluent in English would satisfy this provision. Where offers are not made in person, the offers should be sent by registered or certified mail to the employees' last known address or by any other means normally ensuring delivery. Examples of such other means include, but are not limited to, email to the last known email address, delivery to the last known address by commercial courier or express delivery services, or by personal service to the last known address.

(4) *Different job position.* As a general matter, an offer of employment on the successor's contract will be presumed to be a bona fide offer of employment, even if it is not for a position similar to the one the employee previously held, so long as it is one for which the employee is qualified. If a question arises concerning an employee's qualifications, that question must be decided based upon the employee's education and employment history, with particular emphasis on the employee's experience on the predecessor contract. A contractor must base its decision regarding an employee's qualifications on credible information provided by a knowledgeable source, such as the predecessor contractor, the local supervisor, the employee, or the contracting agency.

(5) *Different employment terms and conditions.* An offer of employment to a position on the contract under different employment terms and conditions than the employee held with the predecessor contractor is permitted provided that the offer is still bona fide, *i.e.,* the different employment terms and conditions are not offered to discourage the employee from accepting the offer. This would include changes to pay or benefits. Where the successor contractor has or will have any employees in the same or similar occupational classifications during the course of the contract who work or will work entirely in a remote capacity, the successor contractor must offer employees of the predecessor contractor the option of remote work under reasonably similar terms and conditions.

(6) *Relocation costs.* If the successor contract will be performed in a new locality, nothing in this part requires or recommends that contractors or subcontractors pay the relocation costs of employees who exercise their right to work for the successor contractor or subcontractor under this part.

(7) *Termination after contract commencement.* Where an employee is terminated by the successor contractor under circumstances suggesting the offer of employment may not have been bona fide, the facts and circumstances of the offer and the termination will be closely examined during any compliance action to determine whether the offer was bona fide.

(8) *Retroactive incorporation of contract clause modifies contractor's obligations.* Pursuant to § 9.11(f), in a situation where the contracting agency retroactively incorporates the contract clause, if the successor contractor already hired employees to perform on the contract at the time the clause was retroactively incorporated, the successor contractor will be required to offer a right of first refusal of employment to the predecessor's employees in accordance with the requirements of Executive Order 14055 and this part. Where, pursuant to § 9.11(f), the Administrator has exercised their discretion and required only prospective incorporation of the contract clause from the date of incorporation, the successor contractor must provide the employees on the predecessor contract a right of first refusal for any positions that remain open. In the event any positions become vacant within 90 calendar days of the first date of contract performance, the successor contractor must provide the employees of the predecessor contractor the right of first refusal as well, regardless of whether incorporation of the contract clause is retroactive or prospective.

(c) *Exceptions.* The successor contractor is responsible for demonstrating the applicability of the following exceptions to the nondisplacement provisions subject to this part.

(1) *Nondisplaced employees*—(i) A successor contractor or subcontractor is not required to offer employment to any employee of the predecessor contractor who will be retained by the predecessor contractor.

(ii) The successor contractor must presume that all employees hired to work under a predecessor's Federal service contract will be terminated as a result of the award of the successor contract, unless it can demonstrate a reasonable belief to the contrary based upon reliable information provided by a knowledgeable source, such as the predecessor contractor, the employee, or the contracting agency.

(2) *Predecessor contract's non-service workers*—(i) A successor contractor or subcontractor is not required to offer employment to any person working on the predecessor contract who is not a service employee as defined in § 9.2 of this part.

(ii) The successor contractor must presume that all employees hired to work under a predecessor's federal service contract are service employees, unless it can demonstrate a reasonable belief to the contrary based upon reliable information provided by a

knowledgeable source, such as the predecessor contractor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry is not sufficient to claim this exception.

(3) *Employee's past performance*—(i) A successor contractor or subcontractor is not required to offer employment to an employee of the predecessor contractor if the successor contractor or any of its subcontractors reasonably believes, based on reliable evidence of the particular employee's past performance, that there would be just cause to discharge the employee if employed by the successor contractor or any subcontractor.

(ii) A successor contractor must presume that there would be no just cause to discharge any employees working under the predecessor contract in the last month of performance, unless it can demonstrate a reasonable belief to the contrary that is based upon reliable evidence provided by a knowledgeable source, such as the predecessor contractor and its subcontractors, the local supervisor, the employee, or the contracting agency.

(A) For example, a successor contractor may demonstrate its reasonable belief that there would be just cause to discharge an employee through reliable written evidence that the predecessor contractor initiated a process to terminate the employee for conduct warranting termination prior to the expiration of the contract, but the termination process was not completed before the contract expired. Conversely, written evidence of disciplinary action taken for poor performance without a recommendation of termination would generally not constitute reliable evidence of just cause to discharge the employee. This determination must be made on an individual basis for each employee. Information regarding the general performance of the predecessor contractor is not sufficient to claim this exception.

(B) [Reserved].

(4) *Nonfederal work*—(i) A successor contractor or subcontractor is not required to offer employment to any employee working under a predecessor's federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part.

(ii) The successor contractor must presume that no employees who worked under a predecessor's federal service contract also worked on one or more nonfederal service contracts as part of a single job, unless the successor can demonstrate a reasonable belief based on reliable evidence to the contrary. The successor contractor must demonstrate that its belief is reasonable and is based upon reliable evidence provided by a knowledgeable source, such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry is not sufficient.

(iii) A successor contractor that makes a reasonable determination that a predecessor contractor's employee also performed work on one or more nonfederal service contracts as part of a single job must also make a reasonable determination that the employee was not deployed in such a way that was designed to avoid the purposes of this part. The successor contractor must demonstrate that its belief is reasonable and is based upon reliable evidence that has been provided by a knowledgeable source, such as the employee or the contracting agency.

(d) *Reduced staffing*—(1) *Contractor determines how many employees.* (i) A successor contractor or subcontractor will determine the number of employees necessary for efficient performance of the contract or subcontract and, for bona fide staffing or work assignment reasons, may elect to employ fewer employees than the predecessor contractor employed in connection with performance of the work. Thus, the successor contractor need not offer employment on the contract to all employees on the predecessor contract, but must offer employment only to the number of eligible employees the successor contractor believes necessary to meet its anticipated staffing pattern, except that:

(ii) Where, in accordance with this authority to employ fewer employees, a successor contractor does not offer employment to all the predecessor contract employees, the obligation to offer employment will continue for 90 calendar days after the successor contractor's first date of performance on the contract. The contractor's obligation under this part will end when all of the predecessor contract employees have received a bona fide job offer, as described in § 9.12(b), or when the 90-day window of obligation has expired. The following three examples demonstrate the principle.

(A) A contractor with 18 employment openings and a list of 20 employees from the predecessor contract must continue to offer employment to individuals on the list until 18 of the employees accept the contractor's employment offer or until the remaining employees have rejected the offer. If an employee quits or is terminated from the successor contract within 90 calendar days of the first date of contract performance, the contractor must first offer that employment opening to any remaining eligible employees of the predecessor contract.

(B) A successor contractor originally offers 20 jobs to predecessor contract employees on a contract that had 30 positions under the predecessor contractor. The first 20 predecessor contract employees the successor contractor approaches accept the employment offer. Within a month of commencing work on the contract, the successor determines that it must hire seven additional employees to perform the contract requirements. The first three predecessor contract employees to whom the successor offers employment decline the offer; however, the next four predecessor contract employees accept the offers. In accordance with the provisions of this section, the successor contractor offers employment on the contract to the three remaining predecessor contract employees who all accept; however, two employees on the contract quit 5 weeks later. The successor contractor has no further obligation under this part to make a second employment offer to the persons who previously declined an offer of employment on the contract.

(C) A successor contractor reduces staff on a successor contract by two positions from the predecessor contract's staffing pattern. Each predecessor contract employee the successor approaches accepts the employment offer; therefore, employment offers are not made to two predecessor contract employees. The successor contractor terminates an employee five months later. The successor contractor has no obligation to offer employment to the two remaining employees from the predecessor contract because more than 90 calendar days have passed since the successor contractor's first date of performance on the contract.

(2) *Changes to staffing pattern.* Where a contractor reduces the number of employees in any occupation on a contract with multiple occupations, resulting in some displacement, the contractor must scrutinize each employee's qualifications in order to offer the greatest possible number of predecessor contract employees positions equivalent to those they held under the predecessor contract. Example: A successor contract is awarded for a food preparation and services contract with Cook II, Cook I,

and dishwasher positions. The Cook II position requires a higher level of skill than the Cook I position. The successor contractor reconfigures the staffing pattern on the contract by increasing the number of persons employed as Cook IIs and Dishwashers and reducing the number of Cook I employees. The successor contractor must examine the qualifications of each Cook I to determine whether they are qualified for either a Cook II or Dishwasher position. Conversely, were the contractor to increase the number of Cook I employees, decrease the number of Cook II employees, and keep the same number of Dishwashers, the contractor would generally be able offer Cook I positions to some Cook II employees, because the Cook II performs a higher-level occupation.

(3) *Contractor determines which employees.* The contractor, subject to provisions of this part and other applicable restrictions (including non-discrimination laws and regulations), will determine to which employees it will offer employment. See § 9.1(b) regarding compliance with requirements of other Executive orders, regulations, or Federal, state, or local laws.

(e) *Contractor obligations near end of contract performance*—(1) *Certified list of employees provided 30 calendar days before contract completion.* The contractor will, not less than 30 calendar days before completion of the contractor's performance of services on a contract, furnish the contracting officer with a list of the names of all service employees working under the contract and its subcontracts at the time the list is submitted. The list must also contain anniversary dates of employment of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Assuming there are no changes to the workforce before the contract is completed, the contractor may use the list submitted, or to be submitted, to satisfy the requirements of the contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

(2) *Certified list of employees provided 10 days before contract completion.* Where changes to the workforce are made after the submission of the certified list described in paragraph (e)(1) of this section, the contractor will, not less than 10 days before completion of the contractor's performance of services on a contract, furnish the contracting officer with a certified list of the names of all service employees employed within the last month of contract performance. The list must also contain anniversary dates of employment and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. The contractor may use the list submitted to satisfy the requirements of the contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

(3) *Notices.* Before contract completion, the contractor must provide written notice to service employees employed under the contract of their possible right to an offer of employment on the successor contract. Such notice will be either posted in a conspicuous place at the worksite or delivered to the employees individually. Where the workforce on the predecessor contract is comprised of a significant portion of workers who are not fluent in English, the notice will be provided in both English and a language in which the employees are fluent. Multiple language notices are required where significant portions of the workforce speak different languages and there is no common language. Contractors may provide the notice set forth in Appendix B to this part in either a physical posting at the job site, or in another manner that effectively provides individual notice such as individual paper notices or effective email notification to the affected employees. To be effective, email notification must result in an electronic delivery receipt or some other reliable confirmation that the intended recipient received the notice. Any particular determination of the adequacy of a notification, regardless of the method used, will be fact-dependent and made on a case-by-case basis.

(f) *Recordkeeping*—(1) *Form of records.* This part prescribes no particular order or form of records for contractors. A contractor may use records developed for any purpose to satisfy the requirements of this part, provided the records otherwise meet the requirements and purposes of this part and are fully accessible. The requirements of this part will apply to all records regardless of their format (*e.g.,* paper or electronic).

(2) *Records to be retained.* (i) The contractor must maintain copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made.

(ii) The contractor must maintain a copy of any record that forms the basis for any exclusion or exception claimed under this part.

(iii) The contractor must maintain a copy of the employee list received from the contracting agency and the employee list provided to the contracting agency. See paragraph (e) of this section, contractor obligations near end of contract performance.

(iv) Every contractor that makes retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division pursuant to § 9.23(b), must:

(A) Record and preserve, as an entry on the pay records, the amount of such payment to each employee, the period covered by such payment, and the date of payment.

(B) Prepare a report of each such payment on a receipt form provided by or authorized by the Wage and Hour Division, and

(1) Preserve a copy as part of the records,

(2) Deliver a copy to the employee, and

(3) File the original, as evidence of payment by the contractor and receipt by the employee, with the Administrator within 10 business days after payment is made.

(v) The contractor must maintain evidence of any notices that they have provided to workers, or workers' collective bargaining representatives, to satisfy the requirements of the order or these regulations, including notices of the possibility of employment on the successor contract as required under § 9.12(e)(3); notices of agency exceptions that a contracting agency requires a contractor to provide under § 9.5(g) and section 6(b) of the order; and notices that a contracting agency has declined to include location continuity requirements or preferences in a solicitation pursuant to § 9.11(c)(3).

(3) *Records retention period.* The contractor must retain records prescribed by § 9.12(f)(2) of this part for not less than a period of 3 years from the date the records were created.

(4) *Disclosure.* The contractor must provide copies of such documentation upon request of any authorized representative of the contracting agency or Department of Labor.

(g) *Investigations.* The contractor must cooperate in any review or investigation conducted pursuant to this part and must not interfere with the investigation or intimidate, blacklist, discharge, or in any other manner discriminate against any person because such person has

cooperated in an investigation or proceeding under this part or has attempted to exercise any rights afforded under this part. This obligation to cooperate with investigations is not limited to investigations of the contractor's own actions, and also includes investigations related to other contractors (*e.g.,* predecessor and successor contractors) and subcontractors.

§ 9.13 Subcontracts.

(a) *Subcontractor liability.* The contractor or subcontractor must insert in any subcontracts the clause contained in Appendix A. The contractor or subcontractor must also insert a clause in any subcontracts to require the subcontractor to include the clause in Appendix A in any lower tier subcontracts. The prime contractor is responsible for the compliance of any subcontractor or lower tier subcontractor with the contract clause in Appendix A. In the event of any violations of the clause in Appendix A, the prime contractor and any subcontractor(s) responsible will be jointly and severally liable for any unpaid wages and pre-judgment and post-judgment interest, and may be subject to debarment, as appropriate.

(b) *Discontinuation of subcontractor services.* When a prime contractor that is subject to the nondisplacement requirements of this part discontinues the services of a subcontractor at any time during the contract and performs those services itself, the prime contractor must offer employment on the contract to the subcontractor's employees who would otherwise be displaced and would otherwise be qualified in accordance with this part.

Subpart C—Enforcement

§ 9.21 Complaints.

(a) *Filing a complaint.* Any employee of the predecessor contractor who believes the successor contractor has violated this part, or their authorized representative, may file a complaint with the Wage and Hour Division within 120 days from the first date of contract performance. The employee or authorized representative may file a complaint directly with any office of the Wage and Hour Division. No particular form of complaint is required. A complaint may be filed orally or in writing. The Wage and Hour Division will accept the complaint in any language.

(b) *Confidentiality.* It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of any individual who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would tend to reveal the individual's identity, will not be disclosed in any manner to anyone other than Federal officials without the prior consent of the individual. Disclosure of such statements will be governed by the provisions of the Freedom of Information Act (5 U.S.C. 552, *see* 29 CFR part 70) and the Privacy Act of 1974 (5 U.S.C. 552a).

§ 9.22 Wage and Hour Division investigation.

(a) *Initial investigation.* The Administrator of the Wage and Hour Division (Administrator) may initiate an investigation under this part either as the result of a complaint or at any time on the Administrator's own initiative. The Administrator may investigate potential violations of, and obtain compliance with, the Executive Order. As part of the investigation, the Administrator may conduct interviews with the predecessor and successor contractors, as well as confidential interviews with the relevant contractors' workers at the worksite during normal work hours; inspect the relevant contractors' records; make copies and transcriptions of such records; and require the production of any documents or other evidence deemed necessary to determine whether a violation of this part, including conduct warranting imposition of debarment pursuant to § 9.23(d), has occurred. Federal agencies and contractors shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all aspects of investigations.

(b) *Subsequent investigations.* The Administrator may conduct a new investigation or issue a new determination if the Administrator concludes circumstances warrant, such as where the proceedings before an Administrative Law Judge reveal that there may have been violations with respect to other employees of the contractor, where imposition of debarment is appropriate, or where the contractor has failed to comply with an order of the Secretary.

§ 9.23 Remedies and sanctions for violations of this part.

(a) *Authority.* Executive Order 14055 provides that the Secretary will have the authority to issue final orders prescribing appropriate sanctions and remedies, including but not limited to requiring the contractor to offer employment, in positions for which the employees are qualified, to employees from the predecessor contract and the payment of wages lost.

(b) *Unpaid wages or other relief due.* In addition to satisfying any costs imposed under §§ 9.34(j) or 9.35(d) of this part, a contractor that violates any provision of this part must take appropriate action to abate the violation, which may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages) and other terms, conditions, and privileges of that employment. The contractor will pay interest on any underpayment of wages and on any other monetary relief due under this part. Interest on any back wages or monetary relief provided for in this part will be calculated using the percentage established for the underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily.

(c) *Withholding of funds*—(1) *Unpaid wages or other relief.* The Administrator may additionally direct that payments due on the contract or any other contract between the contractor and the Federal Government be withheld in such amounts as may be necessary to pay unpaid wages or to provide other appropriate relief due under this part. Upon the final order of the Secretary that such monies are due, the Administrator may direct the relevant contracting agency to transfer the withheld funds to the Department of Labor for disbursement.

(2) *List of employees.* If the contracting officer or the Administrator finds that the predecessor contractor has failed to provide a list of the names of service employees working under the contract and its subcontracts during the last month of contract performance in accordance with § 9.12(e), the contracting officer will, at their own discretion or as directed by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the contracting officer.

(3) *Notification to a contractor of the withholding of funds.* If the Administrator directs a contracting agency withhold funds from a contractor pursuant to § 9.23(c)(1), the Administrator or contracting agency must notify the affected contractor.

(d) *Debarment.* Where the Secretary finds that a contractor has failed to comply with any order of the Secretary or has committed willful violations of Executive Order 14055 or this part, the Secretary may order that the contractor

and its responsible officers, and any firm in which the contractor has a substantial interest, will be ineligible to be awarded any contract or subcontract of the United States for a period of up to 3 years. Neither an order for debarment of any contractor or subcontractor from further government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors will be carried out without affording the contractor or subcontractor an opportunity for a hearing.

(e) *Antiretaliation.* When the Administrator finds that a contractor has interfered with an investigation of the Administrator under this part or has in any manner discriminated against any person because such person has cooperated in such an investigation or has attempted to exercise any rights afforded under this part, the Administrator may require the contractor to provide any relief to the affected person as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages, including interest.

Subpart D—Administrator's Determination, Mediation, and Administrative Proceedings

§ 9.31 Determination of the Administrator.

(a) *Written determination.* Upon completion of an investigation under § 9.22, the Administrator will issue a written determination of whether a violation has occurred. The determination will contain a statement of the investigation findings and conclusions. A determination that a violation occurred will address appropriate relief and the issue of debarment where appropriate. The Administrator will notify any complainant(s); employee representative(s); contractor(s), including the prime contractor if a subcontractor is implicated; contractor representative(s); and contracting officer by registered or certified mail to the last known address or by any other means normally assuring delivery, of the investigation findings.

(b) *Notice to parties and effect*—(1) *Relevant facts in dispute.* If the Administrator concludes that relevant facts are in dispute, the Administrator's determination will so advise the parties and their representatives, if any. It will further advise that the notice of determination will become the final order of the Secretary and will not be appealable in any administrative or judicial proceeding unless an interested party requests a hearing within 20 calendar days of the date of the Administrator's determination, in accordance with § 9.32(b)(1). Such a request may be sent by mail or by any other means normally assuring delivery to the Chief Administrative Law Judge of the Office of the Administrative Law Judges. A detailed statement of the reasons why the Administrator's determination is in error, including facts alleged to be in dispute, if any, must be submitted with the request for a hearing. The Administrator's determination not to seek debarment will not be appealable.

(2) *Relevant facts not in dispute.* If the Administrator concludes that no relevant facts are in dispute, the parties and their representatives, if any, will be so advised. They will also be advised that the determination will become the final order of the Secretary and will not be appealable in any administrative or judicial proceeding unless an interested party files a petition for review with the Administrative Review Board pursuant to § 9.32(b)(2) within 20 calendar days of the date of the determination of the Administrator. The determination will further advise that if an aggrieved party disagrees with the factual findings or believes there are relevant facts in dispute, the aggrieved party may advise the Administrator of the disputed facts and request a hearing by mail or by any other means normally assuring delivery. The request must be sent within 20 calendar days of the date of the determination. The Administrator will either refer the request for a hearing to the Chief Administrative Law Judge or notify the parties and their representatives, if any, of the determination of the Administrator that there is no relevant issue of fact and that a petition for review may be filed with the Administrative Review Board within 20 calendar days of the date of the notice, in accordance with the procedures at § 9.32(b)(2).

§ 9.32 Requesting appeals.

(a) *General.* If any party desires review of the determination of the Administrator, including judicial review, a request for an Administrative Law Judge hearing or petition for review by the Administrative Review Board must first be filed in accordance with § 9.31(b) of this part.

(b) *Process*—(1) *For Administrative Law Judge hearing*—(i) *General.* Any aggrieved party may request a hearing by an Administrative Law Judge by sending a request to the Chief Administrative Law Judge of the Office of the Administrative Law Judges within 20 calendar days of the determination of the Administrator. The request for a hearing may be sent by mail or by any other means normally assuring delivery and will be accompanied by a copy of the determination of the Administrator. At the same time, a copy of any request for a hearing will be sent to the complainant(s) or successor contractor, and their representatives, if any, as appropriate; the contracting officer; the Administrator of the Wage and Hour Division; and the Associate Solicitor.

(ii) *By the complainant.* The complainant or any other interested party may request a hearing where the Administrator determines, after investigation, that the employer has not committed violation(s), or where the complainant or other interested party believes that the Administrator has ordered inadequate monetary relief. In such a proceeding, the party requesting the hearing will be the prosecuting party and the employer will be the respondent; the Administrator may intervene as a party or appear as amicus curiae at any time in the proceeding, at the Administrator's discretion.

(iii) *By the contractor.* The employer or any other interested party may request a hearing where the Administrator determines, after investigation, that the employer has committed violation(s). In such a proceeding, the Administrator will be the prosecuting party and the employer will be the respondent.

(2) *For Administrative Review Board review*—(i) *General.* Any aggrieved party desiring review of a determination of the Administrator in which there were no relevant facts in dispute, or of an Administrative Law Judge's decision, must file a petition for review with the Administrative Review Board within 20 calendar days of the date of the determination or decision. The petition must be served on all parties and, where the case involves an appeal from an Administrative Law Judge's decision, the Chief Administrative Law Judge. See also § 9.32(b)(1).

(ii) *Contents and service*—(A) *Contents.* A petition for review shall refer to the specific findings of fact, conclusions of law, or order at issue.

(B) *Service.* Copies of the petition and all briefs shall be served on the Administrator, Wage and Hour Division, and on the Associate Solicitor.

(C) *Effect of filing.* If a timely request for hearing or petition for review is filed, the determination of the Administrator or the decision of the Administrative Law Judge will be inoperative unless and until the Administrative Review Board issues an order affirming the determination or decision, or the determination or decision otherwise becomes a final

order of the Secretary. If a petition for review concerns only the imposition of debarment, however, the remainder of the decision shall be effective immediately. No judicial review will be available unless a timely petition for review to the Administrative Review Board is first filed.

§ 9.33 Mediation.

The parties are encouraged to resolve disputes by using settlement judges to mediate settlement negotiations pursuant to the procedures and requirements of 29 CFR 18.13 or any successor to the regulation. Any settlement agreement reached must be approved by the assigned Administrative Law Judge consistent with the procedures and requirements of 29 CFR 18.71.

§ 9.34 Administrative Law Judge hearings.

(a) *Authority*—(1) General. The Office of Administrative Law Judges has jurisdiction to hear and decide appeals pursuant to § 9.31(b)(1) concerning questions of law and fact from determinations of the Administrator issued under § 9.31. In considering the matters within the scope of its jurisdiction, the Administrative Law Judge will act as the authorized representative of the Secretary and shall act fully and, subject to an appeal filed under § 9.32(b)(2), finally on behalf of the Secretary concerning such matters.

(2) *Limit on scope of review.* (i) The Administrative Law Judge will not have jurisdiction to pass on the validity of any provision of this part.

(ii) The Equal Access to Justice Act, as amended, does not apply to hearings under this part. Accordingly, an Administrative Law Judge will have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Scheduling.* If the case is not stayed to attempt settlement in accordance with § 9.33(a), the Administrative Law Judge to whom the case is assigned will, within 15 calendar days following receipt of the request for hearing, notify the parties and any representatives, of the day, time, and place for hearing. The date of the hearing will not be more than 60 days from the date of receipt of the request for hearing.

(c) *Dismissing challenges for failure to participate.* The Administrative Law Judge may, at the request of a party or on their own motion, dismiss a challenge to a determination of the Administrator upon the failure of the party requesting a hearing or their representative to attend a hearing without good cause; or upon the failure of the party to comply with a lawful order of the Administrative Law Judge.

(d) *Administrator's participation.* At the Administrator's discretion, the Administrator has the right to participate as a party or as amicus curiae at any time in the proceedings, including the right to petition for review of a decision of an Administrative Law Judge in which the Administrator has not previously participated. The Administrator will participate as a party in any proceeding in which the Administrator has found any violation of this part, except where the complainant or other interested party challenges only the amount of monetary relief. See also § 9.32(b)(2)(i)(C).

(e) *Agency participation.* A Federal agency that is interested in a proceeding may participate as amicus curiae at any time in the proceedings. At the request of such Federal agency, copies of all pleadings in a case shall be served on the Federal agency, whether or not the agency is participating in the proceeding.

(f) *Hearing documents.* Copies of the request for hearing under this part and documents filed in all cases, whether or not the Administrator is participating in the proceeding, shall be sent to the Administrator, Wage and Hour Division, and to the Associate Solicitor.

(g) *Rules of practice.* The rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges at 29 CFR part 18, subpart A, shall be applicable to the proceedings provided by this section. This part is controlling to the extent it provides any rules of special application that may be inconsistent with the rules in 29 CFR part 18, subpart A. The Rules of Evidence at 29 CFR 18, subpart B, shall not apply. Rules or principles designed to assure production of the most probative evidence available shall be applied. The Administrative Law Judge may exclude evidence that is immaterial, irrelevant, or unduly repetitive.

(h) *Decisions.* The Administrative Law Judge will issue a decision within 60 days after completion of the proceeding. The decision will contain appropriate findings, conclusions, and an order and be served upon all parties to the proceeding.

(i) *Orders.* Upon the conclusion of the hearing and the issuance of a decision that a violation has occurred, the Administrative Law Judge will issue an order that the successor contractor take appropriate action to remedy the violation. This may include hiring the affected employee(s) in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. Where the Administrator has sought debarment, the order shall also address whether such sanctions are appropriate.

(j) *Costs.* If an order finding the successor contractor violated this part is issued, the Administrative Law Judge may assess against the contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding. This amount will be awarded in addition to any unpaid wages or other relief due under § 9.23(b).

(k) *Finality.* The decision of the Administrative Law Judge will become the final order of the Secretary, unless a petition for review is timely filed with the Administrative Review Board as set forth in § 9.32(b)(2) of this part.

§ 9.35 Administrative Review Board proceedings.

(a) *Authority*—(1) *General.* The Administrative Review Board (ARB) has jurisdiction to hear and decide in its discretion appeals pursuant to § 9.31(b)(2) concerning questions of law and fact from determinations of the Administrator issued under § 9.31 and from decisions of Administrative Law Judges issued under § 9.34. In considering the matters within the scope of its jurisdiction, the ARB acts as the authorized representative of the Secretary and acts fully on behalf of the Secretary concerning such matters.

(2) *Limit on scope of review.* (i) The ARB will not have jurisdiction to pass on the validity of any provision of this part. The ARB is an appellate body and will decide cases properly before it on the basis of substantial evidence contained in the entire record before it. The ARB will not receive new evidence into the record.

(ii) The Equal Access to Justice Act, as amended, does not apply to proceedings under this part. Accordingly, for any proceeding under this part, the Administrative Review Board will have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act.

(b) *Decisions.* The ARB's final decision will be issued within 90 days of the receipt of the petition for review and will be served upon all parties by mail to the last known address and on the Chief Administrative Law Judge (in cases involving an appeal from an Administrative Law Judge's decision).

(c) *Orders.* If the ARB concludes that the contractor has violated this part, the final order will order action to remedy the violation, which may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. Where the Administrator has sought imposition of debarment, the ARB will determine whether an order imposing debarment is appropriate. The ARB's order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(d) *Costs.* If a final order finding the successor contractor violated this part is issued, the ARB may assess against the contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding. This amount will be awarded in addition to any unpaid wages or other relief due under § 9.23(b).

(e) *Finality.* The decision of the Administrative Review Board will become the final order of the Secretary in accordance with Secretary's Order 01–2020 (or any successor to that order), which provides for discretionary review of such orders by the Secretary.

§ 9.36 Severability.

If any provision of this part is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this part and shall not affect the remainder thereof.

Appendix A to Part 9—Contract Clause

The following clause shall be included by the contracting agency in every contract, contract-like instrument, and solicitation to which Executive Order 14055 applies, except for procurement contracts subject to the Federal Acquisition Regulation (FAR):

Nondisplacement of Qualified Workers

(a) The contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer service employees (as defined in the Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3)) employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of this contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under this contract in positions for which those employees are qualified. The contractor and its subcontractors shall determine the number of employees necessary for efficient performance of this contract and may elect to employ more or fewer employees than the predecessor contractor employed in connection with performance of the work solely on the basis of that determination. Except as provided in paragraph (b), there shall be no employment opening under this contract or subcontract, and the contractor and any subcontractors shall not offer employment under this contract to any person prior to having complied fully with the obligations described in this clause. The contractor and its subcontractors shall make an express offer of employment to each employee as provided herein and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 business days.

(b) Notwithstanding the obligation under paragraph (a) above, the contractor and any subcontractors:

(1) Are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3); and

(2) Are not required to offer a right of first refusal to any employee(s) of the predecessor contractor for whom the contractor or any of its subcontractors reasonably believes, based on reliable evidence of the particular employees' past performance, that there would be just cause to discharge the employee(s) if employed by the contractor or any subcontractors.

(c) The contractor shall, not less than 10 business days before the earlier of the completion of this contract or of its work on this contract, furnish the contracting officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. The contracting officer shall provide the list to the successor contractor, and the list shall be provided on request to employees or their representatives, consistent with the Privacy Act, 5 U.S.C. 552(a), and other applicable law.

(d) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, the Secretary may impose appropriate sanctions against the contractor or its subcontractors, as provided in Executive Order 14055, the regulations implementing that order, and relevant orders of the Secretary, or as otherwise provided by law.

(e) In every subcontract entered into in order to perform services under this contract, the contractor shall include provisions that ensure that each subcontractor shall honor the requirements of paragraphs (a) and (b) with respect to the employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor contractor and its subcontractors. The subcontract shall also include provisions to ensure that the subcontractor shall provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with paragraph (c) of this clause. The contractor shall take such action with respect to any such subcontract as may be directed by the Secretary as a means of enforcing such provisions, including the imposition of sanctions for noncompliance: provided, however, that if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into such litigation to protect the interests of the United States.

(f)(1) The contractor shall, not less than 30 calendar days before completion of the contractor's performance of services on a contract, furnish the contracting officer with a certified list of the names of all service employees working under the contract and its subcontracts at the time the list is submitted. The list shall also contain anniversary dates of employment of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Where changes to the workforce are made after the submission of the certified list described in this paragraph (f)(1), the contractor shall, in accordance with paragraph (c), not less than 10 business days before completion of the contractor's performance of services on a contract, furnish the contracting officer with an updated certified list of the names of all service employees employed within the last month of contract performance. The updated list shall also contain anniversary dates of employment and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Only contractors experiencing a change in their workforce between the 30- and 10-day periods shall have to submit a list in accordance with paragraph (c).

(2) The contracting officer shall upon their own action or upon written request of the Administrator withhold or cause to be withheld as much of the accrued payments due on either the contract or any other contract between the contractor and the Government that the Department of Labor representative requests or that the contracting officer decides may be necessary to pay unpaid wages or to provide other appropriate relief due under 29 CFR part 9. Upon the final order of the Secretary that such moneys are due, the Administrator may direct the relevant contracting agency to transfer the withheld funds to the Department of Labor for disbursement. If the contracting officer or the Administrator finds that the predecessor contractor has failed to provide a list of the names of service employees working under the contract and its subcontracts during the

last month of contract performance in accordance with 29 CFR part 9, the contracting officer may in their discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the contracting officer.

(3) The contractor agrees to provide notifications to employees under the contract, and their representatives, if any, in the timeframes requested by the contracting agency, to notify employees of any agency determination to except a successor contract from the nondisplacement requirements of 29 CFR part 9, or to decline to include location continuity requirements or preferences in a successor contract. The notice must include a statement explaining that any request by interested parties for reconsideration of an agency's determination regarding the matter must be directed to the head of the agency or the head of the agency's contracting department.

(g) The contractor and subcontractors shall maintain records of their compliance with this clause for not less than a period of 3 years from the date the records were created. These records may be maintained in any format, paper or electronic, provided the records meet the requirements and purposes of 29 CFR part 9 and are fully accessible. The records maintained must include the following:

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed to covered employees, and the names of the employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exclusion or exception claimed under this part.

(3) A copy of the employee list(s) provided to or received from the contracting agency.

(4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The contractor shall also deliver a copy of the receipt to the employee and file the original, as evidence of payment by the contractor and receipt by the employee, with the Administrator within 10 days after payment is made.

(h) The contractor shall cooperate in any review or investigation by the contracting agency or the Department of Labor into possible violations of the provisions of this clause and shall make records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: the contractor, the contracting agency, the U.S. Department of Labor, and the employees under the contract or its predecessor contract.

Appendix B to Part 9—Notice to Service Contract Employees

Service contract employees entitled to nondisplacement: The contract for (insert type of service) services currently performed by (insert name of predecessor contractor) has been awarded to a new (successor) contractor (insert name of successor contractor). The new contractor's first date of performance on the contract will be (insert first date of successor contractor's performance). The new contractor is generally required to offer employment to the employees who worked on the contract during the last 30 calendar days of the current contract, except as follows:

Employees who will not be laid off or discharged as a result of the end of this contract are not entitled to an offer of employment.

Managerial, supervisory, or non-service employees on the current contract are not entitled to an offer of employment.

The new contractor is permitted to reduce the size of the current workforce; in such circumstances, only a portion of the existing workforce may receive employment offers. However, the new contractor must offer employment to the displaced employees in positions for which they are qualified if any openings occur during the first 90 calendar days of performance on the new contract.

An employee hired to work under the current federal service contract and one or more nonfederal service contracts as part of a single job is not entitled to an offer of employment on the new contract, provided that the existing contractor did not deploy the employee in a manner that was designed to avoid the purposes of this part.

Time limit to accept offer: If you are offered employment on the new contract, you must be given at least 10 business days to accept the offer.

Complaints: Any employee(s) or authorized employee representative(s) of the predecessor contractor who believes that they are entitled to an offer of employment with the new contractor and who has not received an offer, may file a complaint, within 120 calendar days from the first date of contract performance, with the local Wage and Hour office.

For additional information: 1–866–4US–WAGE (1–866–487–9243) TTY: 1–877–889–5627, *http://www.dol.gov/agencies/whd.*

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final 2022–23 Frameworks for Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2021–0057; FF09M30000–223–FXMB1231099BPP0]

RIN 1018–BF07

Migratory Bird Hunting; Final 2022–23 Frameworks for Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing the 2022–23 final frameworks from which States may select season dates, limits, and other options for the 2022–23 migratory game bird hunting season for certain migratory game birds. We annually prescribe outside limits (which we call ''frameworks'') within which States may select hunting seasons. Frameworks specify the outside dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. These frameworks are necessary to allow State selections of seasons and limits and to allow harvest at levels compatible with migratory game bird population status and habitat conditions. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds.

DATES: This rule takes effect on July 15, 2022.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may inspect comments received on the migratory bird hunting regulations at *https://www.regulations.gov* at Docket No. FWS–HQ–MB–2021–0057. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's website at *http://www.fws.gov/migratorybirds/,* or at *https://www.regulations.gov* at Docket No. FWS–HQ–MB–2021–0057.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050. 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:

Process for Establishing Annual Migratory Game Bird Hunting Regulations

As part of the Department of the Interior's retrospective regulatory review, in 2015, we developed a schedule for migratory game bird hunting regulations that is more efficient and establishes hunting season dates earlier than was possible under the previous process. Under the current process, we develop proposed hunting season frameworks for a given year in the fall of the prior year. We then finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. We provided a detailed overview of the current process in the August 3, 2017, **Federal Register** (82 FR 36308). This final rule is the third in a series of proposed and final rules that establish regulations for the 2022–23 migratory game bird hunting season.

Regulations Schedule for 2022

The process for promulgating annual regulations for the hunting of migratory game birds involves the publication of a series of proposed and final rulemaking documents. On August 31, 2021, we published in the **Federal Register** (86 FR 48649) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is one of the final rules for promulgating annual migratory game bird hunting regulations. Major steps in the 2022–23 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the August 31, 2021, proposed rule. For this regulatory cycle, we combined elements of the document that is described in the diagram as Supplemental Proposals with the document that is described as Proposed Season Frameworks.

Further, in the August 31, 2021, proposed rule we explained that all sections of subsequent documents outlining hunting frameworks and guidelines would be organized under numbered headings, which were set forth at 86 FR 48651. This and subsequent documents will refer only to numbered items requiring attention. Because we will omit those items not requiring attention, the remaining numbered items may be discontinuous, and the list will appear incomplete.

We provided the meeting dates and locations for the Service Regulations Committee (SRC) *(https://www.fws.gov/event/us-fish-and-wildlife-service-migratory-bird-regulations-committee-meeting)* and Flyway Council meetings *(https://www.fws.gov/partner/migratory-bird-program-administrative-flyways)* on Flyway calendars posted on our website. We announced the April SRC meeting in the March 25, 2021, **Federal Register** (86 FR 15957) and on our website. The August 31, 2021, proposed rule provided detailed information on the proposed 2022–23 regulatory schedule and announced the September SRC meeting. The SRC conducted an open meeting with the Flyway Council on April 6, 2021, to discuss preliminary issues for the 2022–23 regulations, and on September 28–29, 2021, to review information on the current status of migratory game birds and develop recommendations for the 2022–23 regulations for these species.

On February 2, 2022, we published in the **Federal Register** (87 FR 5946) the proposed frameworks for the 2022–23 season migratory game bird hunting season. We have considered all pertinent comments received, which includes comments submitted in response to our August 31 and February 2 proposed rulemaking documents and comments from the September SRC meeting. This document establishes final regulatory frameworks for migratory game bird hunting regulations for the 2022–23 season and includes no substantive changes from the February 2, 2022, proposed rule except a minor correction (see 3. Mergansers and 4. Canada and Cackling Geese, below). We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107 and 20.109 of title 50 CFR part 20.

Population Status and Harvest

Each year, we publish reports that provide detailed information on the status and harvest of certain migratory game bird species. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at: *https://www.fws.gov/library/collections/population-status,* or *https://www.fws.gov/library/collections/migratory-bird-hunting-activity-and-harvest-reports.*

We used the following annual reports published in August 2021 in the development of proposed frameworks for the migratory bird hunting regulations: Adaptive Harvest Management, 2022 Hunting Season; American Woodcock Population Status, 2021; Band-tailed Pigeon Population Status, 2021; Migratory Bird Hunting Activity and Harvest During the 2019–20 and 2020–21 Hunting Seasons; Mourning Dove Population Status, 2021; Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2021; and Waterfowl Population Status, 2021.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received during the public comment period.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the August 31, 2021, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and described the proposed regulatory alternatives for the 2022–23 duck hunting season. Comments and recommendations are summarized below and numbered in the order set forth in the August 31, 2021, proposed rule (see 86 FR 48649).

We received recommendations from all four Flyway Councils at the April and September SRC meetings; all recommendations are from the September meeting unless otherwise noted. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. As explained earlier in this document, we have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

General

Written Comments: Several commenters protested the entire migratory bird hunting regulations process, protested the killing of all migratory birds, and questioned the status and habitat data on which the migratory bird hunting regulations are based.

Service Response: As we indicate above under Population Status and Harvest, our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Sustaining migratory bird populations and ensuring a variety of sustainable uses, including harvest, is consistent with the guiding principles by which migratory birds are to be managed under the conventions between the United States and several foreign nations for the protection and management of these birds. We have taken into account available information and considered public comments and continue to conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. In regard to the regulations process, the Flyway Council system of migratory bird management has been a longstanding example of State–Federal cooperative management since its establishment in 1952 in the regulation development process and bird population and habitat monitoring. However, as always, we continue to seek new ways to streamline and improve the process and ensure adequate conservation of the resource.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways.

Service Response: As we stated in the August 31, 2021, proposed rule, we intend to continue use of Adaptive Harvest Management (AHM) to help determine appropriate duck-hunting regulations for the 2022–23 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM protocol (decision framework) to evaluate four regulatory alternatives, each with a different expected harvest level, and choose the optimal regulation for duck hunting based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of a suite of four species (eastern waterfowl) in the Atlantic Flyway (see below, and the earlier referenced report ''Adaptive Harvest Management, 2022 Hunting Season'' for more details). We have specific AHM protocols that guide appropriate bag limits and season lengths for species of special concern, including black ducks, scaup, and pintails, within the general duck season. These protocols use the same outside season dates and lengths as those regulatory alternatives for the 2022–23 general duck season.

For the 2022–23 hunting season, we will continue to use independent optimizations to determine the appropriate regulatory alternative for mallard stocks in the Mississippi, Central, and Pacific Flyways and for eastern waterfowl in the Atlantic Flyway. This means that we will develop regulations for mid-continent mallards, western mallards, and eastern waterfowl independently based on the breeding stock(s) that contributes primarily to each Flyway. We detailed implementation of AHM protocols for mid-continent and western mallards in the July 24, 2008, **Federal Register** (73 FR 43290), and for eastern waterfowl in the September 21, 2018, **Federal Register** (83 FR 47868).

We also stated in the August 31, 2021, proposed rule that the coronavirus pandemic and associated travel restrictions and human health concerns in the United States and Canada prevented the Service and their partners from performing the Waterfowl Breeding Population and Habitat Survey (WBPHS) and estimating waterfowl breeding abundances and habitat conditions in the spring of 2021 in some cases. As a result, AHM protocols have been adjusted only as necessary to inform decisions on duck hunting regulations based on model predictions of breeding abundances and habitat conditions. In most cases, system models specific to each AHM decision framework have been used to predict breeding abundances from the available information (*e.g.,* 2019 observations). However, for some system State

variables (*i.e.,* pond numbers and mean latitude), we have used updated time series models to forecast 2021 values based on the most recent information. These technical adjustments are described in detail in the report entitled ''Adaptive Harvest Management, 2022 Hunting Season'' referenced above under Population Status and Harvest.

Atlantic Flyway

For the Atlantic Flyway, we set duck-hunting regulations based on the status and demographics of a suite of four duck species (eastern waterfowl) in eastern Canada and the Atlantic Flyway States: green-winged teal, common goldeneye, ring-necked duck, and wood duck. For purposes of the assessment, eastern waterfowl stocks are those breeding in eastern Canada and Maine (Federal WBPHS fixed-wing surveys in strata 51–53, 56, and 62–70, and helicopter plot surveys in strata 51–52, 63–64, 66–68, and 70–72) and in Atlantic Flyway States from New Hampshire south to Virginia (Atlantic Flyway Breeding Waterfowl Survey, AFBWS). Abundance estimates for green-winged teal, ring-necked ducks, and goldeneyes are derived annually by integrating fixed-wing and helicopter survey data from eastern Canada and Maine (WBPHS strata 51–53, 56, and 62–72). Counts of green-winged teal, ring-necked ducks, and goldeneyes in the AFBWS are negligible and therefore excluded from population estimates for those species. Abundance estimates for wood ducks in the Atlantic Flyway (Maine south to Florida) are estimated by integrating data from the AFBWS and the North American Breeding Bird Survey. Counts of wood ducks from the WBPHS are negligible and therefore excluded from population estimates.

For the 2022–23 hunting season, we evaluated alternative harvest regulations for eastern waterfowl using: (1) A management objective of 98 percent of maximum long-term sustainable harvest for eastern waterfowl; (2) the 2022–23 regulatory alternatives; and (3) current stock-specific population models and associated weights. Based on the liberal regulatory alternative selected for the 2021–22 duck hunting season, the 2021 abundances of 1.02 million observed wood ducks, and of 0.34 million American green-winged teal, 0.71 million ring-necked ducks, and 0.59 million goldeneyes predicted for the eastern survey area and Atlantic Flyway, the optimal regulation for the Atlantic Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Atlantic Flyway Council regarding selection of the liberal regulatory alternative as described in the August 31, 2021, proposed rule for the 2022–23 season.

The mallard bag limit in the Atlantic Flyway is based on a separate assessment of the harvest potential of eastern mallards (see xi. Other, below, for further discussion on the mallard bag limit in the Atlantic Flyway).

Mississippi and Central Flyways

For the Mississippi and Central Flyways, we set duck-hunting regulations based on the status and demographics of mid-continent mallards and habitat conditions (pond numbers in Prairie Canada). For purposes of the assessment, mid-continent mallards are those breeding in central North America (Federal WBPHS strata 13–18, 20–50, and 75–77), and in Michigan, Minnesota, and Wisconsin (State surveys).

For the 2022–23 hunting season, we evaluated alternative harvest regulations for mid-continent mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2022–23 regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative selected for the 2021–22 hunting season, the 2021 model predictions of 8.62 million mid-continent mallards and 2.94 million ponds in Prairie Canada, the optimal regulation for the Mississippi and Central Flyways is the liberal alternative. Therefore, we concur with the recommendations of the Mississippi and Central Flyway Councils regarding selection of the liberal regulatory alternative as described in the August 31, 2021, proposed rule for the 2022–23 season.

Pacific Flyway

For the Pacific Flyway, we set duck-hunting regulations based on the status and demographics of western mallards. For purposes of the assessment, western mallards consist of two substocks and are those breeding in Alaska and Yukon Territory (Federal WBPHS strata 1–12) and those breeding in the southern Pacific Flyway including California, Oregon, Washington, and British Columbia (State and Provincial surveys) combined.

For the 2022–23 hunting season, we evaluated alternative harvest regulations for western mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2022–23 regulatory alternatives; and (3) the current population model. Based on a liberal regulatory alternative selected for the 2021–22 hunting season, and 2021 abundances of 1.17 million western mallards observed in Alaska (0.64 million) and predicted for the southern Pacific Flyway (0.53 million), the optimal regulation for the Pacific Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Pacific Flyway Council regarding selection of the liberal regulatory alternative as described in the August 31, 2021, proposed rule for the 2022–23 season.

B. Regulatory Alternatives

Council Recommendations: At the April SRC meeting, the Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended that AHM regulatory alternatives for duck hunting during the 2022–23 season remain the same as those used in the previous season.

Service Response: Consistent with Flyway Council recommendations, the AHM regulatory alternatives proposed for the Atlantic, Mississippi, Central, and Pacific Flyways in the August 31, 2021, proposed rule (86 FR 48649) will be used for the 2022–23 hunting season (see accompanying table at the end of that document for specific information). The AHM regulatory alternatives consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed elsewhere in these frameworks. For those species with specific harvest strategies (pintails, black ducks, and scaup), those strategies will again be used for the 2022–23 hunting season.

D. Special Seasons/Species Management

i. Early Teal Seasons

Because a spring 2021 abundance estimate from the WBPHS for blue-winged teal was not available, we used time series models to predict their abundance. The predicted estimate was 5.83 million birds. Because this estimate is greater than 4.7 million birds, the special early teal season guidelines (see 79 FR 51403, August 28, 2014) indicate that a 16-day special early (September) teal season with a 6-teal daily bag limit is appropriate for States in the Atlantic, Mississippi, and Central flyways.

ii. Early Teal/Wood Duck Seasons

In Florida, Kentucky, and Tennessee, in lieu of a special early teal season, a 5-consecutive-day teal-wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day

special early teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended continued use of the AHM protocol for black ducks, and adoption of the moderate regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two black ducks and a season length of 60 days.

Service Response: The Service, Atlantic and Mississippi Flyway Councils, and Canada adopted an international AHM protocol for black ducks in 2012 (77 FR 49868; August 17, 2012), whereby we set black duck hunting regulations for the Atlantic and Mississippi Flyways (and Canada) based on the status and demographics of these birds. The AHM protocol clarifies country-specific target harvest levels and reduces conflicts over regulatory policies.

For the 2022–23 hunting season, we evaluated country-specific alternative harvest regulations using: (1) A management objective of 98 percent of maximum long-term sustainable harvest; (2) country-specific regulatory alternatives; and (3) current population models and associated weights. Based on the moderate regulatory alternative selected for the 2021–22 hunting season and the 2021 model predictions of 0.54 million breeding black ducks and 0.39 million breeding mallards (Federal WBPHS strata 51, 52, 63, 64, 66, 67, 68, 70, 71, and 72; core survey area), the optimal regulation for the Atlantic and Mississippi Flyways is the moderate alternative (and the liberal alternative in Canada). Therefore, we concur with the recommendations of the Atlantic and Mississippi Flyway Councils.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two canvasbacks and a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015 was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework (hereafter, decision support tool) that relies on the best biological information available to develop recommendations for annual canvasback harvest regulations. The decision support tool uses available information (1994–2014) on canvasback breeding population size in Alaska and north-central North America (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), growth rate, survival, and harvest, and a population model to evaluate alternative harvest regulations based on a management objective of maximum long-term sustainable harvest. The decision support tool calls for a closed season when the population is below 460,000, a 1-bird daily bag limit when the population is between 460,000 and 480,000, and a 2-bird daily bag limit when the population is greater than 480,000. Because abundance estimates were not available from the WBPHS, we used two different methods to predict canvasback abundance during spring 2021. One used a population model initially developed in the 1990s, and the other used the time series of recent abundances from the WBPHS. Based on the resulting predictions of 639,239 and 677,422 canvasbacks, respectively, for the two approaches, we concur with the recommendations of the four Flyway Councils regarding selection of the liberal regulatory alternative for the 2022–23 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative with a 1-pintail daily bag limit for their respective flyways. The Flyway-specific regulations consist of a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for pintail in 2010 (75 FR 44856; July 29, 2010), whereby we set pintail hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2022–23 hunting season, we evaluated alternative harvest regulations for pintails using: (1) A management objective of maximum long-term sustainable harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative with a 1-bird daily bag limit for the 2021–22 season, and the 2021 model predictions of 2.50 million pintails with the center of the population predicted to occur at a mean latitude of 55.47 degrees (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the liberal alternative with a 1-pintail daily bag limit. Therefore, we concur with the recommendations of the four Flyway Councils.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the restrictive regulatory alternative for the 2022–23 season. The Flyway-specific regulations consist of a 60-day season with a 1-bird daily bag limit during 40 consecutive days and a 2-bird daily bag limit during 20 consecutive days in the Atlantic Flyway, a 60-day season with a 2-bird daily bag limit during 45 consecutive days and a 1-bird daily bag limit during 15 consecutive days in the Mississippi Flyway, a 1-bird daily bag limit for 74 days in the Central Flyway (which may have separate segments of 39 days and 35 days), and an 86-day season with a 2-bird daily bag limit in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for scaup in 2008 (73 FR 43290, July 24, 2008; and 73 FR 51124, August 29, 2008) whereby we set scaup hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2022–23 hunting season, we evaluated alternative harvest regulations for scaup using: (1) A management objective of 95 percent of maximum sustainable harvest; (2) the regulatory alternatives; and (3) the current population model. Based on a moderate regulatory alternative for the 2021–22 season, and the 2021 model prediction of 3.53 million scaup (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the restrictive alternative. Therefore, we concur with the recommendations of the four Flyway Councils regarding selection of the restrictive alternative for the 2022–23 season.

xi. Other

Council Recommendations: The Atlantic Flyway Council recommended a mallard daily bag limit of two birds, only one of which could be female, for the Atlantic Flyway.

Service Response: We agree with the Atlantic Flyway Council's recommendation for a mallard daily bag limit of two birds, of which only one may be female, for the Atlantic Flyway. The Atlantic Flyway Council's eastern waterfowl AHM protocol (see above) did not specifically address bag limits for mallards. The number of breeding mallards in the northeastern United States (about two-thirds of the eastern mallard population in 1998) has decreased by about 38 percent since 1998, and the overall population has declined by about 1 percent per year during that time period. This situation has resulted in reduced harvest potential for that population. The Service conducted a Prescribed Take Level (PTL) analysis to estimate the allowable take (kill rate) for eastern mallards and compared that with the expected kill rate under the most liberal season length (60 days) considered as part of the eastern waterfowl AHM regulatory alternatives.

Using contemporary data and assuming a management objective of maximum long-term sustainable harvest, the PTL analysis estimated an allowable kill rate of 0.194–0.198. The expected kill rate for eastern mallards under a 60-day season and a 2-mallard daily bag limit in the U.S. portion of the Atlantic Flyway was 0.193 (SE = 0.016), which is slightly below (but not significantly different from) the point estimate of allowable kill at maximum long-term sustainable harvest. This estimate indicates that a 2-bird daily bag limit is sustainable at this time.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended three changes to the sea duck hunting regulations in the Atlantic Flyway: (1) Elimination of the special sea duck season; (2) reduction of the sea duck daily bag limit within the regular duck season to 4 sea ducks of which no more than 3 may be scoters, long-tailed ducks, or eiders, and no more than 1 may be a female eider; and (3) retention of the exception that allows shooting of crippled waterfowl from a boat under power in the currently defined special sea duck areas in the Atlantic Flyway. These recommendations were consistent with the recommendations presented by the Atlantic Flyway Council during the April 6, 2021, SRC meeting for initial discussion. We announced these possible changes to sea duck hunting regulations in the Atlantic Flyway in the August 31, 2021, proposed rule to allow the greatest opportunity for public review and comment.

Service Response: We agree with the Atlantic Flyway Council's recommendations for the sea duck harvest regulations in the Atlantic Flyway. Special season regulations are used to provide additional hunting opportunity for species considered to be underutilized. We have authorized a special sea duck season (including eiders, long-tailed duck, and scoters) in the Atlantic Flyway since 1938. By 1973, 13 of the 17 Atlantic Flyway States allowed special seasons consisting of 107 days with a daily bag limit of 7 sea ducks. We reduced the scoter daily bag limit to 4 ducks in 1993. In 2016, we reduced the season length from 107 to 60 days and the daily bag limit from 6 to 5 sea ducks of which no more than 4 may be eiders, long-tailed ducks, or scoters. We anticipated the 2016 restrictions would reduce average annual sea duck harvest by approximately 25 percent compared to average annual harvest during the period 2011–2015. See the March 28, 2016, **Federal Register** (81 FR 17305) for a discussion of the Sea Duck Harvest Potential Assessment completed at that time.

The changes to the 2016 Atlantic Flyway sea duck regulations did not achieve the target reduction in total sea duck harvest. Therefore, we are supportive of the changes recommended by the Atlantic Flyway Council due to the continued concern regarding the status and trends of sea duck populations in the Atlantic Flyway, and our desire to reduce sea duck harvest in the Atlantic Flyway below the average annual harvest observed during 2011–2015. Regarding existing regulation that allows shooting of crippled waterfowl from a boat under power in the currently defined special sea duck area, the purpose of this regulation is to protect human safety and minimize duck crippling loss associated with hunting ducks at sea in the Atlantic Flyway.

3. Mergansers

Council Recommendations: The Atlantic Flyway Council recommended removing the species-specific restriction of two hooded mergansers beginning with the 2022–23 season. Hooded mergansers would become part of an aggregate merganser (common, red-breasted, and hooded) bag limit. The Mississippi Flyway Council supported the recommendation if an evaluation was conducted to determine the effects of the change on merganser populations and harvest.

Written Comments: The Central Flyway Council noted that their recommendation on the merganser bag limit presented to and approved by the SRC on September 28–29, 2021, was not reflected in the February 2, 2022, proposed rule for the 2022–2023 season. The Central Flyway Council recommended eliminating the separate merganser bag limit of 5 birds, of which no more than 2 may be hooded mergansers, and including mergansers in the general duck season bag limit of 6 ducks (including mergansers in the aggregate) with no merganser species-specific bag limit restrictions.

Service Response: We agree with the Atlantic Flyway Council recommendation to remove the 2 hooded merganser daily bag limit and implementation of an aggregate merganser bag (common, red-breasted, and hooded) beginning with the 2022 season. The Service also agrees with the recommendation from the Mississippi Flyway Council that the Atlantic Flyway Council should conduct an evaluation of the regulation change on merganser populations and harvest. This assessment should be conducted following the completion of the 2024–25 season.

Also, we agree with the Central Flyway Council's recommendation to eliminate the separate merganser daily bag limit of 5 birds and include mergansers in the general duck season bag limit of 6 birds in the aggregate with no merganser species-specific bag limit restrictions. This is more liberal in that it removes the species-specific restriction of two hooded mergansers in the daily bag limit, but is more restrictive in that mergansers would be part of an aggregate 6-bird daily bag limit with ducks rather than allowing a 5-bird merganser daily bag limit in addition to a 6-bird duck daily bag limit. We expect this to have negligible impact to hooded and other merganser population status. It will reduce potential overall duck and merganser harvest, and States already have the option of including mergansers in the duck bag limit of 6 birds in the aggregate. Also, this change will result in more simple duck (including merganser) hunting regulations and be more consistent across States split between the Central and Pacific Flyways.

4. Canada and Cackling Geese

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council recommended three changes to the dark goose season framework in the Atlantic Flyway including:

1. Adopting the restrictive regulatory option as described in the Atlantic Flyway Council's Atlantic Population (AP) Canada Geese Harvest Strategy (30-day season between December 25 through January 25 with a daily bag limit of 1 goose) for all AP Canada geese zones in the U.S. portion of the Atlantic Flyway, including North Carolina;

2. The addition of a special late season in Vermont, the Lake Champlain Zone of New York, and the AP Canada geese zones in Connecticut and Massachusetts. The season may be December 1–February 15 in Vermont and the Lake Champlain Zone of New York, and December 15–February 15 in the AP Canada geese zones of Connecticut and Massachusetts. The daily bag limit is 5 geese; and

3. Eliminating the Southern James Bay Population (SJBP) of Canada geese zone in Pennsylvania with this area becoming part of Pennsylvania's Atlantic Flyway Resident Population (RP) of Canada geese zone.

The Pacific Flyway Council recommended several changes to the Canada and cackling goose and brant season framework in the Pacific Flyway. Specifically:

1. Increasing the daily bag limit for Canada and cackling geese and brant in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming from 4 to 5 geese in the aggregate;

2. Changing the closing date for Canada and cackling geese and brant in Utah's Wasatch Front Zone from the first Sunday in February to February 15;

3. Approving a 3-segment season option for Canada and cackling geese in California's Balance of State Zone; and

4. Decreasing the daily bag limit for Canada and cackling geese in Washington's Southwest Permit Zone and Oregon's Northwest Permit Zone from 4 to 3 geese in the aggregate.

Written Comments: The Atlantic Flyway Council noted the February 2, 2022, proposed frameworks (87 FR 5946) incorrectly listed the season dates for AP Canada geese zones as between December 25 through January 25 for all AP Canada geese zones. The Atlantic Flyway Council requested the text be revised to reflect the correct framework dates as:

New England (CT, MA, VT) and Lake Champlain Zone of New York: October 10–February 5;

Mid-Atlantic (NJ, NY, PA): fourth Saturday in October–February 5;

Chesapeake (DE, MD, VA): November 15–February 5; and

North Carolina (Northeast Unit): the Saturday prior to December 25–January 31.

Service Response: We agree with the Atlantic Flyway Council's three recommended changes to the Canada and cackling goose season framework in the Atlantic Flyway. The Service and Atlantic Flyway Council have been concerned with the status of AP Canada geese for several years, and the restrictive regulatory alternative is commensurate with the population's status. More specifically, AP Canada geese declined in abundance precipitously (from 118,000 to 34,000 breeding pairs) between 1988 and 1995, due to high harvest pressure and poor production. Hunting season restrictions were enacted in response to the decline. These restrictions and several years of favorable nesting conditions and good gosling production resulted in a rapid recovery of the population, and by 2002, the breeding pair estimate had rebounded to 182,000. For the next 15 years, pair counts remained relatively stable, fluctuating between 161,000 and 216,000 breeding pairs. However, in the 2018 breeding season, the breeding pair estimate dropped abruptly to 112,000, and gosling productivity was almost nonexistent. The 2019 breeding pair estimate was statistically similar to 2018, and productivity was near the long-term average. No breeding pair survey was conducted in 2020 or 2021, due to logistical constraints arising from the coronavirus pandemic.

In 2021, the Atlantic Flyway Council, in collaboration with the Service, updated their 2013 harvest strategy for AP Canada geese. The revision incorporated several additional years of experience on effects of contemporary harvest regulations on AP Canada geese abundance and recent advances in population modeling and other analytical tools. The harvest strategy supports the Council's 2008 management plan for AP Canada geese and is consistent with the overarching goal of the plan: To maintain AP Canada geese and their habitats at a level that provides optimum opportunities for people to use and enjoy geese on a sustainable basis.

Regarding the additional special late seasons in three areas, these areas account for a small proportion of the AP Canada goose harvest. Since 1999, the New England region (including AP, NAP, and RP Canada goose zones) has accounted for only 1.3 percent of all AP Canada goose band recoveries. The special late season occurs after most AP Canada geese have migrated from the region (early to mid-December). The objective of the special late season is to increase harvest of RP Canada geese while minimizing impacts to AP Canada geese. An existing late special season with a similar objective has been allowed in parts of New Jersey since 1994. The additional special late seasons will provide increased opportunity for hunters and an additional tool for State agencies to manage resident populations of geese.

Regarding the Council's recommendation to eliminate the SJBP Canada geese zone in Pennsylvania, the SJBP of Canada geese is no longer recognized as a separate population by the Service or the Atlantic and Mississippi Flyway Councils. The SJBP of Canada geese is now considered part of the larger Southern Hudson Bay Population (SHBP) of Canada geese, which is monitored and managed according to the Mississippi Flyway Council's management plan. Elimination of the SJBP Canada geese zone in Pennsylvania and incorporation of this area into the RP Canada geese zone will expose Canada geese in the area to slightly more liberal regulations but will not appreciably increase harvest of AP Canada geese. This change will simplify regulations, provide increased hunting opportunity, and provide increased opportunity to manage resident population of geese.

We agree with the Pacific Flyway Council's recommendation to increase the daily bag limit for Canada and cackling geese and brant in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming from 4 to 5 geese in the aggregate. Cackling geese and brant are uncommon in interior States in the Pacific Flyway. The basic goose season framework for the Pacific Flyway includes these species in an aggregate bag limit for interior States because of the difficulty in hunter differentiation of these species and because harvest of cackling geese and brant is negligible to their population status. The western Canada goose is the primary subspecies of Canada goose occurring in interior States in the Pacific Flyway. There are two populations of western Canada goose in the Pacific Flyway: Rocky Mountain Population (RMP) and Pacific Population (PP). The most recent 3-year (2017–2019) average population estimate for RMP western Canada geese is 205,338 and is well above the Council's population objective of 117,000 geese. Similarly,

the most recent 3-year (2017–2019) average population estimate for PP western Canada geese is 330,725 and is well above the Council's population objective of about 120,000 geese. Since 1970, western Canada goose abundance in the Pacific Flyway has increased 5.4 percent per year based on the Waterfowl Breeding Population and Habitat Survey. The Pacific Flyway Council's management plans for PP and RMP Canada geese prescribe liberalized hunting seasons when population status is over objective levels. The change will simplify regulations in States split into two flyways (*i.e.,* Colorado, Montana, Wyoming, and New Mexico). Currently, there is a daily bag limit of 4 geese in the Pacific Flyway portions of these States and 5 geese in the Central Flyway portions.

We also agree with the Council's recommendation to change the closing date for Canada and cackling geese and brant in Utah's Wasatch Front Zone from the first Sunday in February to February 15. The western Canada goose is the primary subspecies of Canada goose in Utah. Abundance of RMP Canada geese is well above the Council's population objective (see above). The Utah Division of Wildlife Resources has been collecting data on Canada geese in urban areas along the Wasatch Front (*i.e.,* Salt Lake, Weber, Davis, and Utah Counties) since 2006. Data indicate abundance of urban geese has increased up to about 10,000 geese. Approximately 58.3 percent of all resident RMP Canada geese banded in Utah are harvested during the last 3 weeks of the season in the Wasatch Front Zone. Allowing a later closing date will provide additional flexibility to the State to address increasing depredation and nuisance complaints associated with Canada geese in urban areas and provide hunting opportunity.

We also agree with the Council's recommendation to allow a 3-segment split hunting season for Canada and cackling geese in California's Balance of State Zone. Current frameworks allow a 3-segment split for Canada and cackling geese, but this arrangement requires Pacific Flyway Council and Service approval and a 3-year evaluation by each participating State. The primary subspecies of white-cheeked geese in California are the western Canada goose and Aleutian cackling goose. The current 3-year (2019–2021) average population estimate for Aleutian cackling geese is 168,009 and is well above the Council's population objective of 60,000 geese. Similarly, abundance of PP Canada geese is well above the Council's population objective (see above). Allowing the Canada and cackling geese season to be split into 3 segments will provide additional flexibility to the State to address increasing depredation and nuisance complaints associated with Canada and cackling geese and provide hunting opportunity. In addition, a 3-segment season will be consistent with the current light goose and white-fronted goose seasons in California's Balance of State Zone, which will help simplify regulations.

Finally, we also agree with the Council's recommendation that the daily bag limit for Canada and cackling geese in Washington's Southwest Permit Zone and Oregon's Northwest Permit Zone be reduced from 4 to 3 geese in the aggregate. The most recent 3-year (2018, 2019, 2021) average of available fall projected population estimates for minima cackling geese is 206,763 and is below the Council's population objective of 250,000 ± 10 percent (225,000–275,000). Band recovery data from hunter harvest of minima cackling geese indicate that most (77 percent) of the fall-winter harvest occurs in northwest Oregon and southwest Washington, and the next highest harvest area (6 percent) is western Alaska (Units 9, 17, and 18). Accordingly, the Pacific Flyway Council also recommended that the daily bag limit for Canada and cackling geese in parts of Alaska be reduced from 6 to 4 geese in the aggregate. The decrease in the daily bag limits is specifically intended to maintain objective abundance of minima cackling geese and is consistent with the Council's harvest strategy for these birds.

Regarding the Atlantic Flyway Council's request for correction to frameworks dates for AP Canada geese, we have made the suggested corrections. The changes correspond to the season dates and structure identified in the Atlantic Flyway Council's AP Canada geese harvest strategy and have been supported by the SRC.

6. Brant

Council Recommendations: The Pacific Flyway Council recommended that the 2022–23 brant season frameworks be determined based on the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2022 Winter Brant Survey (WBS). If results of the 2022 WBS are not available, results of the most recent WBS should be used.

Service Response: We agree with the Pacific Flyway Council's recommendation. As we discussed in the August 21, 2020, **Federal Register** (85 FR 51854), the harvest strategy used to determine the Pacific brant season frameworks does not fit well within the current regulatory process. In developing the annual proposed frameworks for Pacific brant, the Pacific Flyway Council and the Service use the 3-year average number of brant counted during the WBS in the Pacific Flyway to determine annual allowable season length and daily bag limits. The WBS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data are typically available by the expected publication of these final frameworks. When we acquire the survey data, we determine the appropriate allowable harvest for the Pacific brant season according to the harvest strategy in the Pacific Flyway Council's management plan for the Pacific population of brant published in the August 21, 2020, **Federal Register** (see 85 FR 51861).

The recent 3-year average (2020–2022) WBS count of Pacific brant was 150,717. Based on the harvest strategy, the appropriate season length and daily bag limit framework for Pacific brant in the 2022–23 season is a 107-day season with a 4-bird daily bag limit in Alaska, and a 37-day season with a 2-bird daily bag limit in California, Oregon, and Washington.

8. Swans

Council Recommendations: The Atlantic Flyway Council recommended the initial allocation of swan hunting permits of 347 in Delaware, 4,721 in North Carolina, and 532 in Virginia (5,600 total) for the 2022–23 seasons and allowing unissued swan hunting permits to be reallocated to States within the Atlantic Flyway.

Service Response: We agree with the Atlantic Flyway Council's recommendations for changes to the swan hunting permit allocation in the Atlantic Flyway. In 2021, the Atlantic Flyway Council updated an assessment to allocate allowable tundra swan hunting permits among States in the Atlantic Flyway based on the distribution of tundra swans from the 3 most recent Mid-winter Survey counts. The permit allocation is reevaluated every 3 years. The evaluation in 2021 provided that the 3-year (2019–2021) average distribution of tundra swan abundance during the Mid-winter Survey was 6.2 percent in Delaware, 84.3 percent in North Carolina, and 9.5 percent in Virginia. Given the current allowable harvest of 5,600 tundra swans in the Atlantic Flyway, again the Council's recommended allocation of swan hunting permits is 347 in Delaware, 4,721 in North Carolina, and

532 in Virginia. This is a minor change from the 2021 season permit allocation, which was 67 in Delaware, 4,895 in North Carolina, and 638 in Virginia. Distributing allowable tundra swan harvest among States based on the distribution of tundra swans during winter is consistent with the Atlantic, Mississippi, Central, and Pacific Flyway Council's management plan for the Eastern Population (EP) of tundra swans and provides equitable hunting opportunity among States. Finally, a State may have insufficient applicants to issue all available swan hunting permits. The swan season framework currently allows a second permit to be issued to hunters from unissued permits remaining after the first drawing. Should permits still remain unissued, any portion of these unused permits would be available for temporary redistribution to other States with swan seasons in the flyway. This procedure is consistent with the Councils' management plan for EP tundra swans, provides the greatest tundra swan hunting opportunity, and maintains harvest within allowable limits for the population and within each flyway.

9. Sandhill Cranes

Council Recommendations: The Mississippi Flyway Council recommended a 1-year extension to the 3-year (2019, 2020, and 2021) experimental sandhill crane season in Alabama. The Central and Pacific Flyway Councils recommended that allowable harvest of Rocky Mountain Population (RMP) of cranes be determined based on the formula described in the Pacific and Central Flyway Councils' Management Plan for RMP cranes pending results of the fall 2021 abundance and recruitment surveys.

Service Response: We agree with the Mississippi Flyway Council's recommendation for a 1-year extension to the 3-year (2019, 2020, and 2021) experimental sandhill crane season in Alabama. As we provided above under Process for Establishing Annual Migratory Game Bird Hunting Regulations, we now develop proposed hunting season frameworks for a given year in the fall of the prior year. According to the Eastern Population Sandhill Crane Management Plan and Memorandum of Agreement between the Service and Atlantic Flyway Council, 3 years of data are needed for evaluation before experimental seasons can be approved as operational. Alabama administered the third year of an experimental sandhill crane season during the 2021 hunting season and has only 2 years of data to evaluate at the time we proposed regulations for the 2022–23 season. Approval of an additional year for the 3-year experimental sandhill crane season in Alabama allows the season to continue during the 2022 hunting season when 3 years of experimental season data will be available and allow consideration of an operational season beginning with the 2023 hunting season.

We agree with the Central and Pacific Flyway Councils' recommendations to determine allowable harvest of RMP cranes using the formula in the Pacific and Central Flyway Councils' management plan for RMP cranes pending results of the fall 2021 abundance and recruitment surveys. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the harvest strategy used to calculate the allowable harvest of RMP cranes does not fit well within the current regulatory process. In developing the annual proposed frameworks for RMP cranes, the Flyway Councils and the Service use the fall abundance and recruitment surveys of RMP cranes to determine annual allowable harvest. Results of the fall abundance and recruitment surveys of RMP cranes are released between December 1 and January 31 each year, which is after the date proposed frameworks are developed. However, the data are typically available by the expected publication of these final frameworks. When we acquire the survey data, we determine the appropriate allowable harvest for the RMP crane season according to the harvest strategy in the Central and Pacific Flyway Councils' management plan for RMP cranes published in the March 28, 2016, **Federal Register** (see 81 FR 17307).

The 2021 fall RMP crane abundance estimate was 23,963 cranes, resulting in a 3-year (2019–2021) average of 23,630 cranes, similar to the previous 3-year average, which was 22,909 cranes. The RMP crane recruitment estimate was 8.75 percent young in the fall population, resulting in a 3-year (2019–2021) average of 9.12 percent, which is higher than the previous 3-year average of 8.25 percent. Using the current harvest strategy and the above most recent 3-year average abundance and recruitment estimates, the allowable harvest for the 2022–23 season is 2,778 cranes.

16. Doves

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the standard regulatory alternative as prescribed in the national mourning dove harvest strategy for their respective Mourning Dove Management Units. The standard regulatory alternative consists of a 90-day season and 15-bird daily bag limit for States within the Eastern and Central Management Units, and a 60-day season and 15-bird daily bag limit for States in the Western Management Unit.

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the standard season frameworks for doves in the Eastern, Central, and Western Management Units for the 2022–23 season.

17. Alaska

Council Recommendations: The Pacific Flyway Council recommended that the daily bag limit for Canada and cackling geese (*i.e.,* minima cackling geese) be reduced from 6 to 4 geese in the aggregate in Units 9, 17, and 18.

Service Response: We agree with the Pacific Flyway Council's recommendation. The most recent 3-year (2018, 2019, 2021) average of available fall projected population estimates for minima cackling geese is 206,763 and is below the Council's population objective of 250,000 ± 10 percent (225,000–275,000). Band recovery data from hunter harvest of minima cackling geese indicates that most (77 percent) of the fall-winter harvest occurs in northwest Oregon and southwest Washington, and the next highest harvest area (6 percent) is western Alaska (Units 9, 17, and 18). Accordingly, the Pacific Flyway Council also recommended that the daily bag limit for Canada and cackling geese in parts of Oregon and Washington be reduced from 4 to 3 geese in the aggregate. The decrease in the daily bag limits is specifically intended to maintain objective abundance of minima cackling geese and is consistent with the Council's harvest strategy for these birds.

Required Determinations

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the

Federal Register on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2021–22,'' with its corresponding March 2021 finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the person listed above under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. After we published the August 31, 2021, proposed rule, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review—Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2022–23 migratory bird hunting season. This analysis was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under Regulatory Flexibility Act, below). This analysis estimated consumer surplus for three alternatives for duck hunting regulations. As defined by the U.S. Office of Management and Budget in Circular A–4, consumers' surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2021–22 season, (2) issue moderate regulations allowing more days than those in Alternative 1, and (3) issue liberal regulations similar to the regulations in the 2021–22 season. For the 2021–22 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $270–$358 million with a mid-point estimate of $314 million. We also chose Alternative 3 for the 2009–10 through 2020–21 seasons. The 2022–23 analysis is part of the record for this rule and is available at *https://www.regulations.gov* at Docket No. FWS–HQ–MB–2021–0057.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We prepare regulatory flexibility analyses, updated annually, to analyze the economic impacts of the annual hunting regulations on small business entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2021 analysis is based on the 2016 National Survey and the U.S. Department of Commerce's County Business Patterns, from which it is estimated that migratory bird hunters would spend approximately $2.2 billion at small businesses in 2022. Copies of the analysis are available upon request from the person listed above under the caption **FOR FURTHER INFORMATION CONTACT**, or from *https://www.regulations.gov* at Docket No. FWS–HQ–MB–2021–0057.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, which are time sensitive, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, ''North American Woodcock Singing Ground Survey'' (expires 02/29/2024).
- 1018–0023, ''Migratory Bird Surveys, 50 CFR 20.20'' (expires 04/30/2023). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, ''Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20'' (expires 10/31/2024).

You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, will reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no statement of energy effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian Tribes and have determined that there are *de minimis* effects on Indian trust resources. Tribal proposals are contained in separate rulemaking documents. Through this process to establish annual hunting regulations, we regularly coordinate with Tribes that are affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive in its regulations than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Final Regulations Frameworks for 2022–23 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior is establishing the following frameworks for outside dates, season lengths, shooting hours, bag and possession limits, and areas within which States may select seasons for hunting migratory game birds between the dates of September 1, 2022, and March 10, 2023. These frameworks are summarized below.

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a. General

Outside Dates: Outside dates are the earliest and latest dates within which States may establish hunting seasons. All outside dates specified below are inclusive.

Season Lengths: Season lengths are the maximum number of days hunting may occur within the outside dates for hunting seasons. Days are consecutive and concurrent for all species included in each season framework unless otherwise specified.

Season Segments: Season segments are the maximum number of consecutive-day segments the season lengths may be divided. The sum of the hunting days for all season segments may not exceed the season lengths allowed.

Zones: Unless otherwise specified, States may select hunting seasons by zones. Zones for duck seasons (and associated youth and veterans—active military waterfowl hunting days, gallinule seasons, and snipe seasons) and dove seasons may be selected only

in years we declare such changes can be made (*i.e.,* open seasons for zones and splits) and according to federally established guidelines for duck and dove zones and split seasons.

Area, Zone, and Unit Descriptions: Areas open to hunting must be described, delineated, and designated as such in each State's hunting regulations, and, except for early teal seasons, these areas must also be published in the **Federal Register** as a Federal migratory bird hunting frameworks final rule. Geographic descriptions related to regulations are contained in a later portion of this document.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limits.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by hunters, or both. In such cases, the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

i. Flyways and Management Units

We generally set migratory bird hunting frameworks for the conterminous U.S. States by Flyway or Management Unit/Region. Frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands are contained in separate sections near the end of the frameworks portion of this document. The States included in the Flyways and Management Units/Regions are described below.

1. Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

2. Mallard Management Units

High Plains Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian. See c. Area, Unit, and Zone Descriptions, *Ducks (Including Mergansers) and Coots,* below, for specific boundaries in each State.

Columbia Basin Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

3. Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

4. Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

ii. Definitions

For the purpose of the hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, cackling geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

iii. Migratory Game Bird Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting of migratory birds is prohibited statewide by State law or regulation, all Sundays are closed to the take of all migratory game birds.

b. Season Frameworks

i. Special Youth and Veterans—Active Military Personnel Waterfowl Hunting Days

Outside Dates and Season Lengths: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' and 2 days per duck-hunting zone, designated as ''Veterans and Active Military Personnel Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days may be held concurrently or may be nonconsecutive. The Youth Waterfowl Hunting Days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. Both sets of days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, swans, mergansers, coots, and gallinules. Bag limits are the same as those allowed in the regular season except in States that implement a hybrid season for scaup (*i.e.,* different bag limits during different portions of the season), in which case the bag limit will be 2 scaup per day.

Flyway species and area restrictions would remain in effect.

Participation Restrictions for Youth Waterfowl Hunting Days: States may use their established definition of age for youth hunters. However, youth hunters must be under the age of 18. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Swans may be taken only by participants possessing applicable swan permits.

Participation Restrictions for Veterans and Active Military Personnel Waterfowl Hunting Days: Veterans (as defined in section 101 of title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. Swans may be taken only by participants possessing applicable swan permits.

ii. Special Early Teal Seasons

Areas:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The season in Minnesota is experimental.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas.

Outside Dates: September 1–30.

Season Lengths: 16 days.

Daily Bag Limits: 6 teal.

Shooting Hours: One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, South Carolina, and Wisconsin, where the hours are from sunrise to sunset.

iii. Special Early Teal-Wood Duck Seasons

Areas: Florida, Kentucky, and Tennessee.

Seasons: In lieu of a special early teal season, a 5-consecutive-day teal-wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day teal-only season may be selected in September either immediately before or immediately after the 5-day teal-wood duck season. The daily bag limit is 6 teal.

iv. Duck, Merganser, Coot, and Goose Seasons

1. Atlantic Flyway

A. Duck, Merganser, and Coot Seasons

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths and Daily Bag Limits: 60 days. The daily bag limit is 6 ducks, including no more than 2 mallards (no more than 1 of which can be female), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 canvasbacks, and 4 sea ducks (including no more than 3 scoters, 3 long-tailed ducks, or 3 eiders and no more than 1 female eider). The season for scaup may be split into 2 segments, with one segment consisting of 40 consecutive days with a 1-scaup daily bag limit, and the second segment consisting of 20 consecutive days with a 2-scaup daily bag limit. The daily bag limit of mergansers is 5. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit. The daily bag limit of coots is 15.

Closed Seasons: There is no open season on the harlequin duck.

Zones and Split Seasons: Delaware, Florida, Georgia, Rhode Island, South Carolina, and West Virginia may split their seasons into 3 segments. Maine, Massachusetts, New Hampshire, New Jersey, and Vermont may select seasons in each of 3 zones; Pennsylvania may select seasons in each of 4 zones; New York may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Connecticut, Maryland, North Carolina, and Virginia may select seasons in each of 2 zones; and all these States may split their season in each zone into 3 segments. Connecticut, Maryland, North Carolina, and Virginia must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

Special Provisions: The seasons, limits, and shooting hours should be the same between New York's Lake Champlain Zone and Vermont's Lake Champlain Zone, and between Vermont's Connecticut River Zone and New Hampshire's Inland Zone.

A craft under power may be used to shoot and retrieve dead or crippled birds in the Sea Duck Area in the Atlantic Flyway. The Sea Duck Area includes all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

B. Special Early Canada and Cackling Goose Seasons

Outside Dates and Season Lengths: 15 days during September 1–15 in the Eastern Unit of Maryland; 30 days during September 1–30 in Connecticut, Florida, Georgia, New Jersey, Long Island Zone of New York, North Carolina, Rhode Island, and South Carolina; and 25 days during September 1–25 in the remainder of the Atlantic Flyway.

Daily Bag Limits: 15 geese in the aggregate.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada and cackling goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

C. Dark Goose Seasons

Outside Dates, Season Lengths, and Daily Bag Limits: Regulations are State and zone specific as provided below.

Area	Outside dates	Season length	Season segments	Daily bag limit
Connecticut:				
Atlantic Population (AP) Zone	Oct 10–Feb 5	30	2	1
AP Zone Late Season Area (Special season).	Dec 15–Feb 15	54	1	5
North Atlantic Population (NAP) Zone	Oct 1–Jan 31	60	2	2
NAP Late Season Area (Special season)	Jan 15–Feb 15	27	1	5
Resident Population (RP) Zone	Oct 1–Feb 15	80	3	5
Delaware	Nov 15–Feb 5	30	2	1
Florida	Oct 1–Mar 10	80	3	5
Georgia	Oct 1–Mar 10	80	3	5
Maine:				
North NAP–H Zone	Oct 1–Jan 31	60	2	2
South NAP–H Zone	Oct 1–Jan 31	60	2	2
Coastal NAP–L Zone	Oct 1–Feb 15	70	2	3
Maryland:				
AP Zone	Nov 15–Feb 5	30	2	1
RP Zone	Nov 15–Mar 10	80	3	5
Massachusetts:				
AP Zone	Oct 10–Feb 5	30	2	1
AP Zone Late Season Area (Special season).	Dec 15–Feb 15	54	1	5
NAP Zone	Oct 1–Jan 31	60	2	2
NAP Late Season Area (Special season)	Jan 15–Feb 15	27	1	5
New Hampshire	Oct 1–Jan 31	60	2	2
New Jersey:				
AP Zone	Fourth Saturday in Oct (22)–Feb 5	30	2	1
NAP Zone	Oct 1–Jan 31	60	2	2
Special Late Season Area (Special season).	Jan 15–Feb 15	27	1	5
New York:				
AP Zone	Fourth Saturday in Oct (22)–Feb 5	30	2	1
AP (Lake Champlain) Zone	Oct 10–Feb 5	30	2	1
NAP High Harvest Zone	Oct 1–Jan 31	60	2	2
NAP Low Harvest Zone	Oct 1–Feb 15	70	2	3
Western Long Island RP Zone	Saturday nearest Sep 24 (24)–last day of Feb (28).	107	3	8
Remainder of RP Zone	Fourth Saturday in Oct (22)–last day of Feb (28).	80	3	5
AP (Lake Champlain) Zone Late Season (Special season).	Dec 1–Feb 15	77	1	5
North Carolina:				
Northeast Zone	Saturday prior to Dec 25 (24)–Jan 31	30	1	1
RP Zone	Oct 1–Mar 10	80	3	5
Pennsylvania:				
AP Zone	Fourth Saturday in Oct (22)–Feb 5	30	2	1
RP Zone	Fourth Saturday in Oct (22)–Mar 10	80	3	5
Rhode Island:				
Statewide	Oct 1–Jan 31	60	2	2
Late Season Area (Special season)	Jan 15–Feb 15	32	2	5
South Carolina	Oct 1–Mar 10	80	3	5
Vermont:				
Connecticut River Zone	Oct 1–Jan 31	60	2	2
Interior Zone	Oct 10–Feb 5	30	2	1
Lake Champlain Zone	Oct 10–Feb 5	30	2	1
Interior, and Lake Champlain Zones Late Season (Special Season).	Dec 1–Feb 15	77	1	5
Virginia:				
AP Zone	Nov 15–Feb 5	30	2	1
SJBP Zone	Nov 15–Jan 14	40	2	3
RP Zone	Nov 15–Mar 10	80	3	5
SJBP Zone Late Season (Special season).	Jan 15–Feb 15	32	1	5
West Virginia:	Oct 1–Mar 10	80	3	5

D. Light Goose Seasons

Outside Dates: October 1–March 10.

Season Lengths: 107 days. Seasons may be split into 3 segments.

Daily Bag limits: 25 light geese. There is no possession limit.

E. Brant Seasons

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths: 50 days. Seasons may be split into 2 segments.

Daily Bag Limits: 2 brant.

2. Mississippi Flyway

A. Duck, Merganser, and Coot Seasons

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths and Daily Bag Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, and 2 redheads. The season for scaup may be split into 2 segments, with one segment consisting of 45 days with a 2-scaup daily bag limit, and the second segment consisting of 15 days with a 1-scaup daily bag limit. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers. The daily bag limit of coots is 15.

Zones and Split Seasons: Alabama, Arkansas, and Mississippi may split their seasons into 3 segments. Kentucky and Tennessee may select seasons in each of 2 zones; Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Illinois may select seasons in each of 4 zones. Louisiana may select seasons in each of 2 zones and may split their season in each zone into 3 segments. Louisiana must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

B. Canada and Cackling Goose Seasons

Outside Dates: September 1–February 15.

Season Lengths: 107 days, which may be split into 4 segments.

Daily Bag Limits: 5 geese in the aggregate.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada and cackling geese if all other waterfowl and crane seasons are closed in the specific applicable area.

C. White-fronted Goose Seasons

Outside Dates: September 1–February 15.

Season Lengths and Daily Bag Limits: 74 days with a daily bag limit of 3 geese, 88 days with a daily bag limit of 2 geese, or 107 days with a daily bag limit of 1 goose. Seasons may be split into 4 segments.

D. Brant Seasons

Outside Dates: September 1–February 15.

Season Lengths and Daily Bag Limits: 70 days with a daily bag limit of 2 brant or 107 days with a daily bag limit of 1 brant. Seasons may be split into 4 segments.

Special Provisions: In lieu of a separate brant season, brant may be included in the season for Canada and cackling geese with a daily bag limit of 5 geese in the aggregate.

E. Dark Goose Seasons

Areas: Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin in lieu of separate seasons for Canada and cackling geese, white-fronted geese, and brant.

Outside Dates: September 1–February 15.

Season Lengths: 107 days, which may be split into 4 segments.

Daily Bag Limits: 5 geese in the aggregate.

F. Light Goose Seasons

Outside Dates: September 1–February 15.

Season Lengths: 107 days, which may be split into 4 segments.

Daily Bag and Possession Limits: The daily bag limit is 20 geese. There is no possession limit for light geese.

3. Central Flyway

A. Ducks, Merganser, and Coot Seasons

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths and Duck Daily Bag Limits: 74 days, except in the High Plains Mallard Management Unit where the season length is 97 days and the last 23 days must be consecutive and may start no earlier than the Saturday nearest December 10 (December 10). The daily bag limit is 6 ducks and mergansers in the aggregate, including no more than 5 mallards (no more than 2 of which may be females), 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. The daily bag limit for scaup is 1, and the season for scaup may be split into 2 segments, with one segment consisting of 39 consecutive days and another segment consisting of 35 consecutive days. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Coot Daily Bag Limits: 15 coots.

Zones and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

North Dakota may split their season into 3 segments. Montana, New Mexico, Oklahoma, and Texas may select seasons in each of 2 zones; and Colorado, Kansas, South Dakota, and Wyoming may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Nebraska may select seasons in each of 4 zones.

B. Special Early Canada and Cackling Goose Seasons

Outside Dates and Seasons Lengths: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, 30 days between September 1–30; in Colorado, New Mexico, Montana, and Wyoming, Canada and cackling goose seasons of not more than 15 days between September 1–15; and in North Dakota, 22 days between September 1–22.

Daily Bag Limits: 5 geese in the aggregate in Colorado, New Mexico, Montana, Wyoming, and Texas; 8 geese in the aggregate in Kansas, Nebraska, and Oklahoma; and 15 geese in the aggregate in North Dakota and South Dakota.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

C. Canada Goose, Cackling Goose, and Brant Seasons

Outside Dates: Saturday nearest September 24 (September 24)–the

Sunday nearest February 15 (February 12).

Seasons and Daily Bag Limits: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, 107 days with a daily bag limit of 8 geese; in Colorado, Montana, New Mexico, and Wyoming, 107 days with a daily bag limit of 5 geese; and in Texas (Western Goose Zone), 95 days with a daily bag limit of 5 geese.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

D. White-fronted Goose Seasons

Outside Dates: Saturday nearest September 24 (September 24)–the Sunday nearest February 15 (February 12).

Season Length and Daily Bag Limits: Except as subsequently provided, either 74 days with a daily bag limit of 3 geese, or 88 days with a daily bag limit of 2 geese, or 107 days with a daily bag limit of 1 goose. In Texas (Western Goose Zone), 95 days with a daily bag limit of 2 geese. Seasons may be split into 3 segments.

E. Light Goose Seasons

Outside Dates: Saturday nearest September 24 (September 24)–March 10.

Season Lengths: 107 days. Seasons may be split into 3 segments.

Daily Bag and Possession Limits: The daily bag limit is 50 with no possession limit.

Special Provisions: In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

4. Pacific Flyway

A. Duck, Merganser, Coot, and Gallinule Seasons

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths and Daily Bag Limits: 107 days. The daily bag limit is 7 ducks and mergansers in the aggregate, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 2 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State. The daily bag limit of coots and gallinules is 25 in the aggregate.

Zones and Split Seasons: Montana and New Mexico may split their seasons into 3 segments. Arizona, Colorado, Oregon, Utah, Washington, and Wyoming may select seasons in each of 2 zones; Nevada may select seasons in each of 3 zones; California may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Idaho may select seasons in each of 4 zones.

Special Provisions: The seasons, limits, and shooting hours should be the same between the Colorado River Zone of California and the South Zone of Arizona.

B. Goose Seasons

i. Special Early Canada and Cackling Goose Seasons

Outside Dates: September 1–20.

Season Lengths: 15 days.

Daily Bag Limits: 5 geese in the aggregate, except in Pacific County, Washington, where the daily bag limit is 15 geese in the aggregate.

ii. Canada Goose, Cackling Goose, and Brant Seasons

Outside Dates: Except as subsequently provided, September 24 (September 24)–January 31.

Season Lengths: Except as subsequently provided, 107 days.

Daily Bag Limits: Except as subsequently provided, in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 5 Canada and cackling geese and brant in the aggregate. In Oregon and Washington, the daily bag limit is 4 Canada and cackling geese in the aggregate. In California, the daily bag limit is 10 Canada and cackling geese in the aggregate.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

iii. Brant Seasons

Areas: California, Oregon, and Washington.

Outside Dates: September 24 (September 24)–January 31.

Season Lengths and Daily Bag Limits: 37 days and 2 brant.

Zones: Washington and California may select seasons in each of 2 zones.

Special Provisions: In Oregon and California, the brant season must end no later than December 15.

iv. White-Fronted Goose Seasons

Outside Dates: Saturday nearest September 24 (September 24)–March 10.

Season Lengths: 107 days.

Daily Bag Limits: Except as subsequently provided, 10 geese.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

v. Light Goose Seasons

Outside Dates: Saturday nearest September 24 (September 24)–March 10.

Season Lengths: 107 days. Seasons may be split into 3 segments.

Daily Bag Limits: 20 geese, except in Washington where the daily bag limit for light geese is 10 on or before the last Sunday in January (January 29).

California

Balance of State Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10, and may be split into 3 segments. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after January 31 should be concurrent with Oregon's South Coast Zone.

Northeastern Zone: The white-fronted goose season may be split into 3 segments.

Oregon

Eastern Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10 with a daily bag limit of 3 geese in the aggregate. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10 with a daily bag limit of 6 geese in the aggregate. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. Hunting days that occur after January 31 should be concurrent with California's North Coast Special Management Area.

Utah

Wasatch Front Zone: A Canada and cackling goose and brant season may be selected with outside dates between the

Saturday nearest September 24 (September 24) and February 15.

Washington

Areas 2 Inland and 2 Coastal (Southwest Permit Zone): A Canada and cackling goose season may be selected in each zone with outside dates between the Saturday nearest September 24 (September 24) and March 10 with a daily bag limit of 3 geese in the aggregate. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments.

Area 4: Canada and cackling goose and white-fronted goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada and cackling goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada and cackling goose season on the dusky Canada goose population.

5. Swan Seasons

Pacific Flyway

Areas: Idaho, Montana, Nevada, and Utah.

Outside Dates: Saturday nearest September 24 (September 24)–January 31.

Season Lengths: 107 days. Seasons may be split into 2 segments.

Permits: Hunting is by permit only. Permits will be issued by the State. The total number of permits issued may not exceed 50 in Idaho, 500 in Montana, 650 in Nevada, and 2,750 in Utah. Permits will authorize the take of no more than 1 swan per permit. Only 1 permit may be issued per hunter in Montana and Utah; 2 permits may be issued per hunter in Nevada.

Quotas: The swan season in the respective State must end upon attainment of the following reported harvest of trumpeter swans: 20 in Utah and 10 in Nevada. There is no quota in Idaho and Montana.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing either species-determinant parts (at least the intact head) or bill measurements (bill length from tip to posterior edge of the nares opening, and presence or absence of yellow lore spots on the bill in front of the eyes) of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant parts or bill measurements of harvested swans for species identification, or subsequent permits will be reduced by 10 percent in the respective State. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest. In Idaho and Montana, all hunters that harvest a swan must complete and submit a reporting card (bill card) with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination. In Utah and Nevada, all hunters that harvest a swan must have the swan or species-determinant parts examined by a State or Federal biologist within 72 hours of harvest for species determination.

Other Provisions: In Utah, the season is subject to the terms of the Memorandum of Agreement entered into with the Service in January 2019 regarding harvest monitoring, season closure procedures, and education requirements to minimize take of trumpeter swans during the swan season.

Atlantic and Central Flyways

Areas: Delaware, North Carolina, and Virginia in the Atlantic Flyway and North Dakota, South Dakota east of the Missouri River, and part of Montana in the Central Flyway.

Outside Dates: October 1–January 31 in the Atlantic Flyway and the Saturday nearest October 1 (October 1)–January 31 in the Central Flyway.

Season Lengths: 90 days in the Atlantic Flyway and 107 days in the Central Flyway.

Permits: Hunting is by permit only. Permits will be issued by the States. No more than 5,600 permits may be issued in the Atlantic Flyway including 347 in Delaware, 4,721 in North Carolina, and 532 in Virginia. No more than 4,000 permits may be issued in the Central Flyway including 500 in Montana, 2,200 in North Dakota, and 1,300 in South Dakota. Permits will authorize the take of no more than 1 swan per permit. A second permit may be issued to hunters from unissued permits remaining after the first drawing. Unissued permits may be reallocated to States within a Flyway.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing measurements of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant measurements of harvested swans for species identification. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest.

Other Provisions: In lieu of a general swan hunting season, States may select a season only for tundra swans. States selecting a season only for tundra swans must obtain harvest and hunter participation data. The season in Delaware is experimental.

6. Sandhill Crane Seasons

Mississippi Flyway

Areas: Alabama, Kentucky, Minnesota, and Tennessee.

Outside Dates: September 1–February 28 in Minnesota, and September 1–January 31 in Alabama, Kentucky, and Tennessee.

Season Lengths: 37 days in the designated portion of Minnesota's Northwest Goose Zone, and 60 days in Alabama, Kentucky, and Tennessee.

Daily Bag and Possession Limits: The daily bag limit is 1 crane in Minnesota, 2 cranes in Kentucky, and 3 cranes in Alabama and Tennessee. In Alabama, Kentucky, and Tennessee, the seasonal bag limit is 3 cranes.

Permits: Hunting is by permit only. Permits will be issued by the State.

Other Provisions: The number of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with Council management plans and approved by the Mississippi Flyway Council. The season in Alabama is experimental.

Central Flyway

Areas: Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Outside Dates: September 1–February 28.

Season Lengths: 37 days in Texas (Zone C), 58 days in Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming, and 93 days in New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 cranes, except 2 cranes in North Dakota (Area 2) and Texas (Zone C).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Central and Pacific Flyways

Areas: Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming within the range of the Rocky Mountain Population (RMP) of sandhill cranes.

Outside Dates: September 1–January 31.

Season Lengths: 60 days. The season may be split into 3 segments.

Daily Bag and Possession limits: The daily bag limit is 3 cranes, and the possession limit is 9 cranes per season.

Permits: Hunting is by permit only. Permits will be issued by the State.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with Councils' management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

1. In Utah, 100 percent of the harvest will be assigned to the RMP crane quota;

2. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals unless 100 percent of the harvest will be assigned to the RMP crane quota;

3. In Idaho, 100 percent of the harvest will be assigned to the RMP crane quota; and

4. In the Estancia Valley hunt area of New Mexico, the level and racial composition of the harvest must be monitored; greater sandhill cranes in the harvest will be assigned to the RMP crane quota.

7. Gallinule Seasons

Atlantic, Mississippi, and Central Flyways

Outside Dates: September 1–January 31.

Season Lengths: 70 days.

Daily Bag Limits: 15 gallinules.

Zones and Split Seasons: Seasons may be selected by zones established for duck hunting. The season in each zone may be split into 2 segments.

Pacific Flyway

States in the Pacific Flyway may select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, Pacific Flyway frameworks for gallinules are included with the duck, merganser, and coot frameworks.

8. Rail Seasons

Areas: Atlantic, Mississippi, and Central Flyways and the Pacific Flyway Portions of Colorado, Montana, New Mexico, and Wyoming.

Outside Dates: September 1–January 31.

Season Lengths: 70 days. Seasons may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10 rails in the aggregate. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15 rails in the aggregate.

Sora and Virginia Rails: 25 rails in the aggregate.

9. Snipe Seasons

Outside Dates: September 1–February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Season Lengths: 107 days.

Daily Bag limits: 8 snipe.

Zones and Split Seasons: Seasons may be selected by zones established for duck seasons. The season in each zone may be split into 2 segments.

10. American Woodcock Seasons

Areas: Eastern and Central Management Regions

Outside Dates: September 13–January 31.

Season Lengths: Except as subsequently provided, 45 days.

Daily Bag Limits: 3 woodcock.

Zones and Split Seasons: Seasons may be split into 2 segments. New Jersey may select seasons in each of 2 zones. The season in each zone may not exceed 36 days.

11. Band-Tailed Pigeon Seasons

California, Oregon, Washington, and Nevada

Outside Dates: September 15–January 1.

Seasons Lengths: 9 days.

Daily Bag Limits: 2 pigeons.

Zones: California may select seasons in each of 2 zones. The season in each zone may not exceed 9 days. The season in the North Zone must close by October 3.

Arizona, Colorado, New Mexico, and Utah

Outside Dates: September 1–November 30.

Season Lengths: 14 days.

Daily Bag Limits: 2 pigeons.

Zones: New Mexico may select seasons in each of 2 zones. The season in each zone may not exceed 14 days. The season in the South Zone may not open until October 1.

12. Dove Seasons

Eastern Management Unit

Outside Dates: September 1–January 31.

Season Lengths: 90 days.

Daily Bag Limits: 15 mourning and white-winged doves in the aggregate.

Zones and Split Seasons: Seasons may be split into 3 segments; Alabama, Louisiana, and Mississippi may select seasons in each of 2 zones and may split their season in each zone into 3 segments.

Central Management Unit

Outside Dates: September 1–January 15.

Season Lengths: 90 days.

All States Except Texas

Daily Bag Limits: 15 mourning and white-winged doves in the aggregate.

Zones and Split Seasons: Seasons may be split into 3 segments; New Mexico may select seasons in each of 2 zones and may split their season in each zone into 3 segments.

Texas

Daily Bag Limits: 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zones and Split Seasons: Texas may select hunting seasons for each of 3 zones subject to the following conditions:

1. The season may be split into 2 segments, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area in Texas, below).

2. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 14 and January 25.

Special White-Winged Dove Season in Texas

In addition, Texas may select a hunting season of not more than 6 days, consisting of two 3-consecutive-day periods, for the Special White-winged Dove Area between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2

may be white-tipped doves. Shooting hours are from noon to sunset.

Western Management Unit

Outside Dates: September 1–January 15.

Idaho, Nevada, Oregon, Utah, and Washington

Season Lengths: 60 days.

Daily Bag Limits: 15 mourning and white-winged doves in the aggregate.

Zones and Split Seasons: Idaho, Nevada, Utah, and Washington may split their seasons into 2 segments. Oregon may select hunting seasons in each of 2 zones and may split their season in each zone into 2 segments.

Arizona and California

Season Lengths: 60 days, which may be split between 2 segments, September 1–15 and November 1–January 15.

Daily Bag Limits: In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-winged doves.

13. Alaska

A. Duck, Goose, Sandhill Crane, and Snipe Seasons

Outside Dates: Except as subsequently provided, September 1–January 26.

Season Lengths: Except as subsequently provided, 107 days for ducks, geese (except brant), sandhill cranes, and snipe. The season length for brant will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy.

Zones and Split Seasons: A season may be established in each of 5 zones. The season in the Southeast Zone may be split into 2 segments.

Closed Seasons: The hunting season is closed on the spectacled eider and Steller's eider.

Daily Bag and Possession Limits and Special Conditions

Ducks: The basic daily bag limit is 7 ducks. The basic daily bag limit in the North Zone is 10 ducks, and in the Gulf Coast Zone is 8 ducks. The basic daily bag limits may include 2 canvasbacks and may not include sea ducks.

In addition to the basic daily bag limits, the sea duck daily bag limit is 10, including 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common, hooded, and red-breasted mergansers.

Light Geese: The daily bag limit is 6 geese.

Canada and Cackling Geese: The daily bag limit is 4 Canada and cackling geese in the aggregate with the following exceptions, and subject to the following conditions:

1. In Game Management Units (Units) 5 and 6, in the Gulf Coast Zone, outside dates are September 28–December 16.

2. On Middleton Island in Unit 6, in the Gulf Coast Zone, all hunting is by permit only. Each hunter is required to complete a mandatory Canada and cackling goose identification class prior to being issued a permit. Hunters must check in and check out when hunting. The daily bag and possession limits are 1 goose. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters.

3. In Unit 10, in the Pribilof and Aleutian Islands Zone, the daily bag limit is 6 geese in the aggregate.

White-fronted Geese: The daily bag limit is 4 geese with the following exceptions:

1. In Unit 9, in the Gulf Coast Zone, Unit 10, in the Pribilof and Aleutian Islands Zone, and Unit 17, in the North Zone, the daily bag limit is 6 geese.

2. In Unit 18, in the North Zone, the daily bag limit is 10 geese.

Emperor Geese: The emperor geese season is subject to the following conditions:

1. All hunting is by permit only.

2. One goose may be harvested per hunter per season.

3. Total harvest may not exceed 500 geese.

4. In Unit 8, in the Kodiak Zone, the Kodiak Island Road Area is closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit is 4 brant.

Snipe: The daily bag limit is 8 snipe.

Sandhill Cranes: The daily bag limit is 2 cranes in the Southeast, Gulf Coast, Kodiak, and Pribilof and Aleutian Islands Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3 cranes.

B. Tundra Swan Seasons

Outside Dates: September 1–October 31.

Season Lengths: 31 days.

Daily Bag and Possession Limits and Special Conditions: All hunting is by permit only according to the following conditions.

1. In Unit 17, in the North Zone, 200 permits may be issued; 3 tundra swans may be authorized per permit, and 1 permit may be issued per hunter per season.

2. In Unit 18, in the North Zone, 500 permits may be issued; 3 tundra swans may be authorized per permit, and 1 permit may be issued per hunter per season.

3. In Unit 22, in the North Zone, 300 permits may be issued; 3 tundra swans may be authorized per permit, and 1 permit may be issued per hunter per season.

4. In Unit 23, in the North Zone, 300 permits may be issued; 3 tundra swans may be authorized per permit, and 1 permit may be issued per hunter per season.

14. Hawaii

A. Mourning Dove Seasons

Outside Dates: October 1–January 31.

Season Lengths and Daily Bag Limits: 65 days with a daily bag limit of 15 doves or 75 days with a daily bag of 12 doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

15. Puerto Rico

A. Dove and Pigeon Seasons

Outside Dates: September 1–January 15.

Season Lengths: 60 days.

Daily Bag Limits: 30 Zenaida, mourning, and white-winged doves in the aggregate, of which 10 may be Zenaida doves and 3 may be mourning doves, and 5 scaly-naped pigeons.

Closed Seasons: There is no open season on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

B. Duck, Coot, Gallinule, and Snipe Seasons

Outside Dates: October 1–January 31.

Season Lengths: 55 days. The season may be split into 2 segments.

Daily Bag Limits: 6 ducks, 6 common gallinules, and 8 snipe.

Closed Seasons: There is no open season on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. There is no open season on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, gallinules, and snipe in the Municipality of Culebra and on Desecheo Island.

16. Virgin Islands

A. Dove and Pigeon Seasons

Outside Dates: September 1–January 15.

Season Lengths: 60 days.

Daily Bag and Possession Limits: 10 Zenaida doves.

Closed Seasons: There is no open season for ground-doves, quail-doves, and pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

B. Duck Seasons

Outside Dates: December 1–January 31.

Season Lengths: 55 days.

Daily Bag Limits: 6 ducks.

Closed Seasons: There is no open season on the ruddy duck, white-cheeked pintail, West Indian whistling-duck, fulvous whistling-duck, and masked duck.

17. Special Falconry Regulations

In accordance with 50 CFR 21.82, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. States may select an extended season for taking migratory game birds in accordance with the following:

Outside Dates: September 1–March 10.

Season Lengths: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be split into 3 segments.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in each State, including those that do not select an extended falconry season.

Note: General hunting regulations, including seasons and hunting hours, apply to falconry. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to shooting limits.

c. Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire–Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine–New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine–New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Western Zone: Allegany, Carroll, Garrett, Frederick and Washington Counties; and those portions of Baltimore, Howard, Prince George's, and Montgomery Counties west of a line beginning at 2012;83 at the Pennsylvania State line, following 2012;83 south to the intersection of 2012;83 and 2012;695 (Outer Loop), south following 2012;695 (Outer Loop) to its intersection with 2012;95, south following 2012;95 to its intersection with 2012;495 (Outer Loop), and following 2012;495 (Outer Loop) to the Virginia shore of the Potomac River.

Eastern Zone: That portion of the State not included in the Western Zone.

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center Street–Elm Street bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Route 10 and Route 25–A in Orford, east on Route 25–A to Route 25 in Wentworth, southeast on Route 25 to Exit 26 of Route I–93 in Plymouth, south on Route I–93 to Route 3 at Exit 24 of Route I–93 in Ashland, northeast on Route 3 to Route 113 in Holderness, north on Route 113 to Route 113–A in Sandwich, north on Route 113–A to Route 113 in Tamworth, east on Route 113 to Route 16 in Chocorua, north on Route 16 to Route 302 in Conway, east on Route 302 to the Maine–New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following

designated area of the Inland Zone: the State of Vermont east of Route I–91 at the Massachusetts border, north on Route I–91 to Route 2, north on Route 2 to Route 102, north on Route 102 to Route 253, and north on Route 253 to the border with Canada and the area of New Hampshire west of Route 63 at the Massachusetts border, north on Route 63 to Route 12, north on Route 12 to Route 12–A, north on Route 12–A to Route 10, north on Route 10 to Route 135, north on Route 135 to Route 3, north on Route 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine–New Hampshire border in Rollinsford, then extending to Route 4 west to the city of Dover, south to the intersection of Route 108, south along Route 108 through Madbury, Durham, and Newmarket to the junction of Route 85 in Newfields, south to Route 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York–Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

North Carolina

Coastal Zone: All counties and portions of counties east of I–95.

Inland Zone: All counties and portions of counties west of I–95.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Virginia

Western Zone: All counties and portions of counties west of I–95.

Eastern Zone: All counties and portions of counties east of I–95.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone–Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington–Peotone Road, west along Wilmington–Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff–Lorenzo Road, west along Pine Bluff–Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to

Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along I–70; east along National Ave.; east along U.S. 150; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota–2012; Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 20 to the Iowa–2012; Illinois border. The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa–Illinois border. The central duck hunting zone is the remainder of the State.

Central Zone: The remainder of Iowa not included in the North and South zones.

South Zone: The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa-Illinois border.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State beginning at the Arkansas border, then south on U.S. Hwy 79 to State Hwy 9, then south on State Hwy 9 to State Hwy 147, then south on State Hwy 147 to U.S. Hwy 167, then south and east on U.S. Hwy 167 to U.S. Hwy 90, then south on U.S. Hwy 90 to the Mississippi State line.

West Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Michigan–Wisconsin boundary line in Lake Michigan, directly due west of the mouth of Stoney Creek in section 31, T14N R18W, Oceana County, then proceed easterly and southerly along the centerline of Stoney Creek to its intersection with Scenic Drive, southerly on Scenic Drive to Stoney Lake Road in section 5, T13N R18W, Oceana County, easterly on Stoney Lake Road then both west and east Garfield Roads (name change only; not an intersection) then crossing highway U.S.–31 to State Highway M–20 (north of the town of New Era; also locally named Hayes Road) in section 33, T14N R17W, Oceana County, easterly on M–20 through Oceana, Newaygo, Mecosta, Isabella, and Midland Counties to highway U.S.–10 business route in the city of Midland, easterly on U.S.–10 Business Route (BR) to highway U.S.–10 at the Bay County line, easterly on U.S.–10 then crossing U.S.–75 to State Highway M–25 (west of the town of Bay City), easterly along M–25 into Tuscola County then northeasterly and easterly on M–25 through Tuscola County into Huron County, turning southeasterly on M–25 (near the town of Huron City; also locally named North Shore Road) to the centerline of Willow Creek in section 4, T18N R14E, Huron County, then northerly along the centerline of Willow Creek to the mouth of Willow Creek into Lake Huron, then directly due east along a line from the mouth of Willow Creek heading east into Lake Huron to a point due east and on the Michigan/U.S.–Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at I–70; west on I–70 to Hwy 65; north on Hwy 65 to Hwy 41, north on Hwy 41 to Hwy 24; west on Hwy 24 to MO Hwy 10, west on Hwy 10 to Hwy 69, north on Hwy 69 to MO Hwy 116, west on MO Hwy 116 to Hwy 59, south on Hwy 59 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on MO Hwy 74 to MO Hwy 25; south on MO Hwy 25. to U.S. Hwy 62; west on U.S. Hwy 62 to MO Hwy 53; north on MO Hwy 53 to MO Hwy 51; north on MO Hwy 51 to U.S. Hwy 60; west on U.S. Hwy 60 to MO Hwy 21; north on MO Hwy 21 to MO Hwy 72; west on MO Hwy 72 to MO Hwy 32; west on MO Hwy 32 to U.S. Hwy 65; north on U.S. Hwy 65 to U.S. Hwy 54; west on U.S. Hwy 54 to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio–Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie–Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio–Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone,

north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Open Water Zone: That portion of the State extending 500 feet or greater from the Lake Michigan shoreline bounded by the Michigan State line and the Illinois State line.

South Zone: The remainder of the State.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.–283 and State Hwy 96 junction, then east on State Hwy 96 to its junction with Federal Hwy U.S.–183, then north on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–24, then east on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–36, then east on Federal Hwy U.S.–36 to its junction with State Hwy K–199, then south on State Hwy K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State Hwy K–148, then east on State Hwy K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State Hwy K–9, then west on State Hwy K–9 to its junction with Federal Hwy U.S.–24, then west on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–181, then south on Federal Hwy U.S.–181 to its junction with State Hwy K–18, then west on State Hwy K–18 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with State Hwy K–4, then east on State Hwy K–4 to its junction with interstate Hwy I–135, then south on interstate Hwy I–135 to its junction with State Hwy K–61, then southwest on State Hwy K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Road, then west on McPherson County Arapaho Road to its junction with State Hwy K–61, then southwest on State Hwy K–61 to its junction with State Hwy K–96, then northwest on State Hwy K–96 to its junction with Federal Hwy U.S.–56, then southwest on Federal Hwy U.S.–56 to its junction with State Hwy K–19, then east on State Hwy K–19 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–54, then west on Federal Hwy U.S.–54 to its junction with Federal Hwy U.S.–183, then north on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–56, then southwest on Federal Hwy U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal Hwy U.S.–400, then northwest on Federal Hwy U.S.–400 to its junction with Federal Hwy U.S.–283, and then north on Federal Hwy U.S.–283 to its junction with Federal Hwy U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.–283 and State Hwy 96 junction, then north on Federal Hwy U.S.–283 to the Kansas–Nebraska State line, then east along the Kansas–Nebraska State line to its junction with the Kansas–Missouri State line, then southeast along the Kansas–Missouri State line to its junction with State Hwy K–68, then west on State Hwy K–68 to its junction with interstate Hwy I–35, then southwest on interstate Hwy I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal Hwy U.S.–77, then south on Federal Hwy U.S.–77 to its junction with the Kansas–Oklahoma State line, then west along the Kansas–Oklahoma State line to its junction with Federal Hwy U.S.–283, then north on Federal Hwy U.S.–283 to its junction with Federal Hwy U.S.–400, then east on Federal Hwy U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal Hwy U.S.–56, then east on Federal Hwy U.S.–56 to its junction with Federal Hwy U.S.–183, then south on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–54, then east on Federal Hwy U.S.–54 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with State Hwy K–19, then west on State Hwy K–19 to its junction with Federal Hwy U.S.–56, then east on Federal Hwy U.S.–56 to its junction with State Hwy K–96, then southeast on State Hwy K–96 to its junction with State Hwy K–61, then northeast on State Hwy K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on

McPherson County 14th Avenue to its junction with State Hwy K–61, then east on State Hwy K–61 to its junction with interstate Hwy I–135, then north on interstate Hwy I–135 to its junction with State Hwy K–4, then west on State Hwy K–4 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with State Hwy K–18, then east on State Hwy K–18 to its junction with Federal Hwy U.S.–181, then north on Federal Hwy U.S.–181 to its junction with Federal Hwy U.S.–24, then east on Federal Hwy U.S.–24 to its junction with State Hwy K–9, then east on State Hwy K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State Hwy K–148, then west on State Hwy K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State Hwy K–199, then north on State Hwy K–199 to its junction with Federal Hwy U.S.–36, then west on Federal Hwy U.S.–36 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–24, then west on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–183, then south on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–96, and then west on Federal Hwy U.S.–96 to its junction with Federal Hwy U.S.–283.

Low Plains Southeast Zone: That part of Kansas bounded by a line from the Missouri–Kansas State line west on K–68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal Hwy U.S.–77, then south on Federal Hwy U.S.–77 to the Oklahoma–Kansas State line, then east along the Kansas–Oklahoma State line to its junction with the Kansas–Missouri State line, then north along the Kansas–Missouri State line to its junction with State Hwy K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota–Nebraska border on U.S. Hwy 183; south on U.S. Hwy 183 to U.S. Hwy 20; west on U.S. Hwy 20 to NE Hwy 7; south on NE Hwy 7 to NE Hwy 91; southwest on NE Hwy 91 to NE Hwy 2; southeast on NE Hwy 2 to NE Hwy 92; west on NE Hwy 92 to NE Hwy 40; south on NE Hwy 40 to NE Hwy 47; south on NE Hwy 47 to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; and south on U.S. Hwy 283 to the Kansas–Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota–Nebraska border at U.S. Hwy 183; south along Hwy 183 to NE Hwy 12; east to NE Hwy 137; south to U.S. Hwy 20; east to U.S. Hwy 281; north to the Niobrara River; east along the Niobrara River to the Boyd County Line; north along the Boyd County line to NE Hwy 12; east to NE 26E Spur; north along the NE 26E Spur to the Ponca State Park boat ramp; north and west along the Missouri River to the Nebraska–South Dakota border; west along the Nebraska–South Dakota border to U.S. Hwy 183. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy 183 shall be included in Zone 1.

Zone 2: Those areas of the State that are not contained in Zones 1, 3, or 4.

Zone 3: Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming Nebraska border at its northernmost intersection with the Interstate Canal; southeast along the Interstate Canal to the northern border of Scotts Bluff County; east along northern borders of Scotts Bluff and Morrill Counties to Morrill County Road 125; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; east to County Rd 147; south to County Rd 88; southeast to County Rd 86; east to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; north along the Keith County line to the northern border of Keith County; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to North Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; south to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; south on U.S. Hwy 283 to the Kansas–Nebraska border; west along Kansas–Nebraska border to the Nebraska–Colorado border; north and west to the Wyoming–Nebraska border; north along the Wyoming–Nebraska border to its northernmost-intersection with the Interstate Canal.

Zone 4: Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of U.S. Hwy 283 at the Kansas–Nebraska border; north to NE Hwy 23; west to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21; south to County Rd 761; east on County Rd 761 to County Road 437; south to the Dawson County Canal; southeast along Dawson County Canal; east to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Ave.; north to NE Hwy 40; east to NE Hwy 10; north to County Rd 220 and Hall County Husker Highway; east to Hall County S 70th Rd; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; north and east to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton County line); south to Giltner Rd; west to U.S. Hwy 281; south to W. 82nd St; west to Holstein Ave.; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to Gosper County Rd 433; south to N. Railway Street; west to Commercial Ave.; south to NE Hwy 23; west to Gosper County Rd 427; south to Gosper County Rd 737; west to Gosper County Rd 426; south to Gosper County Rd 735; east to Gosper County Rd 427; south to Furnas County Rd 276; west to Furnas County Rd 425.5/425; south to U.S. Hwy 34; east to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; north to U.S. Hwy 6; east to NE Hwy 33; east to SW 142 Street; south to W. Hallam Rd; east to SW 100 Rd; south to W. Chestnut Rd; west to NE Hwy 103; south to NE Hwy 4; west to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Ave.; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along

Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to Otoe County Rd D; east to N. 32nd Rd; north to Otoe County Rd B; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 109; west along NE Hwy 109 and Saunders County Rd X to Saunders County 19; south to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Dark Island Trail, north to Merrick County Rd M; east to Merrick County Rd 18; north to NE Hwy 92; west to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 58; west to NE Hwy 11; west and south to NE Hwy 2; west to NE Hwy 68; north to NE Hwy L82A; west to NE Hwy 10; north to NE Hwy 92; west to U.S. Hwy 183; north to Round Valley Rd; west to Sargent River Rd; west to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; north to NE Hwy 91 to North Loup Spur Rd; north to North Loup River Rd; north and east along to Pleasant Valley/Worth Rd; east to Loup County Line; north along the Loup County Line to Loup–Brown County line; east along northern boundaries of Loup and Garfield Counties to NE Hwy 11; south to Cedar River Road; east and south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to the Iowa–Nebraska border; south to the Missouri–Nebraska border; south to Kansas–Nebraska border; west along Kansas–Nebraska border to U.S. Hwy 283.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains: That portion of the State south and west of a line beginning at the junction of U.S. Hwy 83 and the South Dakota State line, then north along U.S. Hwy 83 and I–94 to ND Hwy 41, then north on ND Hwy 41 to ND Hwy 53, then west on ND Hwy 53 to U.S. Hwy 83, then north on U.S. Hwy 83 to U.S. Hwy 2, then west on U.S. Hwy 2 to the Williams County line, then north and west along the Williams and Divide County lines to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt–Canning Road to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte–Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

Low Plains North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

Low Plains South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Low Plains Middle Zone: The remainder of South Dakota.

Texas

High Plains: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–

Nevada–Oregon State lines; west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.–Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral Counties west of the Continental Divide, those portions of Gunnison County except the North Fork of the Gunnison River Valley (Game Management Units 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Road 29 with the Moffat–Routt County line, south along Moffat County Road 29 to the intersection of Moffat County Road 29 with the Moffat–Routt County line (Elkhead Reservoir State Park).

Western Zone: All areas west of the Continental Divide not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Power County east of State Highway 37 and State Highway 39; and Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 2: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Zone 3: Power County west of State Highway 37 and State Highway 39, and Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko, Eureka, Lander, and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Humboldt, Lyon, Mineral, Pershing, Storey, and Washoe Counties.

South Zone: Clark, Esmeralda, Lincoln, and Nye Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Northern Zone: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Southern Zone: The remainder of Utah not included in the Northern Zone.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger–Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada and Cackling Goose Seasons

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford, and then extending south along I–91 to its intersection with the Hartford–Middlesex County line.

NAP–H Unit: That part of the State east of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford and then extending south along I–91 to State Street in New Haven; then south on State Street to Route 34, west on Route 34 to Route 8, south along Route 8 to Route 110, south along Route 110 to Route 15, north along Route 15 to the

Milford Parkway, south along the Milford Parkway to I–95, north along I–95 to the intersection with the east shore of the Quinnipiac River, south to the mouth of the Quinnipiac River and then south along the eastern shore of New Haven Harbor to the Long Island Sound.

Atlantic Flyway Resident Population (AFRP) Unit: Remainder of the State not included in AP and NAP Units.

South Zone: Same as for ducks.

Maine

North NAP–H Zone: Same as North Zone for ducks.

Coastal NAP–L Zone: Same as Coastal Zone for ducks.

South NAP–H Zone: Same as South Zone for ducks.

Maryland

Early Canada and Cackling Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania State line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire State line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

NAP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94; then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York–Canada international boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York–Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara–Orleans County boundary) meets the international boundary with Canada,

south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden–Murrays Corners Road, south on Crittenden–Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York–Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor–Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York–Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

Northeast Zone: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in

Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford County line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

RP Zone: Remainder of the State.

Pennsylvania

Resident Canada and Cackling Goose Zone: All of Pennsylvania area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to the intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to the New Jersey State line.

Rhode Island

Special Area for Canada and Cackling Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada and Cackling Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: the ''Blue Ridge'' (mountain spine) at the West Virginia–Virginia border (Loudoun County–Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Route 64 to Route 15, then south along Route 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Remainder of State: That portion of the State outside of the Northwest Zone.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks.

Iowa

Same zones as for ducks.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at State Hwy 190/12 east to State Hwy 49, then south on State Hwy 49 to Interstate 10, then east on Interstate 10 to Interstate 12, then east on Interstate 12 to Interstate 10, then east on Interstate 10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County Game Management Unit (GMU): That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: The remainder of the State.

Wisconsin

North and South Zones: Same zones as for ducks.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park Area: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Area: All of Alamosa, Conejos, Costilla, and Rio Grande Counties, and those portions of Saguache, Mineral, Hinsdale, Archuleta, and San Juan Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the Nebraska–South Dakota border and U.S. Hwy 83, south to U.S. Hwy 20, east to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the Nebraska–South Dakota border, west along the Nebraska–South Dakota border to U.S. Hwy 83. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

Platte River Unit: The area bounded starting at the northernmost intersection of the Interstate Canal at the Nebraska–Wyoming border, south along the Nebraska–Wyoming border to the Nebraska–Colorado border, east and south along the Nebraska–Colorado border to the Nebraska–Kansas border, east along the Nebraska–Kansas border to the Nebraska–Missouri border, north along the Nebraska–Missouri and Nebraska–Iowa borders to the Burt–Washington County line, west along the Burt–Washington County line to U.S. Hwy 75, south to Dodge County Road 4/Washington County Road 4, west to U.S. Hwy 77, south to U.S. Hwy 275, northwest to U.S. Hwy 91, west to NE Hwy 45, north to NE Hwy 32, west to NE Hwy 14, north to NE Hwy 70, west to U.S. Hwy 281, south to NE Hwy 70, west along NE Hwy 70/91 to NE Hwy 11, north to the Holt County Line, west along the northern border of Garfield, Loup, Blaine, and Thomas Counties to the Hooker County Line, south along the Thomas–Hooker County Lines to the McPherson County Line, east along the south border of Thomas County to the Custer County Line, south along the Custer–Logan County lines to NE Hwy 92, west to U.S. Hwy 83, north to NE Hwy 92, west to NE Hwy 61, north to NE Hwy 2, west along NE Hwy 2 to the corner formed by Garden, Grant, and Sheridan Counties, west along the north borders of Garden, Morrill, and Scotts Bluff Counties to the intersection with the Interstate Canal, north and west along the Interstate Canal to the intersection with the Nebraska–Wyoming border.

North-Central Unit: Those portions of the State not in the Niobrara and Platte River zones.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy 92 and NE Hwy 15, south along NE Hwy 15 to NE Hwy 4, west along NE Hwy 4 to U.S. Hwy 34, west along U.S. Hwy 34 to U.S. Hwy 283, north along U.S. Hwy 283 to U.S. Hwy 30, east along U.S. Hwy 30 to NE Hwy 92, east along NE Hwy 92 to the beginning.

Remainder of State: The remainder of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada and Cackling Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Western North Dakota Canada and Cackling Goose Zone: Same as the High Plains Unit for ducks, mergansers, and coots, excluding the Missouri River Canada Goose Zone.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada and Cackling Goose Seasons

Special Early Canada and Cackling Goose Unit: The Counties of Campbell, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix Counties north and east of a line beginning at the Hughes–Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix–Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; Aurora, Beadle, Brookings, Brown, Butte, Corson, Davison, Douglas, Edmunds, Faulk, Haakon, Hand, Hanson, Harding, Hutchinson, Jackson, Jerauld, Jones, Kingsbury, Lake, McCook, McPherson, Meade, Mellette, Miner, Moody, Oglala Lakota (formerly Shannon), Sanborn, Spink, Todd, Turner, and Ziebach Counties; and those portions of Minnehaha and Lincoln Counties outside of an area bounded by a line beginning at the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County

Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota–Iowa State line, then north along the South Dakota–Iowa and South Dakota–Minnesota border to the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the Special Early Canada and Cackling Goose Unit.

Unit 2: All of South Dakota not included in Unit 1 and Unit 3.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas–Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Zone G4: Fremont County excluding those portions south or west of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines west along the California–Oregon State line to the point of origin.

Klamath Basin Special Management Area: Beginning at the intersection of Highway 161 and Highway 97; east on Highway 161 to Hill Road; south on Hill Road to N Dike Road West Side; east on N Dike Road West Side until the junction of the Lost River; north on N Dike Road West Side until the Volcanic Legacy Scenic Byway; east on Volcanic Legacy Scenic Byway until N Dike Road East Side; south on the N Dike Road East Side; continue east on N Dike Road East Side to Highway 111; south on Highway 111/Great Northern Road to Highway 120/Highway 124; west on Highway 120/Highway 124 to Hill Road; south on Hill Road until Lairds Camp Road; west on Lairds Camp Road until Willow Creek; west and south on Willow Creek to Red Rock Road; west on Red Rock Road until Meiss Lake Road/Old State Highway; north on Meiss Lake Road/Old State Highway to Highway 97; north on Highway 97 to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.–Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes–Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Early Canada and Cackling Goose Seasons

Zone 1: Bannock, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; Power County east of State Highway 37 and State Highway 39; and all lands and waters within the Fort Hall Indian Reservation, including private in-holdings.

Zone 2: Bonneville County.

Zone 3: Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

Zone 6: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Regular Seasons

Canada and Cackling Geese and Brant

Same as for early Canada and cackling goose seasons.

White-Fronted Geese

Zone 1: Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; Power County east of State Highway 37 and State Highway 39; and all lands and waters within the Fort Hall Indian Reservation, including private in-holdings.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Blaine, Camas, Clearwater, Custer, Franklin, Idaho, Latah, Lemhi, Lewis, Nez Perce, and Oneida Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Zone 6: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Blaine, Camas, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, and Nez Perce Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Zone 7: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Road crosses the south shores of Horn Creek, north on Old Woods Road to Sand Lake Road at Woods, north on Sand Lake Road to the intersection with McPhillips Drive, due west (~200 yards) from the intersection to the Pacific coastline, south along the Pacific coastline to a point due west of the western end of Pacific Avenue in Pacific City, east from this point (~250 yards) to Pacific Avenue, east on Pacific Avenue to Brooten Road, south and then east on Brooten Road to Highway 101, north on Highway 101 to Resort Drive, north on Resort Drive to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Union, Wallowa, and Wheeler Counties.

Mid-Columbia Zone: Gilliam, Hood River, Morrow, Sherman, Umatilla, and Wasco Counties.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber–Box Elder County line at I–15; east along Weber County line to U.S.–89; south on U.S.–89 to I–84; east and south on I–84 to I–80; south on I–80 to U.S.–189; south and west on U.S.–189 to the Utah County line; southeast

and then west along this line to the Tooele County line; north along the Tooele County line to I–80; east on I–80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber–Box Elder County line.

Southern Zone: Boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, and Wayne Counties, and that part of Tooele County south of I–80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit and Whatcom Counties, and that portion of Snohomish County west of Interstate 5.

Area 2 Inland (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties, and that portion of Grays Harbor County east of Highway 101.

Area 2 Coastal (Southwest Permit Zone): Pacific County and that portion of Grays Harbor County west of Highway 101.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2 Coastal, and 2 Inland.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Wyoming

Early Canada and Cackling Goose Seasons

Teton County Zone: Teton County.

Balance of State Zone: Remainder of the State.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Open Area: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Idaho

Open Area: Benewah, Bonner, Boundary, and Kootenai Counties.

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada–Utah State line; then south on the Nevada–Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: The remainder of the State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. Highway 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

New Mexico

North Zone: North of I–40 from the New Mexico/Arizona border to U.S. Hwy. 54 at Tucumcari; U.S. Hwy. 54 from Tucumcari to the New Mexico/Texas border.

South Zone: South of I–40 from the New Mexico/Arizona border to U.S. Hwy. 54 at Tucumcari; U.S. Hwy. 54 from Tucumcari to the New Mexico/Texas border.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east

along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas–Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area: Same as the South Zone.

New Mexico

North Zone: That portion of the State north of a line following I–40 from the Arizona border east to U.S. Hwy 54 at Tucumcari and U.S. Hwy 54 at Tucumcari east to the Texas border.

South Zone: The remainder of the State not included in the North Zone.

Band-Tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

American Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Alabama

Open Area: That area north of Interstate 20 from the Georgia State line to the interchange with Interstate 65, then east of Interstate 65 to the interchange with Interstate 22, then north of Interstate 22 to the Mississippi State line.

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado

Open Area: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Central Zone: That portion of the State within an area bounded by a line beginning where I–35 crosses the Kansas–Oklahoma border, then north on I–35 to Wichita, then north on I–135 to Salina, then north on U.S. 81 to the Nebraska border, then west along the Kansas–Nebraska border to its intersection with Hwy 283, then south on Hwy 283 to the intersection with Hwy 18/24, then east along Hwy 18 to Hwy 183, then south on Hwy 183 to Route 1, then south on Route 1 to the Oklahoma border, then east along the Kansas–Oklahoma border to where it crosses I–35.

West Zone: That portion of the State west of the western boundary of the Central Zone.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico–Mexico border; on the west by the New Mexico–Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to NM 26, east to NM 27, north to NM 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico–Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma

Open Area: That portion of the State west of I–35.

South Dakota

Open Area: That portion of the State lying west of a line beginning at the South Dakota–North Dakota border and State Highway 25, south on State Highway 25 to its junction with State Highway 34, east on State Highway 34 to its junction with U.S. Highway 81, then south on U.S. Highway 81 to the South Dakota–Nebraska border.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line, then south along the Texas–Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas:

A. That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas–Louisiana State line.

B. That portion of the State lying within the boundaries of a line beginning at the Kleberg–Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg–Nueces County line.

Wyoming

Area 4: All lands within the Bureau of Reclamation's Riverton and Boysen Unit boundaries; those lands within Boysen State Park south of Cottonwood Creek, west of Boysen Reservoir, and south of U.S. Highway 20–26; and all non-Indian owned fee title lands within the exterior boundaries of the Wind River Reservation, excluding those lands within Hot Springs County.

Area 6: Big Horn, Hot Springs, Park, and Washakie Counties.

Area 7: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Area 8: Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.–Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I–10; east on I–10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I–10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I–10; easterly on I–10 to the New Mexico State line.

Zone 3: Beginning on I–10 at the New Mexico State line; westerly on I–10 to the Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek–Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on the Rucker Canyon Road to Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line; north along the State line to I–10.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate 15 and south of U.S. Highway 30; and all of Franklin County.

Area 6: That portion of Oneida County within the boundary beginning at the intersection of the Idaho–Utah border and Old Highway 191, then north on Old Highway 191 to 1500 S, then west on 1500 S to Highway 38, then west on Highway 38 to 5400 W, then south on 5400 W to Pocatello Valley Road, then west and south on Pocatello Valley Road to 10000 W, then south on 10000 W to the Idaho–Utah border, then east along the Idaho–Utah border to the beginning point.

Montana

Zone 1: Those portions of Deer Lodge County lying within the following described boundary: beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lane, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning.

Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2: That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell–Missoula County line), then southeast along said river to its intersection with the Ovando–Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3: Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4: Broadwater County.

Zone 5: Cascade and Teton Counties.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah–Idaho State line at the Box Elder–Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder–Weber County line; east on the Box Elder–Weber County line to the Box Elder–Cache County line; north on the Box Elder–Cache County line to the Utah–Idaho State line.

Rich County: Rich County.

Uintah County: Uintah and Duchesne Counties.

Wyoming

Area 1: All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2: All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3: All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5: Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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