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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS–SC–21–0099; SC22–932–1 FR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the California Olive Committee to decrease the assessment rate established for the 2022 fiscal year and subsequent fiscal years. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Gary Olson, Regional Director, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 538–1672, or Email: *Kathie.Notoro@usda.gov* or *GaryD.Olson@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement and Order No. 932, as amended (7 CFR part 932), regulating the handling of olives grown in California. Part 932 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The California Olive Committee (Committee) locally administers the Order and is comprised of producers and handlers of olives operating within the area of production, and one public member.

The Agricultural Marketing Service (AMS) is issuing this rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions will have tribal implications. AMS has determined that this rule is unlikely to 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.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Under the Order now in effect, California olive handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate be applicable to all assessable olives beginning on January 1, 2022, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the United States Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Order provides authority for the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

This rule decreases the assessment rate from $30.00 per ton of assessed olives, the rate that was established for the 2021 and subsequent fiscal years, to $16.00 per ton of assessed olives for the 2022 and subsequent fiscal years. The lower rate is the result of the significantly higher crop size in 2021 (fruit that is marketed over the course of the 2022 fiscal year) and the need to reduce the Committee's financial reserve.

The Committee met on November 10, 2021, and unanimously recommended 2022 expenditures of $1,245,085 and an assessment rate of $16.00 per ton of assessed olives to fund necessary administrative expenses and to maintain a financial reserve within the limits prescribed under the Order. In comparison, last year's budgeted expenditures were $1,151,831. The assessment rate of $16.00 is $14.00 lower than the rate previously in effect. Producer receipts show a yield of 43,336 tons of assessable olives from the 2021 crop year, which is more than double the quantity of olives harvested in 2020.

Olives harvested in 2021 will be marketed over the course of the 2022 fiscal year, which begins on January 1,

2022. The 43,336 tons of assessable olives from the 2021 crop should generate $693,376 in assessment revenue at the newly established assessment rate. The balance of funds needed to cover budgeted expenditures will come from interest income, Federal grants, and the Committee's financial reserve. The 2022 fiscal year assessment rate decrease is appropriate to ensure the Committee has sufficient revenue to fund the recommended 2022 fiscal year budgeted expenditures while ensuring the funds in the financial reserve will be kept within the maximum permitted by § 932.40.

The Order has a fiscal year and a crop year that are independent of each other. The crop year is a 12-month period that begins on August 1 of each year and ends on July 31 of the following year. The fiscal year is the 12-month period that begins on January 1 and ends on December 31 of each year. Olives are an alternate-bearing crop, with a small crop followed by a large crop. The Committee used the actual 2021 crop year receipts, in part, to determine the recommended assessment rate for the 2022 fiscal year.

The major expenditures recommended by the Committee for the 2022 fiscal year includes $538,700 for program administration, $284,000 for marketing activities, $379,485 for research, and $42,900 for inspection. Budgeted expenses for these items during the 2021 fiscal year were $531,300, $238,000, $334,532, and $48,000, respectively.

The Committee derived the recommended assessment rate by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2021 crop year, and the amount in the Committee's financial reserve. Income derived from handler assessments and other revenue sources is expected to be adequate to cover budgeted expenses. The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent fiscal years will be reviewed and, as appropriate, approved by AMS.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 800 producers of olives in the production area and 2 handlers subject to regulation under the Order. Small olive producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $3,000,000(NAICS code 111339, Other Noncitrus Fruit Farming). The SBA threshold for producers changed after the publication of the proposed rule. Thus, AMS changed the producer threshold to reflect the new SBA threshold in this final rule. The change did not impact the number of producers considered to be small. Small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

Because of the large year-to-year variation in California olive production, it is helpful to use two-year averages of seasonal average grower price when undertaking calculations relating to average grower revenue. The National Agricultural Statistics Service (NASS) reported seasonal average grower prices of olives utilized for canning for 2019 and 2020 of $1,040 and $1,060 per ton, respectively. The two-year average price is $1,050.

The appropriate quantities to consider are the annual assessable olive quantities, which were 20,020 tons in 2020 and 43,336 tons in 2021. The two-year average quantity was 31,678 tons. Multiplying 31,678 tons by the two-year average grower price of $1,050 yields a two-year average crop value of $33.262 million. Dividing the crop value by the number of olive producers (800) yields calculated annual average producer revenue of $41,577, much less than SBA's size threshold of $3,000,000. Thus, the majority of olive producers may be classified as small entities.

Dividing the $33.262 million crop value by two equals $16.631 million, which is the annual average producer crop value processed by each of the two handlers over the two-year period. Dividing the $30 million annual sales SBA size threshold for a large handler by the $16.631 crop value per handler yields an estimate of an 80 percent manufacturing margin for the two canners, on average, to be considered large handlers. A key question is whether 80 percent is a reasonable estimate of a manufacturing margin for the olive canning process.

A review of economic literature on canned food manufacturing margins found no recent published estimates. A series of Economic Research Service reports on cost components of farm to retail price spreads, published in the late 1970s and early 1980s, found that margins above crop value for a canned vegetable product was in the range of 76 to 85 percent. Although the studies are not recent, a key observation is that canning technology has not changed significantly in that time period. Therefore, with the 80 percent margin estimate for the two olive handlers, the data indicates that they are right on the threshold of being large handlers ($30 million in annual sales), using two-year average data, and assuming that the two handlers are about the same size. In a large crop year, one or both handlers could be considered large handlers, depending on the proportion of the crop that each of the handlers processed.

This rule decreases the assessment rate collected from handlers for the 2022 and subsequent fiscal years from $30.00 to $16.00 per ton of assessable olives. The Committee unanimously recommended 2022 expenditures of $1,245,085 and an assessment rate of $16.00 per ton. The new assessment rate of $16.00 is $14.00 lower than the 2021 rate. The quantity of assessable olives harvested in the 2021 crop year was 43,336 tons as compared to 20,020 tons in 2020. Olives are an alternate-bearing crop, with a small crop followed by a large crop. Income derived from the $16.00 per ton assessment rate, along with interest income, Federal grants, and funds from the authorized reserve, should be adequate to meet this fiscal year's budgeted expenditures.

The Committee's financial reserve is projected to be $1,990,000. The major expenditures recommended by the Committee for the 2022 fiscal year include $538,700 for program

administration, $284,000 for marketing activities, $379,485 for research, and $42,900 for inspection. Budgeted expenses for these items during the 2021 fiscal year were $531,300, $238,000, $334,531, and $48,000, respectively. The Committee deliberated on many of the expenses, weighed the relative value of various programs or projects, and decreased their expenses for marketing and research activities while increasing program administration. Overall, the 2022 budget of $1,245,085 is $93,254 more than the $1,151,831 budgeted for the 2021 fiscal year.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources including the Committee's Executive, Marketing, Inspection, and Research Subcommittees. Alternate expenditure levels were discussed by these groups, based upon the relative value of various projects to the olive industry and the increased olive production. The assessment rate of $16.00 per ton of assessable olives was derived by considering anticipated expenses, the high volume of assessable olives, the current balance in the monetary reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2020 crop year was $1,060 per ton and the quantity of assessable olives harvested in the 2021 crop year is 43,336 tons, which makes total producer revenue $45,936,160 ($1,060 multiplied by 43,336 tons). Therefore, utilizing the assessment rate of $16.00 per ton, the assessment revenue for the 2022 fiscal year as a percentage of total producer revenue is expected to be approximately 1.5 percent ($16.00 multiplied by 43,336 tons divided by $45,936,160 multiplied by 100).

This action will decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may also reduce the burden on producers.

The Committee's meetings are widely publicized throughout the production area. The olive industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the November 10, 2021, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. In addition, interested persons were invited to submit comments on this rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule does not impose any additional reporting or recordkeeping requirements on either small or large California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

A proposed rule concerning this action was published in the **Federal Register** on April 14, 2022 (87 FR 22142). Copies of the proposed rule were also mailed or sent via email to all olive handlers. A copy of the proposed rule was made available through the internet by AMS and *https://www.regulations.gov.* A 60-day comment period ending June 13, 2022, was provided for interested persons to respond to the proposal. No comments were received. Accordingly, no changes have been made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this final rule is consistent with and will effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service is amending 7 CFR part 932 as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2022, an assessment rate of $16.00 per ton is established for California olives.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–17759 Filed 8–17–22; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1141

[Docket No. FDA–2019–N–3065]

RIN 0910–AI39

Tobacco Products; Required Warnings for Cigarette Packages and Advertisements; Delayed Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: As required by an order issued by the U.S. District Court for the Eastern District of Texas, this action delays the effective date of the final rule (''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements''), which published on March 18, 2020. The new effective date is October 6, 2023.

DATES: The effective date of the rule amending 21 CFR part 1141 published at 85 FR 15638, March 18, 2020, and delayed at 85 FR 32293, May 29, 2020; 86 FR 3793, January 15, 2021; 86 FR 36509, July 12, 2021; 86 FR 50855, September 13, 2021; 86 FR 70052, December 9, 2021; 87 FR 11295, March 1, 2022; and 87 FR 32990, June 1, 2022, is further delayed until October 6, 2023.

FOR FURTHER INFORMATION CONTACT: Courtney Smith, Office of Regulations, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1371, email: *CTPRegulations@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 18, 2020, the Food and Drug Administration (FDA or Agency) issued a final rule establishing new cigarette health warnings for cigarette packages and advertisements. The final rule implements a provision of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) that requires FDA to issue regulations requiring color graphics depicting the negative health consequences of smoking to accompany new textual warning label statements. The Tobacco Control Act amends the Federal Cigarette Labeling and Advertising Act of 1965 (Pub. L. 89–92) to require each cigarette package and advertisement to bear one of the new required warnings. The final rule specifies the 11 new textual warning label statements and accompanying color graphics. Pursuant to section 201(b) of the Tobacco Control Act, the rule was published with an effective date of June 18, 2021, 15 months after the date of publication of the final rule.

On April 3, 2020, the final rule was challenged in the U.S. District Court for the Eastern District of Texas.[1] On May 8, 2020, the court granted a joint motion to govern proceedings in that case and postpone the effective date of the final rule by 120 days.[2] On December 2, 2020, the court granted a new motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[3] On March 2, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[4] On May 21, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[5] On August 18, 2021, the court issued an order to postpone the effective date of the final rule by an additional 90 days.[6] On November 12, 2021, the court issued another order to postpone the effective date of the final rule by an additional 90 days.[7] On February 10, 2022, the court issued another order to postpone the effective date of the final rule by an additional 90 days.[8] On May 10, 2022, the court issued another order to postpone the effective date of the final rule by an additional 90 days.[9] On August 10, 2022, the court granted a motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.[10] The court ordered that the new effective date of the final rule is October 6, 2023. Pursuant to the court order, any obligation to comply with a deadline tied to the effective date is similarly postponed, and those obligations and deadlines are now tied to the postponed effective date.

To the extent that 5 U.S.C. 553 applies to this action, the Agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exception in 5 U.S.C. 553(b)(B). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The 90-day postponement of the effective date, until October 6, 2023, is required by court order in accordance with the court's authority to postpone a rule's effective date pending judicial review (5 U.S.C. 705). Seeking prior public comment on this postponement would have been impracticable, as well as contrary to the public interest in the orderly issuance and implementation of regulations.

Dated: August 12, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–17761 Filed 8–17–22; 8:45 am]

BILLING CODE 4164–01–P

[1] *R.J. Reynolds Tobacco Co. et al.* v. *United States Food and Drug Administration et al.,* No. 6:20–cv–00176 (E.D. Tex. filed April 3, 2020).

[2] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. May 8, 2020) (order granting joint motion and establishing schedule), Doc. No. 33.

[3] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. December 2, 2020) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 80.

[4] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. March 2, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 89.

[5] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. May 21, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 91.

[6] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. August 18, 2021) (order postponing effective date), Doc. No. 92.

[7] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. November 12, 2021) (order postponing effective date), Doc. No. 93.

[8] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. February 10, 2022) (order postponing effective date), Doc. No. 94.

[9] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. May 10, 2022) (order postponing effective date), Doc. No. 96.

[10] *R.J. Reynolds Tobacco Co.,* No. 6:20–cv–00176 (E.D. Tex. August 10, 2022) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 100.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1956

[Docket No. OSHA–0022–0008]

RIN 1218–AD41

Massachusetts State Plan for State and Local Government Employers; Initial Approval Determination

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: The Massachusetts State and Local Government Only State Plan, a State occupational safety and health, applicable only to Massachusetts State and local Government employees (workers of the State and its political subdivisions), is approved as a developmental plan under the Occupational Safety and Health Act of 1970 and OSHA regulations. OSHA's decision to grant the Massachusetts State Plan initial approval is based on its determination that the Massachusetts State Plan meets, or will meet within three years, OSHA's State Plan approval criteria, and that Massachusetts has provided adequate assurances that it will be at least as effective as Federal OSHA in protecting the safety and health of Massachusetts State and local Government workers. The Massachusetts State Plan is eligible to receive funding from the Department of Labor's Fiscal Year 2022 budget.

DATES: This final rule is effective August 18, 2022.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Contact Francis Meilinger, Director, Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general and technical information: Contact Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, U.S. Department of Labor; telephone (202) 693–2200; email: *kalinowski.doug@dol.gov.*

Copies of this ***Federal Register*** *document and news releases:* Copies of this **Federal Register** document and other documents referenced herein are available at *www.regulations.gov,* the Federal eRulemaking Portal, in Docket No. OSHA–2022–0008. Electronic copies of this document, as well as news releases and other relevant information, are also available at OSHA's web page at: *www.osha.gov.*

Documents submitted to the docket by OSHA or stakeholders are assigned document identification numbers (Document ID) for easy identification and retrieval. The full Document ID is the docket number plus a unique four-digit code. For example, the full Document ID number for the Massachusetts State Plan narrative, which describes the Massachusetts State Plan, is Document ID OSHA–2022–0008–0048.[1] OSHA will identify this comment, and other comments in the rulemaking, by the term ''Document ID'' followed by the comment's unique four-digit code (*e.g.,* as to the Massachusetts State Plan narrative, Document ID 0048).

SUPPLEMENTARY INFORMATION:

I. Background

Section 18 of the OSH Act, 29 U.S.C. 667, provides that a State which desires to assume responsibility for the development and enforcement of standards relating to any occupational safety and health issue with respect to a Federal standard which has been promulgated may submit a State Plan to the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) documenting the proposed program in detail. State and local Government employers are excluded from Federal OSHA coverage under the Act (29 U.S.C. 652(5)). However, a State may submit a State Plan for the development and enforcement of occupational safety and health standards applicable only to employers and employees of the State and its political subdivisions (*i.e.,* State and local Government employers and employees) (29 CFR 1956.1). The Assistant Secretary will approve a State Plan applicable only to State and local Government employers and employees (State and local Government State Plan) if the Plan provides for the development and enforcement of standards relating to hazards in employment covered by the Plan which are or will be at least as effective in providing safe and healthful employment and places of employment as standards promulgated and enforced under Section 6 of the OSH Act, giving due consideration to differences between State and local Government and private sector employment (29 U.S.C. 667(c); 29 CFR 1956.2(a)). In making this determination, the Assistant Secretary will measure the State Plan against the criteria and indices of effectiveness set forth in 29 CFR part 1956.10 and 1956.11 (29 CFR 1956.2(a)). A State and local Government State Plan may receive initial approval although it does not yet fully meet this criteria, if it includes satisfactory assurances by the State that it will take the necessary steps to bring the program into conformity with these criteria within the 3-year period immediately following the commencement of the State Plan's operation (29 CFR 1956.2(b)(1)). In such case, the developmental State Plan must include the specific actions (referred to as developmental steps) that the State Plan must take and a schedule for their accomplishment, not to exceed 3 years. Once a State and local Government State Plan has completed the developmental steps, Federal OSHA will publish a notification in the **Federal Register** certifying the State Plan's completion of all developmental steps (29 CFR 1956.23; 1902.33 and 1902.34).

Section 23(g) of the OSH Act provides for funding of up to 50% of the State Plan costs (29 U.S.C. 672(g)). Congress designates specific funds for this purpose (see, *e.g.,* FY 2022 Consolidated Appropriations Act, H.R. 2471, p. 383 (March 17, 2022)).

II. Massachusetts State Plan History and Events Leading to Initial Approval

The Massachusetts Department of Labor Standards (DLS) has a history that traces back to 1912. Although the agency's name has changed slightly over time, the mission of the DLS has always included promoting and protecting workers' health, safety, and working conditions. In 2014, by statute, Massachusetts authorized the DLS to provide State workers with at least the level of protection from workplace safety and health hazards as protections provided under the OSH Act by Federal OSHA (M.G.L. c. 149, § 6½). The DLS's authority to provide such protection was expanded to cover all State and local Government workers, including any political subdivision of the Commonwealth, which includes municipal and county workers, by amendment to the authorizing statute in 2018. Since 2019, the DLS, through its Workplace Safety and Health Program (WSHP), has performed inspections of State and local Government employers to ensure compliance with these requirements. The DLS began working with OSHA to obtain approval for a State Plan for occupational safety and Health, applicable only to State and local Government employment, and submitted a draft Plan to OSHA in December 2020, with final revisions to the Plan in June 2022.

In Fiscal Year 2022, Congress increased the funds available for State Plans. The Fiscal Year 2022 Omnibus Appropriations Act includes $1,250,000 in State Plan grant funds for the Massachusetts State Plan.

On June 30, 2022, OSHA published a notice in the **Federal Register** proposing to grant the Massachusetts State Plan initial approval as a State and local Government State Plan under section 18 of the OSH Act (29 U.S.C. 667) (87 FR 39033). In the proposal, OSHA indicated that it had preliminarily found the Massachusetts State Plan to be conceptually approvable as a developmental State Plan. The proposal also included a request for interested persons to submit public comment and to request an informal hearing concerning the proposed initial State Plan approval. OSHA received seven comments in response, and, as discussed below, all seven comments strongly supported OSHA's proposal. OSHA did not receive any requests for an informal hearing.

III. Summary of Comments Received

OSHA received seven comments from interested persons in response to its June 30, 2022, proposal and request for public comment. As previously noted, all seven comments may be viewed in the rulemaking docket at *www.regulations.gov,* under Docket No. OSHA–2022–0008.

All seven comments strongly support OSHA's initial approval of the Massachusetts State Plan. The Occupational Safety and Health State Plan Association (OSHSPA), which ''is an organization of twenty-eight (28) State Plans and U.S. Territories that have OSHA-approved State Plans,'' submitted a comment expressing strong support for OSHA's proposal to grant initial approval to the Massachusetts State Plan in order to ''ensure approximately 434,000 public sector workers in Massachusetts are afforded occupational safety and health protections that OSHA cannot provide'' (Document ID 0052). Another commenter, on behalf of United Support and Memorial for Workplace Fatalities, also expressed strong support (Document ID 0055).

The other five comments received were nearly identical to one another. These comments were received from the Massachusetts Coalition for Occupational Safety and Health (MassCOSH) (Document ID 0049), Dr. Leslie I. Boden, professor of Public Health at Boston University (Document ID 0050), SEIU Local 888 (Document ID 0051); Massachusetts AFL–CIO (Document ID 0054), and Teamsters

[1] The Appendices referenced in the Massachusetts State Plan narrative are also included in the Docket as supporting and related materials.

Local Union No. 25 (Document ID 0056). All five of these comments ''emphatically support'' OSHA's proposal to grant initial approval. They also raised identical specific concerns about terms of the proposed Massachusetts State Plan, regarding Massachusetts' regulations applicable to the Massachusetts State Plan that address advance notice of inspections, anti-retaliation, and Massachusetts' adoption of new OSHA standards and Emergency Temporary Standards. These five commenters' specific concerns are addressed below, in conjunction with OSHA's findings regarding the Massachusetts State Plan's compliance with the criteria and indices of effectiveness for State and local Government State Plans set forth in OSHA's regulations.

IV. Findings

As previously discussed, in order to grant initial approval to a State Plan for State and local Government, OSHA must determine whether the State Plan provides for the development and enforcement of standards relating to hazards in employment covered by the Plan which are or will be at least as effective in providing safe and healthful employment and places of employment as standards promulgated and enforced under Section 6 of the OSH Act, giving due consideration to differences between State and local Government and private sector employment (29 U.S.C. 667(c); 29 CFR 1956.2(a)). To make this determination, the Assistant Secretary measures the State Plan against the criteria in 29 CFR 1956.10 and the indices of effectiveness in 29 CFR 1956.11 (29 CFR 1956.2(a)).

OSHA has evaluated the Massachusetts State Plan against the criteria and indices of effectiveness in OSHA's regulations and finds that the Massachusetts State Plan meets these criteria, or will meet these criteria within the three-year period immediately following the commencement of the State Plan's operation, as permitted by 29 CFR 1956.2(b)(1). OSHA's specific findings and conclusions with regard to these criteria and indices of effectiveness are discussed below.

OSHA's findings are based primarily on information about the Massachusetts State Plan that is included in the Massachusetts State Plan narrative (Document ID 0048), and on the Appendices referenced in the Massachusetts State Plan narrative that OSHA has also included in the rulemaking docket. And OSHA reviewed and carefully considered the seven public comments received in reaching its determinations regarding the Massachusetts State Plan.

A. Designated Agency

Section 18(c)(1) of the OSH Act provides that a State occupational safety and health program must designate a State agency or agencies responsible for administering the Plan throughout the State (29 U.S.C. 667(c)(1); see also 29 CFR 1956.10(b)(1)). The State Plan must describe the authority and responsibilities of the designated agency and provide assurance that other responsibilities of the agency will not detract from its responsibilities under the Plan (29 CFR 1956.10(b)(2)).

The DLS is designated as the State agency responsible for the development and enforcement of occupational safety and health standards applicable to State and local Government employment throughout the State. Workplace Safety and Health Program (WSHP) is the sub-agency responsible for administering the Massachusetts State Plan. The Massachusetts State Plan narrative describes the authority of the Massachusetts DLS and its other responsibilities (Document ID 0048, pp. 9–10).

B. Scope

Section 18(c)(6) of the OSH Act provides that a State Plan, to the extent permitted by its law, must establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of the State and its political subdivisions (29 U.S.C. 667(c)(6)). A State Plan may only exclude certain political subdivision employees from coverage if the State is constitutionally precluded from regulating occupational safety and health conditions for such political subdivision (29 CFR 1956.2(c)(1)). Further, the State may not exclude any occupational, industrial or hazard grouping from coverage under its Plan unless OSHA finds that the State has shown there is no necessity for such coverage (29 CFR 1956.2(c)(2)).

The Massachusetts State Plan covers State and local Government employees throughout the State. M.G.L. c. 149, § 6½ defines ''public employees'' as ''individuals employed by a public employer.'' ''Public employers,'' as defined by M.G.L. c. 149, § 6½, include ''any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth or of any political subdivision of the commonwealth [that is, city, town, county], any quasi-public independent entity and any authority or body politic and corporate established by the general court [Legislature] to serve a public purpose.'' Volunteers under the direction of a public employer or other public corporation or political subdivision are also covered. The definition of public employee does not include students (except when employed or vocational/technical students when performing field work), or those incarcerated or involuntarily/voluntarily committed in public institutions (Document ID 0048, pp. 6–9).

Consequently, OSHA finds that the Massachusetts State Plan contains satisfactory assurances that no employees of the State and its political subdivisions are excluded from coverage, and the Plan excludes no occupational, industrial, or hazard grouping.

C. Standards and Federal Program Changes

Section 18(c)(2) of the OSH Act requires State Plans to provide for the development and enforcement of occupational safety and health standards which are at least as effective as Federal OSHA standards that relate to the same issues (29 U.S.C. 667(c)(2)). A State Plan for State and local Government must provide for the development or adoption of such standards and must contain assurances that the State will continue to develop or adopt such standards (29 CFR 1956.10(c); 1956.11(b)(2)(ii)). A State may establish the same standards, procedures, criteria, and rules as Federal OSHA (29 CFR 1956.11(a)(1)), or alternative standards, procedures, criteria, and rules that are at least as effective as those of Federal OSHA (29 CFR 1956.11(a)(2)). Among other requirements, State standards that deal with toxic materials or harmful physical agents, must adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, even if such employee has regular exposure to the regulated hazard throughout the employee's working life (29 CFR 1956.11(b)(2)(i)). Where a State's standards are not identical to Federal OSHA's, they must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1956.11(b)(2)(iii)). The State Plan must provide for prompt and effective standards setting actions for protection of employees against new and unforeseen hazards, by such means as the authority to promulgate emergency temporary standards (29 CFR 1956.11(b)(2)(v)). State standards must provide for furnishing employees

appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1956.11(b)(2)(vi)). They must require suitable protective equipment and technological procedures with respect to regulated hazards, including monitoring or measuring exposure, where appropriate (29 CFR 1956.11(b)(2)(vii)). M.G.L. c. 149, §§ 6 and 6½ authorize the DLS to investigate and issue fines to places of public employment. M.G.L. c. 149, § 6½ includes the requirement that ''Public employers shall provide public employees at least the level of protection provided under the federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.,* including standards and provisions of the general duty clause contained in 29 U.S.C. 654.'' Massachusetts promulgated regulations pursuant to M.G.L. c. 149, § 6½. Those regulations include 454 CMR 25.00 and 29.00, which were promulgated and/or amended according to M.G.L. c. 30A, § 1 *et seq.,* the Massachusetts State Administrative Procedure Act (State APA). 454 CMR 25.00 incorporates the standards set forth under the OSH Act, 29 U.S.C. 651 *et seq.,* including the General Duty Clause, and regulations, 29 CFR parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928, and 1977, and applies them to Massachusetts places of State and local Government employment. 454 CMR 29.00 provides the procedures for issuing civil penalties and hearing appeals (Document ID 0048, p. 10).

M.G.L. c. 149, § 6½ created the Occupational Health and Safety Hazard Advisory Board (Advisory Board), whose members are appointed by the Governor. The Advisory Board evaluates injury and illness data, recommends training and implementation of safety and health measures, and monitors the effectiveness of safety and health programs to determine where additional resources are needed to protect the safety and health of State and local Government employees. The DLS consults with the Advisory Board prior to promulgating occupational safety and health regulations and adopting regulations promulgated by OSHA, pursuant to M.G.L. c. 149, § 6½(d) (Document ID 0048, pp. 10–11).

In all rulemaking, the DLS follows its State APA and 950 CMR 20.00 (PREPARING AND FILING REGULATIONS). Prior to the adoption, amendment, or repeal of any regulation where the violation of the regulation is punishable by fine or imprisonment, except for emergency temporary standards, the DLS must provide notice and hold a public hearing where any interested persons, data, views, arguments, or comments either orally, in writing, or both, shall be accepted for consideration. The DLS has provided assurances that it will complete this process to adopt all Federal occupational safety and health standards not promulgated as emergency temporary standards, within six months, as required by OSHA regulation (Document ID 0048, p. 11).

When the DLS promulgated 454 CMR 25.02, it incorporated the following phrase, ''All current and updated regulations and references at 29 CFR parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928 and 1977 are incorporated by reference, and applicable to all places of employment covered by 454 CMR 25.00'' with the intent of automatically adopting any future changes of revisions of the Federal OSHA standards. However, this method of adopting standards is prohibited by the State APA. Therefore, the DLS, as a developmental step, will amend 454 CMR 25.00 to remove this phrase and clarify its rulemaking process with respect to the adoption of Federal OSHA standards (Document ID 0048, p. 11).

In addition, consistent with 29 CFR 1953.4(b), Massachusetts has provided assurances that it will timely adopt and/or implement all other Federal Program Changes, or an at least as effective alternative, whenever OSHA designates such Federal Program Changes to be ''adoption required'' or ''equivalency required.'' This includes the adoption of all Federal Directives designated as ''adoption required'' or ''equivalency required'' by OSHA, or an at least as effective alternative (Document ID 0048, p.11).

The DLS has the authority under M.G.L. c. 149, § 6½ to adopt alternative or different occupational health and safety standards where no Federal standards are applicable to the conditions or circumstances or where standards that are more stringent than the Federal are deemed advisable. New or modified standards may be requested through research and experience during inspections, a recommendation from the Advisory Board, and an interested person. Prior to the development and promulgation of new standards or the modification or revocation of existing standards, the DLS would consider input from the Advisory Board, per M.G.L. c. 149, § 6½(d), experts with technical knowledge, and submissions from interested persons, and provide the opportunity for interested persons to participate in any hearing. To be considered by the Advisory Board, new or modified standards are required to be more protective of employees than existing OSHA standards, or to address issues for which there is no existing OSHA standard (Document ID 0048, p. 12).

The DLS has the authority to adopt emergency temporary standards where State and local Government employees may be exposed to unique hazards for which existing standards do not provide adequate protection for the preservation of their health or safety. Emergency rulemaking procedures are in the State APA at M.G.L. c. 30A, § 2, 3, & 6 and 950 CMR 20.05. An emergency is defined in the State APA as the existence of a situation where it is necessary to adopt, amend, or repeal a regulation for the preservation of the public health, safety, or general welfare immediately, and where the observance of the requirements of notice and a public hearing would be contrary to the public interest. The DLS's finding of an emergency and a brief statement of the reasons for its finding shall be incorporated in the emergency regulation as filed with the State Secretary.

With regard to Federal occupational safety and health standards promulgated as emergency temporary standards, if OSHA promulgates an emergency temporary standard, Massachusetts has provided assurances that the DLS will, and has the authority to, adopt and rely on OSHA's findings of grave danger and reasonable necessity, and that such reliance on Federal OSHA's findings will be sufficient to satisfy the requirements of the State APA. The DLS would file emergency regulations within 30 days of the Federal promulgation date unless an existing State standard is deemed to be at least as effective, following the emergency rulemaking procedures as outlined in the State APA at M.G.L. c. 30A, §§ 2, 3, & 6, and 950 CMR 20.05(2). An emergency regulation becomes effective immediately when filed or such later time as specified therein, per M.G.L. c. 30A, § 6 (Document ID 0048, pp. 12–14).

Per the State APA, and as described at 950 CMR 20.05(2), such emergency temporary regulations may only remain in effect no longer than three months from the date filed with the State Secretary or until superseded by a permanent regulation. During the three months covered by the emergency regulation, the DLS has provided assurances that it would proceed with the rulemaking process as described in 950 CMR 20.05(2)(a) through (c) to adopt the ETS for a period equal to or exceeding Federal OSHA's ETS, and that it would make an emergency temporary standard permanent within

three months of its effective date pursuant to 950 CMR 20.05(2)(a) through (c), provided that the Federal emergency temporary standard remains in effect (Document ID 0048, pp. 12–13).

As previously discussed, five commenters provided nearly identical public comments in support of OSHA's proposal to grant the Massachusetts State Plan initial approval. These five commenters also expressed concerns regarding the Massachusetts rulemaking process, and particularly regarding Massachusetts' recent decision not to adopt OSHA's COVID–19 Healthcare Emergency Temporary Standard (COVID–19 Healthcare ETS) (Document ID 0049; 0050; 0051; 0054; 0056). Additionally, they expressed concerns that the State APA only permits a Massachusetts emergency temporary standard to remain in effect for three months, whereas the commenters state that the OSH Act contemplates an emergency temporary standard to remain effective until superseded by a permanent standard, ''a process contemplated by the OSH Act to occur within 6 months of the [Emergency Temporary Standard's] promulgation.''

OSHA appreciates these commenters' perspective. It is true that Massachusetts did not adopt OSHA's COVID Healthcare ETS. However, the agency does not find that Massachusetts' failure to adopt that ETS suggests a deficiency in the State Plan because Massachusetts also did not have an OSHA-approved State Plan when the COVID Healthcare ETS was published in 2021, and thus was not required by the OSH Act to have and enforce standards that were at least as effective as Federal OSHA at that time. Moreover, OSHA specifically consulted with the DLS regarding Massachusetts' decision not to adopt OSHA's COVID–19 Healthcare ETS, and Massachusetts made assurances, discussed above, that it will timely adopt all Federal standards promulgated in the future, including any future emergency temporary standards, and that it will adopt a permanent standard that is at least as effective as a Federal emergency temporary standard, within the three-month timeframe that the State APA permits emergency regulations in Massachusetts to remain in effect. OSHA notes that State Plans' statutory and regulatory requirements for adopting Federal OSHA standards vary considerably by State. OSHA will continue to monitor Massachusetts' ability to timely adopt Federal standards, including emergency temporary standards, if promulgated, including during the three-year developmental period following OSHA's grant of initial approval to the Massachusetts State Plan and prior to certifying the State Plan's completion of all developmental steps in accordance with 29 CFR 1956.23, 1902.33, and 1902.34.

Based on the preceding Plan provisions, assurances, and commitments, OSHA finds the Massachusetts State Plan to have met the statutory and regulatory requirements for initial plan approval with respect to adoption of occupational safety and health standards and Federal Program Changes.

D. Variances

A State Plan must have authority to grant variances from State standards upon application of a public employer or employers which corresponds with Federal OSHA's authority under sections 6(b)(6) and 6(d) of the OSH Act (29 U.S.C. 655(b)(6) and (d); 29 CFR 1956.11(b)(2)(iv). Such authority must include provisions for the consideration of views of interested parties, by such means as giving affected employees notice of each application and an opportunity to request and participate in hearings or other appropriate proceedings relating to variance applications (29 CFR 1956.11(b)(2)(iv)).

Per 454 CMR 25.05(6), variances may be granted when, ''The Director, on the record, after notice, an inspection when warranted, and an opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of 454 CMR 25.00 as found necessary and proper. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.'' The DLS has provided assurances that variances may not be granted unless it is established that adequate protection is afforded to employees under the terms of the variance. However, current DLS provisions for granting variances, found at 454 CMR 25.05(6), are inconsistent with OSHA's permanent variance procedure. Therefore, during its developmental period, Massachusetts has provided assurances that it intends to complete the developmental step of amending 454 CMR 25.05 to modify its variance requirements to become consistent with those in the OSH Act and to adopt OSHA's regulation governing variances, 29 CFR 1905 (Document ID 0048, pp. 14–15).

Accordingly, OSHA finds that the Massachusetts State Plan has adequately provided assurances that it will meet the statutory and regulatory requirements for initial plan approval with respect to variances within the developmental period.

E. Enforcement

Section 18(c)(2) of the OSH Act requires a State Plan to include provisions for enforcement of State standards which are or will be at least as effective in providing safe and healthful employment and places of employment as the Federal program, and to assure that the State's enforcement program for public employees will continue to be at least as effective as the Federal program in the private sector (29 U.S.C. 667(c)(2); see also 29 CFR 1956.10(d)(1)).

1. Legal Authority

The State Plan must require State and local Government employers to comply with all applicable standards, rules and orders and must have the legal authority necessary for standards enforcement (29 U.S.C. 667(c)(4); 29 CFR 1956.10(d)(2), 1956.11(c)(2)(viii)).

M.G.L. c. 149 § 6½ requires public employers to, ''provide public employees at least the level of protection provided under the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et. seq., including standards and provisions of the general duty clause contained in 29 U.S.C. 654.'' The DLS, as the designated enforcement agency for M.G.L. c. 149 § 6½, has the authority to inspect public sector workplaces pursuant to M.G.L. c. 149, §§ 6, 6½, 10, 17, and 454 CMR 25.03. According to 454 CMR 25.03(1)(a), the DLS has the authority to ''enter without delay'' public sector workplaces to conduct inspections. M.G.L. c. 149, §§ 6, 6½(e), 10, and 17, 454 CMR 25.03 and 25.05(4), as well as the Massachusetts Field Operation Manual (MA FOM) [2] at Chapter 3(IV)(C), provide procedures for when an employer refuses entry to the DLS inspector. Pursuant to 454 CMR 25.03(c), the DLS may question privately any employer, operator, manager, agent or employee. The DLS has the authority to review employer records as part of an inspection under M.G.L. c. 149 § 17, which states that the DLS, ''. . . shall have access to all

[2] Massachusetts has already written and adopted a Massachusetts Field Operations Manual (MA FOM) based on Federal OSHA's Field Operations Manual (FOM) with some differences to reflect differences between the State Plan and Federal OSHA. Federal OSHA is currently reviewing the Massachusetts FOM. The DLS has provided assurances that, once Federal OSHA's review is complete, it will make any updates, as necessary, to ensure that the enforcement policies in the MA FOM are at least as effective as Federal OSHA's FOM. This commitment is also a developmental step (Document ID 0048, p. 29).

records pertaining to wages, hours, and other conditions of employment which are found essential to such investigations.'' This authority is also included in 454 CMR 25.03(c) (Document ID 0048, pp. 16–17). Additional legal authority of the Massachusetts State Plan related to enforcement is discussed below.

2. Inspections

A State Plan must provide for the inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1956.11(c)(2)(i)). When no compliance action results from an inspection of a violation alleged by an employee complaint, the State must notify the complainant of its decision not to take compliance action by such means as written notification and opportunity for informal review (29 CFR 1956.11(c)(2)(iii)).

As previously noted, the DLS has the authority to inspect any workplace where work is being performed by an employee of a State or local Government employer to enforce its occupational safety and health standards pursuant to M.G.L. c. 149, §§ 6, 6½, 10 and 17, and 454 CMR 25.03 (Document ID 0048, p. 17). The DLS will accept a complaint from any source: employees, representatives of employees, or members of the public. Complaints may be made in person, by telephone, or by email. A complaint form is available on the DLS website. A complainant may request that their name not be revealed to the employer. While allegations made in the complaint are provided to the employer, copies of the complaint form are not regularly provided to the employer. However, under court order, the DLS may be required to provide the complaint form and the name of the complainant to the State or local Government employer. If the DLS determines upon the receipt of a complaint that there are reasonable grounds to believe that unsafe or unhealthful working conditions exists, an inspector shall be assigned to the case to determine if such violation or danger exists per 29 CFR 1903.11, incorporated at 454 CMR 25.02, and the MA FOM Chapter 9. When contact information has been provided, the DLS will inform the individual who has made a complaint that an inspection will be scheduled and that the individual will be advised of the results. If the DLS determines that there are no reasonable grounds to believe that a violation or danger exists, the employee or representative of the employee who alleged violations will be notified of such determination per procedures of the MA FOM Chapter 9, as required in 29 CFR 1903, as adopted under 454 CMR 25.00 (Document ID 0048, p. 20).

3. Employee Notice and Participation in Inspection

In conducting inspections, the State Plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1956.11(c)(2)(iii)). In addition, the State Plan must provide that employees be informed of their protections and obligations under the OSH Act by such means as the posting of notices (29 CFR 1956.11(c)(2)(iv)), and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1956.11(c)(2)(vi)).

During the walkaround inspection, representatives of the employer and employees are allowed to accompany the DLS throughout the inspection process so long as they do not interfere in the conduct of the inspection or present a safety or health hazard as determined in the sole discretion of the DLS, pursuant to 454 CMR 25.03(6) (Document ID 0048, p. 19).

Any State or local Government employer who violates any of the posting requirements, pursuant to 29 CFR 1903.2 & 1903.16 incorporated by 454 CMR 25.02, 454 CMR 25.04, and the MA FOM Chapter 6(X), shall be assessed a penalty of not more than $1,000 for each violation pursuant to M.G.L. c. 149, § 6 (Document ID 0048, p. 27).

State and local Government employers in Massachusetts are required to maintain accurate records regarding occupational safety and health injuries, illnesses, deaths, and exposures to toxic materials, and employees and/or employee representatives have the right to access the records pursuant to 29 CFR 1904.35(b)(2) and 29 CFR 1910.1020 as incorporated by 454 CMR 25.02 and 25.06(1) (Document ID 0048, p. 18).

4. Nondiscrimination Protections

State Plans must provide necessary and appropriate protection to employees against discharge or discrimination for exercising their rights under the State program, including by such means as providing for employer sanctions and employee confidentiality (29 CFR 1956.11(c)(2)(v)).

The DLS has authority to remedy retaliation for a State or local Government employee who files a complaint, instituted any proceeding, testified, or exercised any rights afforded by 454 CMR 25.00, pursuant to 29 CFR 1977 as incorporated at 454 CMR 25.02 and 25.07. Any State or local Government employee who believes that they have been discharged or otherwise discriminated against in violation of 454 CMR 25.07 and incorporated 29 CFR 1977, may within 30 days after the alleged violation occurs, file a complaint with the DLS, alleging discrimination. The DLS may seek a remedy for an employee who files a retaliation complaint for discharge or discrimination within 30 days after any alleged violation pursuant to 29 CFR part 1977, in accord with 454 CMR 25.07 & 25.02 and the MA FOM Chapter 9(I)(J)(2). Massachusetts has also adopted, and will conduct inspections consistent with, the OSHA Whistleblower Investigations Manual, CPL 02–03–007. If upon investigation, the DLS determines that the provisions of 454 CMR 25.07 have been violated, an action shall be brought for all appropriate relief, including rehiring or reinstatement of the employee to their former position with back pay, pursuant to 29 CFR 1977.3 as incorporated by 454 CMR 25.02. In addition, the DLS has a fine structure that can increase the amount of future fines, up to the current maximum of one thousand dollars for each violation, if further discrimination were to occur, pursuant to M.G.L. c. 149, § 6, 454 CMR 25.05(1), 454 CMR 29.04(2)(d), and MA FOM Chapter 9(II) procedures.

Massachusetts also has a Whistleblower's Protection statute, M.G.L. c. 149, § 185, that protects State and local Government employees and prohibits retaliation through a right of private civil action. Any State or local Government employee or former employee aggrieved of a violation of M.G.L. c. 149, § 185 may, within two years, institute a civil action in Superior Court. All remedies available in common law tort actions shall be available to prevailing plaintiffs, including reinstatement and back pay (Document ID 0048, pp. 21–22).

The five commenters that provided nearly identical public comments in support of OSHA's proposal to grant the Massachusetts State Plan initial approval also raised concerns that the Massachusetts State Plan's adoption of OSHA's regulations at 29 CFR 1977 governing Discrimination Against Employees Exercising Rights Under the Williams-Steiger Occupational Safety and Health Act of 1970 and incorporation of these regulations at 454 CMR 25.07 may not provide Massachusetts with adequate legal

authority to investigate and take enforcement action if a State or local Government employee believes that they have been discharged or otherwise discriminated against in violation of the Massachusetts State Plan's regulations Document ID 0049; 0050; 0051; 0054; 0056).

OSHA's understanding is that Massachusetts adopted 454 CMR 25.07 and 29 CFR 1977 through the rulemaking process required by the State APA, and thus OSHA's understanding, consistent with the Massachusetts State Plan's assurances, is that the DLS currently has authority to enforce these provisions. OSHA notes that at least one other State and local Government State Plan, Maine, has recently similarly adopted 29 CFR 1977 without issue. However, OSHA agrees that, were a State court to determine that the Massachusetts State Plan lacked the authority to enforce its anti-retaliatory provisions, this would likely render the State Plan less effective than Federal OSHA and necessitate Massachusetts making further changes to its statutory or regulatory structure, as appropriate, to ensure its continued enforcement authority. OSHA will continue to evaluate the Massachusetts State Plan's ability to enforce its anti-retaliation provisions under 454 CMR 25.07 and 29 CFR 1977, as incorporated, including during the three-year developmental period following its initial approval.

In addition, these commenters expressed concerns that the Massachusetts State Plan does not include a penalty structure that is the equivalent of the punitive damages that may be available for violation of the antiretaliatory provisions in section 11(c) of the OSH Act (Document ID 0049; 0050; 0051; 0054; 0056). As noted above, Massachusetts has the authority to issue fines of up to one thousand dollars for each violation if repeat instances of discrimination occur, pursuant to M.G.L. c. 149, § 6, 454 CMR 25.05(1), 454 CMR 29.04(2)(d), and MA FOM Chapter 9(II) procedures. As discussed below, OSHA's indices of effectiveness for State and local Government State Plans provide that, in lieu of monetary penalties as sanctions, a complex system of enforcement tools and rights, including administrative orders and employees' right to contest, may be demonstrated to be as effective as monetary penalties in achieving compliance in public employment (29 CFR 1956.11(c)(2)(x)). Thus, OSHA has found the Massachusetts State Plan to have met the statutory and regulatory requirements for initial plan approval with respect to its nondiscrimination protections.

5. Imminent Danger Procedures

A State Plan is required to provide for the prompt restraint or elimination of conditions or practices in places of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through enforcement procedures otherwise provided for by the State Plan (29 CFR 1956.11(c)(2)(vii)).

In the case of such imminent danger, the DLS has the authority to issue a stop work order for violations of safety regulations pursuant to 454 CMR 25.03(7). The Attorney General may bring a civil action for declaratory or injunctive relief to enforce any order of the DLS pursuant to 454 CMR 25.05(4), as well as M.G.L. c. 149, §§ 2 and 6½. 454 CMR 25.08 provides that the DLS will follow procedures in 29 CFR 1903, which is incorporated by 454 CMR 25.02, for cases of imminent danger, and the MA FOM Chapter 11 also has imminent danger procedures. These procedures include that, upon discovering conditions or practices constituting an imminent danger, the inspector will immediately address the issue with the State or local Government employer and ask the employer to notify employees and remove them from exposure. If the employer does not or cannot voluntarily eliminate the hazard or remove affected employees from exposure, the DLS inspector will immediately notify the Program Supervisor. If necessary, the Program Supervisor will consult with the DLS's General Counsel, the Massachusetts State Police, and the Attorney General, and take action to eliminate the imminent danger to the State or local Government employees as soon as possible (Document ID 0048, pp. 19–20).

6. Right of Entry; Advance Notice

Section 18(c)(3) of the OSH Act requires State Plans to provide for a right of entry to inspect workplaces that is at least as effective as Federal OSHA's right under section 8 of the OSH Act, and which includes a prohibition on advance notice of inspections (29 U.S.C. 667(c)(3); 29 CFR 1956.10(e) and (f)).

Under the Massachusetts State Plan, inspectors have the authority to enter any place of employment without delay and at reasonable times, pursuant to M.G.L. c. 149, §§ 6½, 10 and 17 and 454 CMR 25.03(1)(a) (Document ID 0048, p.17). Anyone providing advance notice of any inspection, without permission from the Director, will be punished per M.G.L. c. 268A, §§ 23 & 26 and 454 CMR 25.03(4). Incorporated 29 CFR 1903.6 provides four exceptions to the prohibition of providing advance notice, which are: (1) in cases of imminent danger; (2) where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary; (3) where necessary to assure the presence of the employer and employees or needed personnel; (4) or in other circumstances where the Director determines that the giving of advance notice would enhance the probability of an effective and thorough inspection (Document ID 0048, pp. 18–19).

The five commenters that provided nearly identical public comments in support of OSHA's proposal to grant the Massachusetts State Plan initial approval raised concerns that the Massachusetts State Plan regulation, 454 CMR 25.03(4), allows advance notice of inspections if authorized by ''the Director'' without further limitation or reference to 29 CFR 1903.6 (Document ID 0049; 0050; 0051; 0054; 0056). The commenters request that the DLS be required to provide details on when and why the Director would give permission during the developmental period. In response to these concerns, OSHA notes, as discussed above, that the Massachusetts State Plan has adopted through rulemaking and incorporated the requirements of 29 CFR 1903.6, and thus is subject to their limitations. Further, OSHA finds that the reference to ''the Director'' in 454 CMR 25.03(4) is consistent with 29 CFR 1903.6, which vests decision-making authority with regard to giving advance notice of inspections with OSHA Area Directors. Finally, 454 CMR 25.03(4) makes clear that sanctions are available under M.G.L. c. 268A, sections 23 and 26, for persons who give advance notice of any inspection without authority from the DLS Director. Based on this, OSHA has determined that the Massachusetts State Plan's requirements regarding advance notice of inspections are at least as effective as Federal OSHA's requirements.

7. Citations, Sanctions, and Abatement

A State Plan for State and local Government must provide for prompt notice to State and local Government employers and employees when alleged violations have occurred, including proposed abatement requirements (29 CFR 1956.11(c)(2)(ix)). The State Plan must further provide the authority for effective sanctions to be issued against employers violating State occupational safety and health standards. In lieu of monetary penalties as sanctions, a

complex system of enforcement tools and rights, including administrative orders and employees' right to contest, may be demonstrated to be as effective as monetary penalties in achieving compliance in public employment (29 CFR 1956.11(c)(2)(x)).

The DLS's authority to issue Civil Citations and penalties is established in M.G.L. c. 149, §§ 6 and 6½, 454 CMR 25.00, and 454 CMR 29.00, and 29 CFR part 1903, as incorporated by 454 CMR 25.02. If an inspector believes that a violation of a safety and health standard exists, the inspector will issue a written Order to Correct within 180 days of the completion of the inspection process. This report will describe the nature of the violation, including reference to the appropriate regulation, the corrective action to abate the violation, and an abatement date for each violation, pursuant to 454 CMR 25.05(2). The DLS shall provide written notification to the appropriate governing official, public administrator, agency head, and/or personnel director, pursuant to 454 CMR 25.05(3). No reports will be issued after 180 days from the initiation of an inspection. Massachusetts will amend 454 CMR 25.05(2) during its developmental period to reflect this policy (Document ID 0048, p. 22).

The Director has the discretion to issue civil penalties of up to $1,000 per violation, pursuant to M.G.L. c. 149, § 6, and 454 CMR 29.04(2)(d). The DLS generally issues a Written Warning as the first enforcement action taken against a State or local Government employer. However, an employer's failure to correct a violation within the period of time specified in a Written Warning and Order to Correct issued by the DLS may result in the issuance of a Civil Citation or other enforcement action. The DLS may also issue penalties as a first method of enforcement, without a prior written warning, depending on the gravity of the violation and when the violation warrants such action. The DLS has authority to take other enforcement actions, including issuing a Stop Work Order in cases of imminent danger or other cases as deemed appropriate, and the Massachusetts Attorney General may bring a civil action for declaratory or injunctive relief where necessary (Document ID 0048, pp. 23–26).

The DLS will offer appropriate abatement assistance during the walkaround to explain how workplace hazards might be eliminated and advise a State or local Government employer of apparent violations and other pertinent issues during the closing conference, in the interest of providing the employer an opportunity to reduce the risk to employees from that hazard. In some circumstances, the employer's immediate correction or initiation of steps to abate a hazard during the inspection may result in a good faith reduction in any proposed penalty, pursuant to 29 CFR 1903.15(b) and (c) as incorporated by 454 CMR 25.02, 454 CMR 29.00 and the MA FOM Chapter 6(III)(B)(3)(b) (Document ID 0048, p. 23).

Covered employers must provide documentation of abatement pursuant to 29 CFR 1903.19(d), incorporated by 454 CMR 25.02 and the MA FOM Chapter 6(X)(C), or a follow-up inspection may be scheduled after the abatement time frame has expired. A written response from the employer will be evaluated by the DLS for completeness and appropriateness in relation to the report. If the written response is inadequate, a follow-up inspection can be scheduled after the abatement time frame, per the MA FOM Chapter 7(XI)(B). The results of the follow-up inspection will then be documented in a report that includes any corrective measures taken by the employer. This report will be sent to the complainant if the original inspection was initiated by a complaint. The complainant may refute or question any abatement measure, per the MA FOM (Document ID 0048, p. 23).

8. Contested Cases

A State Plan for State and local Government employees must have authority and procedures for employer contests of violations alleged by the State, penalties/sanctions, and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 2956.11(c)(2)(xi)).

Under the Massachusetts State Plan, any person, State or local Government employer, or other entity aggrieved by a Civil Citation, Order, or Penalty for violation of a standard under 454 CMR 25.00, promulgated pursuant to M.G.L. c. 149, § 6½, may request that an administrative hearing be held by submitting a written request to the Director or their representative within fifteen business days after the receipt of the Civil Citation or Order, pursuant to M.G.L. c. 149, § 9 and as detailed in 454 CMR 29.04(6) as referenced by 454 CMR 25.05(1). A State or local Government employer may contest a Civil Citation, penalty, or abatement period at an informal conference and an administrative hearing, pursuant to M.G.L. c. 149, § 9 and as detailed in 454 CMR 29.04(6) as referenced by 454 CMR 25.05(1) and the MA FOM Chapter 8. Employees or their authorized representatives may question the reasonableness of abatement periods pursuant to 29 CFR 1903, as adopted in 454 CMR 25.00, M.G.L. c. 149, § 9 as detailed in 454 CMR 29.04(6) and the MA FOM. Employees or their authorized representatives may participate in review proceedings pursuant to 29 CFR 1903, as adopted in 454 CMR 25.00, M.G.L. c. 149, § 9 as detailed in 454 CMR 29.04(6) and the MA FOM Chapter 8.

Informal conferences may be held prior to a formal administrative hearing pursuant to 29 CFR 1903.20, as incorporated by 454 CMR 25.02 and the MA FOM Chapter 8. At the request of an affected State or local Government employer, employee, or employee representative, an informal conference may be held within fifteen business days of receipt of a Civil Citation to discuss any issues raised by an inspection, citation, penalty, or intention to appeal. The requesting party may attend the conference by right, and the other parties shall be afforded the opportunity to participate in the informal conference.

All administrative hearings shall be held in accordance with the requirements of M.G.L. c. 30A and 801 CMR 1.00: Standard Adjudicatory Rules of Practice and Procedure, pursuant to 29 CMR 29.04(6). Any person, State or local Government employer, or other entity aggrieved by the decision of an administrative hearing may request judicial review of the decision by the Superior Court with jurisdiction, pursuant to M.G.L. c. 149, § 9 and as detailed in 454 CMR 29.04(6), 801 CMR 1.01(13), and M.G.L. c. 30A, § 14 (Document ID 0048, pp. 25–26).

Enforcement Conclusion

OSHA finds that all of the enforcement provisions of the Massachusetts State Plan described above meet the statutory and regulatory requirements for initial State Plan approval, or that Massachusetts has provided sufficient assurances that such requirements will be met during the developmental period.

F. Staffing and Resources

Section 18(c)(4) of the OSH Act requires State Plans to provide the qualified personnel necessary for the enforcement of standards (29 U.S.C. 667(c)(4)). OSHA's regulations also require OSHA to evaluate whether a State Plan for State and local Government has or will have a sufficient number of adequately trained and competent personnel to discharge its

responsibilities under the Plan (29 CFR 1956.10(g)). Section 18(c)(5) of the OSH Act requires that the State Plan devote adequate funds for the administration and enforcement of its standards (29 U.S.C. 667(c)(5); see also 29 CFR 1956.10(h)).

The Massachusetts State Plan provides assurances of a fully trained, adequate staff within three years of plan approval, including a program supervisor, an operations supervisor, 10 safety inspectors and three health inspectors. The DLS currently has eleven inspectors, seven safety inspectors, and four health inspectors, all of whom perform duties related to both enforcement and consultation. If granted initial approval, the DLS will add three safety enforcement inspectors. The DLS will redesignate two of its safety enforcement inspectors and one health inspector to exclusively perform consultation. These re-designated employees will be part of a separate consultation division with distinct supervision from the enforcement inspectors. The DLS will also train one supervisor and two enforcement inspectors to conduct whistleblower investigations (Document ID 0048, pp. 33–35).

The accomplishment of hiring to achieve staffing goals, reorganization of the DLS staffing pattern described above, adoption of OSHA's Mandatory Training Program for OSHA Compliance Personnel Directive (TED 01–00–019) and Mandatory Training Program for OSHA Whistleblower Investigators Directive (TED 01–00–020), and accomplishment of all personnel training consistent with these Directives, are all included as developmental steps in the Massachusetts State Plan's timetable for accomplishment within three years, during the Massachusetts State Plan's developmental period (Document ID 0048, pp. 37–38).

The compliance staffing requirements (or benchmarks) for State Plans covering both the private and public sectors are established based on the ''fully effective'' test established in *AFL–CIO* v. *Marshall,* 570 F.2d 1030 (D.C. Cir. 1978). This staffing test, and the complicated formula used to derive benchmarks for Full Coverage Plans is not intended, nor is it appropriate, for application to the staffing needs of State Plans for occupational safety and health programs covering only State and local Government workers. However, the DLS has given satisfactory assurances that it will meet the requirements of 29 CFR 1956.10 for an adequately trained and qualified staff sufficient for the enforcement of standards. The DLS has also given satisfactory assurances of adequate State matching funds (50 percent) to support the Plan and is requesting initial Federal funding of $1,250,000, for a total initial program effort of $2,500,000.

Accordingly, OSHA finds that the Massachusetts State Plan has provided for sufficient, qualified personnel and adequate funding for the various activities to be carried out under the Plan.

G. Records and Reports

Section 18(c)(7) of the OSH Act requires State Plans to make reports to the Assistant Secretary in the same manner as if the Plan were not in effect (29 U.S.C. 667(c)(7)). State and local Government State Plans must ensure that covered employers will maintain records and make reports on occupational injuries and illnesses in a manner similar to that required of private sector employers under the OSH Act (29 CFR 1956.10(i)). Section 18(c)(8) of the OSH Act requires State Plans to make such reports to the Assistant Secretary in such form and containing such information as they may from time to time require (29 U.S.C. 667(c)(8); 29 CFR 1956.10(j)).

The Massachusetts State Plan requires State and local Government employers to comply with Recordkeeping and Reporting Requirements at 454 CMR 25.06 and 29 CFR 1904, which is incorporated per 454 CMR 25.02. Under 454 CMR 25.06 and 29 CFR 1904, the DLS requires State and local Government employers to maintain accurate records for every occupational death, and every occupational injury and illness that results in death, loss of consciousness, days away from work, restricted work activity or job transfer, or medical treatment beyond first aid in a manner consistent with OSHA's requirements for private sector employers.

Covered employers in Massachusetts are required to maintain in each workplace an OSHA 300 Log, or equivalent, of all recordable occupational injuries and illnesses for that workplace. Within seven calendar days after receiving information about a case, the employer shall: decide if the case is recordable, determine if it is a new case or a recurrence of an existing one, establish whether the case was work-related, and decide whether to fill out the OSHA 301 Incident Report, the Massachusetts Department of Industrial Accidents form, or a suitable substitute that contains the same information as these first report of injury forms, pursuant to 29 CFR part 1904, incorporated per 454 CMR 25.02, and 454 CMR 25.06. Covered employers must post an annual summary of work-related injuries and illnesses for each workplace on the OSHA 300A form, or equivalent, from February 1 to April 30 of the year following the year covered by the form in a conspicuous location where employees can view it and it must be certified by an executive of the State or local Government employer, pursuant to 29 CFR 1904.32, incorporated per 454 CMR 25.02. The OSHA 300A Summary of Work-Related Injuries and Illnesses, the OSHA 301 Injury and Illness Incident Report, and the OSHA 300 Log of Work-Related Injuries and Illnesses, or suitable substitutes, must be retained for five years following the end of the calendar year that the records cover, pursuant to 29 CFR 1904.33, incorporated per 454 CMR 25.02. Such records are available to the DLS through inspection or by request, pursuant to M.G.L. c. 149, §§ 10 & 17 and 454 CMR 25.03(1)(c) (Document ID 0048, pp. 30–31).

The Massachusetts State Plan has also provided assurances in its State Plan that it will continue to participate in the Bureau of Labor Statistics' Annual Survey of Injuries and Illnesses in the State to provide detailed injury, illness, and fatality rates for the public sector. The State Plan will also provide reports to OSHA in the desired form and will join the OSHA Information System within 90 days of plan approval, including the implementation of all hardware, software, and adaptations as necessary (Document ID 0048, p. 31).

Accordingly, OSHA finds that the Massachusetts State Plan meets, or has adequately provided assurances that it will meet within the developmental period, the requirements of Sections 18(c)(7) and (8) of the OSH Act on the employer and State reports to the Assistant Secretary, as required for initial State Plan approval.

H. Voluntary Compliance Program

State Plans for State and local Government employees must undertake programs to encourage voluntary compliance by covered employers and employees, such as by conducting training and consultation, and encouraging agency self-inspection programs (29 CFR 1956.11(c)(2)(xii)).

The Massachusetts State Plan provides that the DLS will continue to provide and conduct educational programs for public employees specifically designed to meet the regulatory requirements and needs of covered employers. The Plan also provides that consultations, including site visits, compliance assistance and training classes, are individualized for

each work site and tailored to the public employer's concerns. The DLS has conducted over 250 on-site consultations (*i.e.,* voluntary compliance inspections) for State and local Government workplaces since 2015. The DLS will continue to offer this service as it is a vital component of creating a culture of safety and proactively preventing accidents. In addition, public agencies are encouraged to develop and maintain their own safety and health programs as an adjunct to but not a substitute for the Massachusetts State Plan's enforcement program (Document ID 0048, p. 28).

The DLS will adopt OSHA's regulation governing Consultation Agreements, 29 CFR 1908, during the developmental period. The DLS has also agreed to adjust its organizational structure to ensure separation between enforcement and compliance assistance (Document ID 0048, p. 28).

OSHA finds that the Massachusetts State Plan provides for the establishment and administration of an effective voluntary compliance program.

V. Decision

OSHA has conducted a careful review of the Massachusetts State Plan for the development and enforcement of State standards applicable to Massachusetts State and local Government employment, and the record developed during the above-described proceedings, including public comments received in support of OSHA's June 30, 2022, proposal. Based on this review, and on the assurances provided by the Massachusetts State Plan of the steps that it will take during the developmental period, OSHA has determined that the requirements and criteria for initial approval of a developmental State Plan have been met. The Massachusetts State Plan is hereby approved as a developmental State Plan for State and local Government under Section 18 of the OSH Act.

OSHA notes that Massachusetts already has authority to enforce and is carrying out enforcement of its occupational safety and health standards in Massachusetts places of State and local Government employment. However, this determination by OSHA to grant the Massachusetts State Plan initial approval makes Massachusetts eligible to apply for and receive up to 50% matching Federal grant funding, as authorized by the OSH Act under section 23(g) (29 U.S.C. 672(g)). In addition, this determination signifies the beginning of the Massachusetts State Plan's three-year developmental period, during which Massachusetts will be required to address the developmental steps identified in the Massachusetts State Plan narrative that is included in the docket of this rulemaking at *www.regulations.gov* (29 CFR 1956.2(b)(1)) (Document ID 0048, pp. 37–38). OSHA will publish a certification notice in the **Federal Register** to advise the public once Massachusetts has completed all developmental steps (29 CFR 1956.23; 29 CFR 1902.33; 1902.34).

VI. Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.)* that the initial approval of the Massachusetts State Plan will not have a significant economic impact on a substantial number of small entities. By its own terms, the Plan will have no effect on private sector employment and is limited to the State of Massachusetts and its political subdivisions. Compliance with State OSHA standards is required by State law; Federal approval of a State Plan imposes regulatory requirements only on the agency responsible for administering the State Plan. Accordingly, no new obligations would be placed on State and local Government employers as a result of Federal approval of the Massachusetts State Plan. The approval of a State Plan for State and local Government employers in Massachusetts is not a significant regulatory action as defined in Executive Order 12866.

VII. Federalism

Executive Order 13132, ''Federalism,'' emphasizes consultation between Federal agencies and the States and establishes specific review procedures the Federal Government must follow as it carries out policies which affect State or local Governments. OSHA has consulted extensively with Massachusetts throughout the development, submission, and consideration of its State Plan. Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to initial approval decisions under the Act, which have no effect outside the particular State receiving the approval, OSHA has reviewed the Massachusetts initial approval decision and believes it is consistent with the principles and criteria set forth in the Executive Order.

VIII. Effective Date

OSHA's decision granting initial Federal approval to the Massachusetts State and local Government State Plan is effective August 18, 2022. OSHA has determined that good cause exists for making Federal approval of the Massachusetts State Plan effective upon publication, pursuant to Section 553(d) of the Administrative Procedure Act. Massachusetts' program has been in effect for many years, and further modification of the program will be required over the next three years, following this decision to grant initial approval. OSHA's proposal provided an opportunity for the submission of comment and requests for a public hearing. The seven comments received during this rulemaking strongly supported OSHA's grant of initial approval. Further, Federal funds for the Massachusetts State Plan are available through the Fiscal Year 2022 Omnibus Appropriations Act. Therefore, for these reasons, this decision is immediately effective.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements.

Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 8–2020 (85 FR 58393), and 29 CFR parts 1902 and 1956.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

For the reasons stated in the preamble, 29 CFR part 1952 is amended as follows:

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

■ 1. The authority citation for part 1952 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), or 8–2020 (85 FR 58393, Sept. 18, 2020), as applicable.

Subpart B—List of Approved State Plans for State and Local Government Employees

■ 2. Add § 1952.29 to read as follows:

§ 1952.29 Massachusetts.

(a) The Massachusetts State Plan for State and local Government employees received initial approval from the Assistant Secretary on August 18, 2022.

(b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 8 safety and 3 health compliance officers for enforcement inspections, and 2 safety and 1 health consultants to perform consultation services in the public sector. The State has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The State has also given satisfactory assurance of adequate funding to support the Plan.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *https://www.osha.gov/dcsp/osp/stateprogs/massachusetts.html.*

[FR Doc. 2022–17803 Filed 8–17–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0670

RIN 1625–AA00

Safety Zone; Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Cumberland River on mile marker (MM) 190 to 192. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Nashville CVC–ASAE Fireworks. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective 9 p.m. through 9:30 p.m. on August 20, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0670 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
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 publishing an NPRM would be impracticable. It is impracticable to publish an NPRM because we must establish this safety zone by August 20, 2022 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Nashville CVC–ASAE Fireworks event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Nashville CVC—ASAE Fireworks starting August 20, 2022, will be a safety concern for anyone within mile marker 190 to 192. on the Cumberland River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the firework display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9 p.m. until 9:30 p.m. on August 20, 2022. The safety zone will cover all navigable waters between MM 190 to 192 on the Cumberland River, extending the entire width of the river. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks display is occuring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

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

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

The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone, enforcement period, as well as any changes in the dates and times of enforcement.

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 fireworks show being held for 30 minutes during the evening hours and only impacting 2 miles of the Cumberland River.

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 30 minutes that will prohibit entry between MM 190 to 192 on the Cumberland River for the fireworks display. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0670 to read as follows:

§ 165.T08–0670 Safety Zone; Cumberland River, Nashville, TN.

(a) *Location.* The following area is a safety zone: All navigable waters of the Cumberland River, from Mile Markers 190 to 192, extending the entire width of the river.

(b) *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 Captain of the Port Sector Ohio Valley (COTP) or the COTP's designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

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

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

(c) *Enforcement period.* This section will be enforced from 9 p.m. through 9:30 p.m. on August 20, 2022.

Dated: August 13, 2022.

H.R. Mattern,

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

[FR Doc. 2022–17804 Filed 8–17–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0615; FRL–9607–02–R3]

Air Plan Partial Disapproval and Partial Approval; Pennsylvania; Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising its prior action that erroneously fully approved a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (PA), through the Pennsylvania Department of Environmental Protection (PADEP), to EPA on October 11, 2017, and supplemented on February 5, 2020. The SIP revision provided a plan for attainment of the 2010 sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) in the Indiana, Pennsylvania SO_2 nonattainment area (hereafter referred to as the ''Indiana, PA NAA'' or ''Indiana Area''). The attainment plan submission included a base year emissions inventory, an analysis of the reasonably available control technology (RACT) and reasonably available control measure (RACM) requirements, enforceable emission limitations and control measures, a reasonable further progress (RFP) plan, a modeling demonstration of SO_2 attainment, and contingency measures for the Indiana Area. EPA is revising its prior action and is partially approving and partially disapproving the SIP. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on September 19, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0615. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Megan Goold, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2027. Ms. Goold can also be reached via electronic mail at *goold.megan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 17, 2022 (87 FR 15166), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA provided notice to the Commonwealth and the public and described the basis for its determination that it had erroneously fully approved the Indiana, PA SO_2 Attainment Plan, and proposed to revise its formal approval of the Plan to a partial disapproval and partial approval. See CAA section 110(k)(6). The formal SIP revision was originally submitted by Pennsylvania on October 11, 2017, and later supplemented on February 5, 2020. EPA took final action approving this attainment plan on October 19, 2020 (85 FR 66240).

On December 18, 2020, the Sierra Club, Clean Air Council, and PennFuture filed a petition for judicial review with the U.S. Court of Appeals for the Third Circuit, challenging that final approval.[1] On April 5, 2021, EPA filed a motion for voluntary remand without vacatur of its approval of the Indiana, PA SO_2 attainment plan. On August 17, 2021, the U.S. Court of Appeals for the Third Circuit granted EPA's request for remand without vacatur of the final approval of Pennsylvania's SO_2 attainment plan for the Indiana, PA NAA, and required that EPA take final action in response to the remand no later than one year from the date of the court's order (*i.e.,* by August 17, 2022). This action finalizes EPA's response to the court's order.

II. Summary of SIP Revision and EPA Analysis

In accordance with section 172(c) of the CAA, the Pennsylvania attainment plan for the Indiana Area includes an emissions inventory for SO_2 for the plan's base year (2011) and an attainment demonstration. The attainment demonstration includes the following: (1) analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 SO_2 NAAQS; (2) a determination that the control strategy for the primary SO_2 sources within the nonattainment areas constitutes RACM/RACT; (3) a dispersion modeling analysis of an emissions control strategy for the primary SO_2 sources contributing to SO_2 concentrations in the Area (Keystone, Conemaugh, Homer City, and Seward) purporting to show attainment of the SO_2 NAAQS by the October 4, 2018, attainment date; (4) requirements for RFP toward attaining the SO_2 NAAQS in the Area; (5) contingency measures; (6) the assertion that Pennsylvania's existing SIP-approved new source review (NSR) program meets the applicable requirements for SO_2; and (7) the request that emission limitations and compliance parameters for Keystone, Conemaugh, Homer City, and Seward be incorporated into the SIP.

On February 5, 2020, in response to comments submitting during the proposal's public comment period, PADEP submitted supplemental information in support of the attainment plan. The February 5, 2020 submittal included: (1) a supplemental air dispersion modeling report; (2) supplemental air dispersion modeling data; (3) a supplemental air dispersion modeling protocol; (4) a meteorological monitoring plan; (5) meteorological monitoring data; (6) meteorological monitoring quality assurance, quality control, and audit reports; (7) Clean Air Markets Division (CAMD) emissions data for 2010–2018; and (8) Continuous Emissions Monitoring (CEM) data for 2010 through the third quarter of 2019. The supplemental air dispersion modeling used a more refined model receptor grid than that in the original submittal, meteorological data collected near the controlling modeled source (Seward), and more recent (2016–18) background concentrations from the South Fayette SO_2 monitor (the monitor used to determine background concentrations in the original modeling analysis). In order to allow for public comment on this supplemental

[1] *Sierra Club, et. al* v. *EPA,* Case No. 20–3568 (3rd Cir.).

information and modeling, on March 9, 2020 (85 FR 13602), EPA published a notice of data availability (NODA) for the February 5, 2020, submittal.

EPA now has determined that it was in error to fully approve the Indiana, PA SO_2 attainment plan, and is revising and correcting its prior action in the same manner as the prior full approval without further submission from the Commonwealth. See CAA section 110(k)(6). EPA is retaining the approval of the emissions inventory and nonattainment new source review (NNSR) program requirements, and is finalizing disapproval of the attainment demonstration, RACM/RACT requirements, RFP requirements, and contingency measures.

Other specific requirements of section 172(c) and the rationale for EPA's proposed and final action are explained in the NPRM, and its associated technical support document (TSD), and will not be restated here.

III. EPA's Response to Comments Received

EPA received two sets of comments on the notice of proposed rulemaking for this action. A summary of the comments and EPA's responses are provided below. To view the full set of comments, refer to the docket for this action, Docket EPA–R03–OAR–2017–0615.

Comment 1: The commenter disagrees that the SIP did not include an assessment showing that the longer-term average limits for Keystone and Seward are of comparable stringency to the one-hour Critical Emissions Value (CEV). The commenter believes that Appendix C of EPA's 2014 Guidance for 1-hour SO_2 Nonattainment Area SIP Submissions [2] (''2014 Guidance'') is a statistical approach and is a surrogate approach that was justified by Appendix B, such that Appendix C is a theorem and Appendix B is the proof. The commenter states that the Randomly Reassigned Emissions (RRE) modeling approach provides a very robust demonstration of a comparably stringent relationship between the modeling results of the CEV analysis and the RRE analysis. The commenter believes the facts below support that the longer-term average limits have been shown to be comparably stringent to the one-hour CEV, and that the RRE modeling is thorough in testing the emissions distributions that had the following attributes:

1. The emissions used in the RRE modeling followed Appendix C of the 2014 Guidance because they reflected the distribution of emissions expected once the attainment plan had been implemented.

2. High emission events were modeled in a way that is representative of both the variability shown by the 2016 emissions data and of the expected distribution of emissions occurring in compliance with the allowable longer-term average emissions limits.

3. High emission events (*i.e.,* hours with emissions above the CEV) were randomly placed throughout the year in the modeling in order to examine combinations of high emissions and varying meteorology.

4. Each of the 100 runs resulted in modeled design values below the NAAQS, which the commenter asserts is a stringent requirement that is equivalently stringent to the modeling results for the one-hour CEV analysis, which has the same modeling outcome.

Therefore, the commenter asserts that Pennsylvania's RRE modeling did incorporate the necessary steps to establish the comparably stringent relationship between a modeled one-hour CEV and the longer-term average limits.

The commenter also asserts that the fact that its RRE modeling approach—which EPA used in Appendix B to test the statistical adjustment approach in Appendix C—results in different longer-term average limits than the Appendix C approach in this specific case, is not contrary to the 2014 Guidance because they both demonstrate attainment. They argue that the direct use of the submitted modeling approach can be viewed as the gold standard, with a very high level of confidence that the emissions distribution is protective of the NAAQS.

The commenter also claims that Appendix B uses an emissions distribution that is expected once the plan is in place, which is the same type of emissions data used in the Appendix C approach. The commenter continues that EPA's guidance does not require the use of the 99th percentile of historic hourly data in the future emissions profile.

The commenter is also concerned that EPA is requiring a clear link between the modeled one-hour CEV and the longer-term average emission limits even though the words ''clear'' and ''link'' do not appear in the 2014 Guidance document. Although the commenter disagrees with the requirement to demonstrate a clear link between the modeled 1-hr CEV and the longer-term average limits, and with EPA's position that its modeled future emissions scenarios must represent the worst case emissions scenarios permissible under the limit, the commenter believes that the RRE modeling has satisfied those requirements because, (1) the CEV was used as one of the bins in the modeling, thus demonstrating a clear link in the commenter's view, and (2) based on the commenter's comparison of modeled emissions (future expected emissions), and actual emissions from 2017–2021 for Keystone and Seward, the sources have actually had a fewer number of hours above the CEV than was modeled, and there have been no observed one-hour emissions from either source equaling or exceeding the highest hourly emissions used in the peak modeled emissions bin.

The commenter continues that discount factors were calculated from the RRE modeling of 0.989 for Keystone and 0.686 for Seward, which are consistent with the range of the discount values listed in Appendix D.

Response 1: In general, the commenter is misinterpreting the 2014 Guidance and conflating the use of Appendix B of the guidance as an apparent alternate method of satisfying the SIP requirements. A SIP requires that the plan provide for attainment of the NAAQS. Attainment of the NAAQS is successfully demonstrated when the affected sources operate within the limits in the plan such that emissions from any and all variable operating scenarios are in compliance with those limits and do not lead to NAAQS violations. Modeling the maximum one-hour emission rate (*i.e.,* the maximum allowable rate or 'worst-case') that yields a design concentration below the NAAQS is the means by which the SIP provides for attainment. So, a one-hour limit is the mechanism for providing for attainment in the SIP. In the alternative to the one-hour limit, the 2014 Guidance provides flexibility for developing limits with longer-term averages (up to 30-days). Appendix C describes the method to develop longer-term limits that are comparably stringent to the maximum one-hour limit. Appendix C uses the 99th percentile distribution of emissions to ensure that the longer-term limits are appropriately adjusted to be comparably stringent, and by extension, provide for attainment. Appendix B is merely a diagnostic tool using a statistical example as a back check to demonstrate that the 99th percentile consideration used in Appendix C is the appropriate means to show comparable stringency.

[2] EPA Guidance for 1-hour SO_2 Nonattainment Area SIP Submissions, April 23, 2014, *www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

Appendix B is not a tool which can be decoupled from Appendix C to develop limits sufficient to provide for attainment. Accordingly, the state SIP cannot be said to provide for attainment because the longer-term limits have not been shown to be comparably stringent to the one-hour maximum allowable value. The worst case emissions scenario has not been simulated (for example by a 99th percentile evaluation of the emission distribution), and therefore the RRE analysis does not demonstrate that the longer-term limit that the commenter claims is proven by the RRE analysis will provide for attainment actually does so, when it was performed by modeling future expected operating scenarios that did not simulate worst case conditions. Using Appendix B as a standalone tool to develop emission limits, as the state has done here, is not appropriate without considering worst case emissions, which is accomplished by linking to the CEV as is reflected in Appendix C. The variable emissions modeling approach used by the state provides no direct means of assessing whether any particular long-term limit is of comparable stringency to any particular one-hour limit.

The 2014 Guidance did not remove the requirement for an attainment demonstration to be based on maximum allowable emissions (as the commenter implies), nor did it recommend basing attainment modeling on an expected hourly distribution of emissions once the attainment plan had been implemented (as the commenter implies). The 2014 Guidance stated that ''for SO_2 modeling, maximum allowable emissions are the basis of the emissions input to the model in accordance with Section 8 of Appendix W and past SO_2 guidance (U.S. EPA, 1994).'' (2014 Guidance, pg. A–5). Furthermore, the Guidance used the term critical emission value to refer to the hourly emission rate that the model predicts would result in the 5-year average of the annual 99th percentile of daily maximum hourly SO_2 concentrations at the level of the one-hour NAAQS, given representative meteorological data for the area. (2014 Guidance, pg. 23). The guidance provided a methodology by which the maximum allowable modeled hourly emissions CEV would be clearly linked to the comparably stringent longer-term average limit. While the terms ''clear'' and ''link'' are not included in the guidance document, the methods set forth in Appendix C describe a step-by-step process by which an adjustment factor can be calculated, which would then be directly applied to the CEV to create a comparably stringent longer-term average limit. Consequently, if the CEV changed, the comparably stringent longer-term limit would also change as a result of the application of the adjustment factor.

Regardless of whether the guidance document uses the words 'clear' and 'link,' the absence of a direct showing that the limits in Pennsylvania's SIP are comparably stringent to the one-hour limits modeled as necessary to provide for attainment means that the plan presumptively does not provide adequate assurance of attainment. Further, the commenter does not make a consistent argument that long-term limits may be justified by modeling a significantly different level of emissions (*i.e.,* not maximum allowable emissions) than the emissions that must be modeled to determine one-hour limits.

Additionally, the adjustment factor as specified in the 2014 Guidance is derived from a statistical analysis of a set of data that reflect the emissions variability that the controlled source is expected to exhibit. Specifically, the adjustment factor is calculated by comparing the 99th percentile of hourly emissions data (from the previously described data set) compared to the 99th percentile of the longer-term averaging period values. This comparison at the higher end of the distribution (99th percentile) of data values is purposeful because ''the goal of the analyses is to identify a longer-term average limit that requires a comparable degree of control, particularly at times of greatest emissions as would be required by the 1-hr limit that would otherwise be set, the EPA would expect the analyses to compare the corresponding longer-term average and the 1-hr values among times of greatest emissions'' (2014 Guidance, pg. 29). Without undertaking this comparison, EPA does not believe it is able to determine that a longer-term average limit is comparably stringent to the one-hour limit that would otherwise be necessary to demonstrate attainment of the one-hour NAAQS. The state's plan has not evaluated how the modeled emissions compare to worst case emissions that are allowable under the long-term limits, either in terms of whether the SIP modeled the maximum allowable emissions or in terms of whether a worst case distribution of emissions was modeled. Therefore, EPA does not have evidence that the modeled emissions was a conservative distribution of emissions in relation to the relevant benchmark of worst case allowable emissions.

EPA does not agree that the RRE modeling provided this necessary type of comparably stringent analysis. First, as the commenter points out, although the CEV was used as one of the bins of hourly emission values in the modeling, the state's longer-term limit was not based on that CEV such that if the CEV changed the longer-term limit would in turn change in the same direction. As noted in the proposal for this rule, in the supplemental modeling analysis Pennsylvania submitted for Seward, when Seward's CEV decreased by 579 pounds per hour (lb/hr) (from 5,079 lb/hr to 4,500 lb/hr), the longer-term limit derived by Pennsylvania from the RRE modeling remained unchanged. The air quality found by modeling of variable emissions is a function of the full range of modeled emissions, influenced by the frequency and magnitude of emission values in all parts of the distribution, and so the use of the CEV as one of the bin values provides almost no assurance that the full RRE modeling analysis which includes other binned emissions is linked in any meaningful way to the CEV.

Additionally, the RRE approach used the entire distribution of past annual hourly emissions to set a longer-term average limit, rather than the 99th percentile of annual hourly emissions, which does not satisfy EPA's recommendation to use the time of greatest emissions, and thus fails the Appendix C test for comparable stringency (2014 Guidance, pg. 29).

The commenter seems to be confused about what values in the analysis need to be comparably stringent; the commenter claims that the modeling results of the RRE modeling approach are comparably stringent to the one-hour CEV modeling because both show design values below the NAAQS. The values that need to be comparably stringent are the CEV and the longer-term limit, not the modeled SO_2 design values.

The modeled design values are dependent on the model inputs, particularly the hourly emissions modeled. While EPA recommended that the ''comparably stringent'' assessment be based on a set of emissions data that can be expected to reflect the variability of emissions once the subject source implements its attainment plan, this recommendation was in conjunction with the recommendation to use the times of greatest emissions (which the Guidance suggests is properly simulated by using the 99th percentile distribution), and to begin the comparably stringent analysis with the CEV. The commenter seems to have misconstrued these recommendations and incorrectly concluded that modeling an historic hourly distribution

of emissions for a source in an attainment modeling demonstration could be used as a substitute to modeling maximum allowable emissions, or to determining the CEV and then adjusting that value to calculate a comparably stringent longer-term limit. Pennsylvania's RRE modeling did not model maximum allowable emissions, nor did it demonstrate a relationship between the CEV (maximum allowable hourly emission value) and the longer-term average limit as recommended in EPA's 2014 Guidance in order to enable a conclusion that the longer-term limits are comparably stringent to the one-hour CEV.

Pennsylvania's RRE analysis modeled the entire distribution of historic hourly emissions in 100 randomly assigned model runs; and in the case for Seward, it set the 30-day limit at the weighted average of hourly emissions modeled, and in the case for Keystone, it set the 24-hour limit at the longer-term value that was modeled 30% of the year. It is questionable whether either of these longer-term average limits are actually being tested in the RRE model runs, or whether the model runs only test the distribution of hourly emissions that were modeled. EPA is not confident that these RRE derived longer-term limits will act as a constraint on the distribution of future hourly emissions to the same degree as the Appendix C approach using the 99th percentile value, and therefore EPA does not have the same degree of confidence that the NAAQS will not be violated. The future hourly emissions distribution could skew towards having more frequent hourly values above or near the CEV, in which case the RRE modeling performed for these sources might not show design values complying with the NAAQS considering the modeling results from the RRE modeling resulted in design values extremely close to the 75 parts per billion (ppb) standard (as discussed in more detail below). Additionally, Pennsylvania's use of a limited number of emission bins with a high emissions ''floor'' adds a further disconnect from the real distribution of worse case emissions.

Appendix B provided results of a variety of emissions scenarios for a suitably adjusted longer-term average limit, which consistently resulted in design values between 39 and 59 ppb. EPA notes on page B–3 of the 2014 Guidance, ''in each of these simulations a substantial number of hours (on average, just under one percent) had emissions higher than the CEV. Nevertheless, given the margin between these values and the NAAQS level of 75 ppb, this analysis indicates that the likelihood of a violation occurring with these emissions values is extremely low.'' The RRE modeling provided by Pennsylvania in support of Seward's 30-day limit and Keystone's 24-hour limit resulted in design values just slightly below the 75 ppb NAAQS, which provides very little margin by which hourly emissions could vary from those modeled by Pennsylvania and not cause a violation. If Pennsylvania had properly accounted for worst case emissions allowable under the limit, it is quite possible that would have shown a violation.

Combining the impacts of using the 99th percentile of emissions statistics, and the large margin between the resultant modeled concentration in Appendix B and the level of the NAAQS, EPA is confident that a longer-term average limit based on the Appendix C methodology can be protective of the NAAQS. In contrast, the state has provided an RRE modeled demonstration of *expected* future hourly emissions, that when modeled, results in design values that come near to violating the NAAQS while also reflecting compliance with the longer-term average limits but at emissions scenarios not representative of worst case emissions levels allowed under the longer-term average limits. The State's submission does not provide confidence that a comparably stringent relationship (as the commenter claims) exists and therefore, does not provide a sufficient level of assurance that the longer-term average limits provide for NAAQS attainment.

In support of its claim that the RRE modeling demonstrated attainment using worst case emission scenarios, the commenter provided an analysis which purportedly showed that more recent emissions (2017–2021) had less hours above the CEV than the hourly emissions modeled for Seward and Keystone. However, no evidence was provided that the distribution of hourly emissions modeled by the RRE runs were comparable to the worst-case hourly emissions scenario that could occur in compliance with the longer-term emission limit. The commenter's comparison of binned hourly emissions values modeled to those that actually occurred throughout recent years, does not provide evidence of worst case hourly emissions scenarios for a one-hour NAAQS. In contrast, a different commenter provided modeling of Keystone's actual emissions from 2019–2021, which purportedly showed that modeled NAAQS violations occurred when the source was in compliance with the 24-hour limit of 9600 lb/hr, and that the source's hourly emissions exceeded the CEV during 35 hours in 2019, 69 hours in 2020, and 232 hours in 2021. This modeling analysis demonstrates that when a different emissions scenario is modeled from Pennsylvania's RRE modeling, a NAAQS violation occurs, highlighting the importance of modeling worst case emissions to ensure attainment.

The RRE modeling approach used by Pennsylvania did not reflect the maximum possible emissions that could occur while maintaining compliance with the longer-term average emission limit, nor did the approach provide a comparably stringent analysis. Consequently, it was erroneous for EPA to fully approve the Indiana, PA SO_2 Attainment Plan in 2020, and it is necessary for EPA to correct its error by revising its action to partially approve and partially disapprove the Plan.

Comment 2: The commenter notes that the monitors do not show evidence of nonattainment, and noted that, even though the Strongstown monitor is not located in the area of the modeled maximum SO_2 concentration, previous modeling demonstrated that the Strongstown monitor would be ''significantly impacted'' if elevated impacts occurred elsewhere in the Indiana, PA NAA. The commenter provided data from the Strongstown monitor showing that its monitored values are decreasing and approaching values from the background monitor in South Fayette.

Response 2: EPA agrees that the monitors in Strongstown and South Fayette are reading below the standard. However, as noted by the commenter, the monitors are not located in the area of modeled maximum concentrations and therefore are not, by themselves, indicative of whether the area is meeting the SO_2 NAAQS. Although the comment makes reference to the ''modeling effort,'' it is not clear what modeling the commenter is referring to and the commenter has not provided any other data to support the claim that the Strongstown monitor would be ''significantly impacted'' if elevated impacts occurred elsewhere in Indiana, PA.

SO_2 concentrations result from direct emissions from combustion sources so that concentrations are highest relatively close to sources and are much lower at greater distances due to dispersion, *i.e.,* a strong concentration gradient. Given the source-oriented nature of this pollutant (see 75 FR at 35570, June 22, 2010), dispersion models are the most appropriate air quality modeling tools to predict the near field concentrations and gradients

of this pollutant. EPA has received dispersion modeling from a different commenter that purportedly shows modeled violations within the Indiana, PA NAA near the Indiana and Armstrong County border, using actual 2019–2021 emissions for Keystone, while the source was purportedly complying with the 24-hour limit of 9,600 lb/hr. Consequently, EPA does not regard the commenter's observations about the Strongstown monitor as providing persuasive evidence that the Area is not violating the NAAQS or that the Plan provides for attainment of the NAAQS.

Comment 3: The commenter claims that EPA is acting inconsistently because EPA approved the use of an alternative modeling method in Miami, AZ, which used Appendix C to calculate an adjustment factor, and included a supporting Appendix B modeling demonstration, which the commenter claims ''definitively'' confirmed the adequacy of the Appendix C calculated adjustment factor. The commenter argues that Appendix B was used as an essential component of the SIP because Appendix C was used in an application not addressed in EPA's 2014 Guidance. Further, the commenter argues that the regulatory requirement is attainment of the NAAQS. The commenter alleges that this disapproval is arbitrary and capricious because it proposes to interpret the guidance differently in two nonattainment areas and apply it inconsistently without any explanation for the inconsistency.

Response 3: EPA disagrees that it has applied the 2014 Guidance inconsistently between the Indiana, PA attainment plan and the Miami, AZ attainment plan. As the commenter noted, a significant difference between the two plans is that the Arizona plan used the Appendix C methodology to calculate a comparably stringent longer-term average limit, and then provided additional modeling to analyze whether the longer-term emission limit derived using Appendix C was reasonably likely to be protective of the NAAQS. In contrast, Pennsylvania used RRE modeling to arrive at the longer-term average limit without demonstrating comparable stringency to the one-hour CEV. The Arizona longer-term limit was calculated by obtaining a ratio of the 99th percentile of hourly emissions compared to the 99th percentile of longer-term average values as recommended by EPA. This ratio or adjustment factor was then applied to the CEV, thus taking into account the times of greatest emissions and linking the longer-term limit to the maximum modeled emission value (CEV), accordingly. Although the Arizona plan included an RRE-type (*i.e.,* Appendix B) assessment of projected air quality, EPA did not rely on that assessment and made no reference to it in its final rule, insofar as the SIP was approvable without regard to the merits of the assessment.

In contrast, the longer-term limits for Keystone and Seward in the Indiana, PA attainment plan were developed using only RRE modeling, which modeled the entire distribution of historic hourly emissions and based the limit on the 24-hour values that were modeled 30% of the time (Keystone) and the weighted annual average (Seward), neither of which considered the 99th percentile statistics of the historic hourly data set (times of greatest emissions), and neither of which were linked to the maximum modeled hourly emission rate (CEV). While sources can use approaches other than Appendix C to derive a longer-term average limit, the evidence that the other approach will result in attainment needs to be as compelling. EPA believes that any approach used should begin with the CEV, and account for times of greatest emissions in setting a longer-term limit. EPA also has noted that supplemental limits may be necessary to further constrain the frequency and magnitude of these worst case emission episodes.

Due to these clear differences in approaches, EPA is not acting inconsistently in our actions on the Indiana, PA and Miami, AZ attainment plans as the commenter claims; rather, EPA is applying the 2014 Guidance consistently across rather dissimilar situations.

Comment 4: The commenter claims that EPA's action is arbitrary and capricious because the disapproval is not based on a rational connection between the facts found and the choice made. The commenter asserts that the facts in the record show that Appendix B is the proof of the statistical analysis in Appendix C, and that using the Appendix B approach is a more robust, thorough way to show that a longer-term emission limit can be protective of the NAAQS. The commenter claims that the use of the Appendix B approach is consistent with EPA's requirements for an approvable SIP: ''. . . as the EPA explained in our 2014 SO_2 Guidance and in numerous proposed and final SIP actions implementing the SO_2 NAAQS, a key element of an approvable SIP is the required modeling demonstration showing that the remedial control measures and strategy are adequate to bring a previously or currently violating area into attainment.'' 84 FR 8815, March 12, 2019. EPA is now seemingly self-contradictory and believes that Appendix B does not provide a longer-term emission limit that is equivalently stringent to the one-hour limit. Nothing in the record supports making this determination, the commenter claims.

Response 4: EPA disagrees with the commenter and believes the commenter has misunderstood the purpose of Appendix B of the 2014 Guidance. First, the EPA language quoted by the commenter is referring to the modeling performed to determine the CEV, which is a one-hour limit for SO_2 emissions, rather than a longer-term limit. Also, as noted in the 2014 Guidance, ''Appendix B documents analyses that the EPA has conducted to evaluate the extent to which longer-term limits that have been *adjusted to have comparable stringency* to one-hour limits as the critical emissions value provide for attainment.'' (pg. 25). Also, as noted in the Guidance, ''at issue is the likelihood that a source complying with a 30-day average limit *reflecting the adjustment generally recommended in this guidance* [emphasis added] would have sufficiently high emissions on a sufficient fraction of the potential exceedance days to cause an SO_2 NAAQS violation.'' (pg. B–2). In each of the modeling simulations run by EPA in support of the Appendix C methodology, the estimated design values obtained were between 39 and 58 ppb, and thus EPA stated, ''Given the margin between these values and the NAAQS level of 75 ppb, this analysis indicates that the likelihood of a violation occurring with these emissions values is extremely low.'' (pg. B–3). Thus, the modeling exercise was conducted as a test on emission limits that were considered comparably stringent with the CEV (*i.e.,* comparably stringent longer-term emission limits, and not simply ''longer-term'' emission limits); it was not used to develop the comparably stringent longer-term limits because, as noted, the results of the Appendix B analyses yielded a range of estimated design values and EPA did not select a specific modeling scenario result to rely upon as an attainment demonstration. Rather, EPA used the analysis as support that the comparably stringent longer-term limit derived using the Appendix C methodology, notwithstanding infrequent hourly emissions spikes above the CEV, could nevertheless protect the NAAQS.

The commenter's claim that Appendix B is a ''proof'' of the statistical analysis in Appendix C is not substantiated. A mathematical proof of a theorem should show that the theorem holds true at all times so long as any

constraints set forth by the theorem are followed (*e.g.,* theorem only applies to prime numbers). In Appendix B, EPA summarizes modeling exercises that were conducted using the emission patterns that could be expected even when a source is just barely complying with a long-term average emission limit. (2014 Guidance, at B–4). Based on this, EPA concluded that these analyses indicated ''that suitably adjusted longer-term average limits can generally be expected to provide adequate confidence that the attainment plan will provide for attainment.'' (pg. B–2). Words such as ''generally'' and ''adequate confidence'' are not words used to describe a mathematical proof.

The modeling analyses were one piece of evidence that provided more confidence to EPA that a comparably stringent longer-term limit (set using the 99th percentile of emissions statistics) can be protective of a one-hour NAAQS, but the Appendix B modeling analyses did not ''prove'' that a longer-term limit set via other methods that went through 100 model runs with a specified hourly emissions distribution and that modeled attainment would provide the same level of confidence that the limit is protective of the one-hour NAAQS. More specifically, Pennsylvania modeled hourly values that, when averaged over a 24-hour day, equaled less than the 24-hour limit for 70% of the year for Keystone. That is, while the 24-hour limit for Keystone was set at 9,600 lb/hr, the hourly emissions that were modeled averaged between 5,000 and 8,964 lb/hr on a 24-hour basis for 70% of the year; and the hourly emissions that were modeled averaged 9,600 lb/hr on a 24-hour basis for 30% of the year. Pennsylvania did not scale the data set such that the modeled hourly values resulted in 24-hour averages that just met the 24-hour limit of 9,600 lb/hr. Therefore, it's questionable whether the RRE modeling actually tested the 24-hour limit for Keystone. If the 24-hour averaged emissions varied from those that were modeled, such that 50% or 100% of the 24-hour averages equaled 9,600 lb/hr (the limit) rather than only 30%, it is uncertain that the modeled concentrations would still result in attainment. On the other hand, EPA's methods for determining a comparably stringent limit do provide confidence that changes in the hourly emissions distribution while in compliance with the longer-term limit will still provide for attainment. Tellingly, at no point does the guidance recommend use of the methods described in Appendix B as a means of determining suitable limits or of determining whether limits determined by other means (whether of comparable stringency to a one-hour limit at the CEV or not) will suitably provide for attainment. Thus, characterizing Appendix B as 'proof' of the Appendix C theorem is off base.

Comment 5: A different commenter claims that longer-term limits are fundamentally incapable of protecting a one-hour NAAQS. The commenter provided an updated analysis of Keystone's actual hourly emissions for the years 2018 through 2021 which showed that the source exceeded the CEV over 500 hours. The commenter noted that 2021 was worse than 2020. The analysis also showed that Seward exceeded the CEV 71 times in that same period (4 years). The commenter believes that the NAAQS will not be attained if just four hours on four days have ambient concentrations above 75 ppb, and thus concludes that longer-term emissions averaging cannot protect the NAAQS. The commenter therefore asserts that the current emission limits in the SIP for Keystone and Seward are inadequate to protect air quality.

In addition, the commenter calculated a conversion factor for Keystone using Appendix C and the more recent 2018–2021 hourly emissions data and noted the analysis yields a limit of 8,292.5 lb/hr (24-hour daily average), which is below the current limit of 9,600 lb/hr as a 24-hour daily average.

Response 5: EPA disagrees with the commenter's assertion that a longer-term limit, so long as it is properly set, cannot protect a one-hour NAAQS. But that abstract issue is not being decided in this action. In this case, EPA agrees with the commenter that the specific longer-term limits for Keystone and Seward were not set at a level that ensures the protection of the one-hour SO_2 NAAQS, since they were not shown to be comparably stringent to a modeled attaining one-hour CEV. EPA agrees with the commenter that the longer-term limits for Keystone and Seward do not ensure protection of the NAAQS, and with this action will finalize disapproval of the attainment demonstration.

Comment 6: The commenter provided recent air quality modeling allegedly demonstrating that SO_2 emissions from Keystone, Conemaugh, and Seward continue to cause nonattainment in Pennsylvania, both inside and outside the Indiana NAA. The air quality modeling submitted with the comment, which used actual emissions from Keystone from 2019 through 2021, purportedly demonstrates that Keystone is causing violations of the NAAQS (209.9 micrograms per cubic meter (μg/m^3)). The commenter also provided annual SO_2 emissions for Keystone, which show lower annual emissions in 2020 (13,011 tons per year), but other years range from 17,000–24,000 tons per year. Using actual emissions for various three-year time periods from 2015–2017 through 2019–2021, the commenter provided modeling demonstrating that Seward and Conemaugh cause violations of the NAAQS (244.6 μg/m^3–275.4 μg/m^3) [3] outside the nonattainment area.

Response 6: EPA believes that this final rule may result in Pennsylvania adopting tighter SO_2 emission limits for both Keystone and Seward which will reduce their hourly emissions and better provide for reductions in SO_2 concentrations towards achieving attainment of the NAAQS, subject to EPA's evaluation of any such future limits.

Regarding the commenter's modeling, which seems to show modeled SO_2 NAAQS violations in Westmoreland and Cambria counties in Pennsylvania outside the boundaries of the Indiana NAA, EPA notes that it is not basing its partial disapproval of the Indiana attainment plan on these modeled NAAQS violations outside of the Indiana NAA. As stated in the proposal for this action, EPA is planning a separate regulatory action under the Clean Air Act to address those modeled NAAQS violations.

Comment 7: The commenter states that Conemaugh and Seward's SO_2 pollution implicates serious environmental justice (EJ) concerns. The commenter provided an EJ Screen analysis which indicates that southeast of Seward the population is characterized by low incomes and generally elderly population. The commenter also overlaid the modeled violations of the NAAQS with the EJ screen map showing that the modeled violations are impacting the identified vulnerable population. The commenter asserts that this adds urgency to the need for attainment to be achieved and SO_2 emissions from Conemaugh and Seward to be properly limited.

Response 7: EPA's analysis in the notice of proposed rulemaking showed similar results to the commenter's EJ screen analysis and indicated communities with environmental justice concerns both inside and outside the Indiana nonattainment area. EPA therefore encourages Pennsylvania to be as expeditious as practicable in

[3] In the Round 3 intended designations (82 FR 41903) published September 5, 2017, EPA endorsed a value of 196.4 μg/m^3 (based on calculations using all available significant figures) as equivalent to 75 ppb.

developing its new attainment plan limits in order to address the emissions impact on the vulnerable populations both inside the current nonattainment area, and in adjacent areas.

IV. Final Action

EPA is partially approving and partially disapproving the Indiana, PA attainment plan as a correction of its erroneous prior full approval action and as a revision to the Pennsylvania SIP. See CAA section 110(k)(6). Specifically, EPA is disapproving the attainment demonstration, RACT/RACM determination, RFP requirements, and contingency measures. EPA is retaining the approval of the emissions inventory and the NNSR program.

This action initiates a sanctions clock under CAA section 179, providing for emission offset sanctions for new sources if EPA has not fully approved a revised SIP attainment plan within 18 months after final partial disapproval, and providing for highway funding sanctions if EPA has not fully approved a revised plan within 6 months thereafter. The sanctions clock can be stopped only if the conditions of EPA's regulations at 40 CFR 52.31 are met. This action also initiates an obligation for EPA to promulgate a Federal implementation plan within 24 months unless Pennsylvania has submitted, and EPA has fully approved, a plan addressing these attainment planning requirements.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this SIP partial approval and partial disapproval does not in-and-of itself create any new information collection burdens, but simply partially approves and partially disapproves certain State requirements for inclusion in the SIP.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This SIP partial approval and partial disapproval does not in-and-of itself create any new requirements but simply partially approves and partially disapproves certain pre-existing State requirements for inclusion in the SIP.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP EPA is disapproving would not 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because this SIP partial approval and partial disapproval does not in-and-of itself create any new regulations, but simply partially approves and partially disapproves certain pre-existing State requirements for inclusion in the SIP.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rule.

K. Congressional Review Act (CRA)

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

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the partial approval and partial disapproval of the Indiana, PA SO_2 attainment plan, 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,

Reporting and recordkeeping requirements, Sulfur oxides.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry ''Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard'' at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	* *	*	* *
Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard.	Indiana County and portions of Armstrong County (Plumcreek Township, South Bend Township, and Elderton Borough).	10/11/17, Supplemental information submitted 02/05/20, updated redacted permits submitted on 05/13/20.	8/18/22, [Insert **Federal Register** Citation]. 10/19/20, 85 FR 66255.	Partial Disapproval (attainment demonstration, Reasonably Available Control Technology (RACT)/Reasonably Available Control Measures (RACM) determination, Reasonable Further Progress (RFP) requirements, contingency measures) and Partial Approval (emissions inventory and nonattainment new source review (NNSR) program) 52.2033(f).

* * * * *

■ 4. Amend § 52.2033 by revising paragraph (f) to read as follows:

§ 52.2033 Control strategy: Sulfur oxides.

* * * * *

(f) EPA partially approves and partially disapproves the attainment demonstration State Implementation Plan for the Indiana, PA Sulfur Dioxide Nonattainment Area submitted by the Pennsylvania Department of Environmental Protection on October 11, 2017 and updated on February 5, 2020, and corrected permits submitted on May 13, 2020. EPA approves the base year inventory and the Nonattainment New Source Review (NNSR) requirements, and disapproves the attainment demonstration, Reasonably Available Control Technology (RACT)/Reasonably Available Control Measures (RACM) determination, Reasonable Further Progress (RFP) requirements and contingency measures.

[FR Doc. 2022–17449 Filed 8–17–22; 8:45 am]

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Proposed Rules

Federal Register
Vol. 87, No. 159
Thursday, August 18, 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 HOMELAND SECURITY

8 CFR Part 274a

[DHS Docket No. ICEB 2021–0010]

RIN 1653–AA86

Optional Alternatives to the Physical Document Examination Associated With Employment Eligibility Verification (Form I–9)

AGENCY: U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: DHS is proposing to allow for alternative procedures for documents required by the Form I–9, *Employment Eligibility Verification*. This proposed rule would create a framework under which the Secretary of Homeland Security (the Secretary) could authorize alternative options for document examination procedures with respect to some or all employers. Such procedures could be implemented as part of a pilot program, or upon the Secretary's determination that such procedures offer an equivalent level of security, or as a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services pursuant to Section 319 of the Public Health Service Act, or a national emergency declared by the President pursuant to Sections 201 and 301 of the National Emergencies Act. This proposed rule would allow employers (or agents acting on an employer's behalf) optional alternatives for examining the documentation presented by individuals seeking to establish identity and employment authorization for purposes of completing the Form I–9, *Employment Eligibility Verification*.

DATES: Electronic comments must be submitted on or before October 17, 2022.

ADDRESSES: You may submit comments on the entirety of this proposed rule, identified by Docket No. ICEB–2021–0010, through the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the website instructions to submit comments.

Comments submitted in a manner other than the Federal eRulemaking Portal, including emails or letters sent to DHS, will not be considered comments, and will not receive a response from DHS. Please note that DHS cannot accept any hand delivered or couriered comments, nor any comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. If you cannot submit your material using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Sharon Hageman, Deputy Assistant Director, Office of Regulatory Affairs and Policy, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Washington, DC 20536. Telephone 202–732–6960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Public Participation

DHS encourages all interested parties to participate in this rulemaking by submitting data, views, comments, and arguments on all aspects of this proposed rule. Comments providing the most assistance to DHS will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include the data, information, or authority that supports the recommended change. See the **ADDRESSES** section above for information on where to submit comments.

A. Submitting Comments

To submit your comments online, go to *https://www.regulations.gov* and insert ''ICEB 2021–0010'' in the ''Search'' box. Click on the ''Comment'' box and type your comments in the text box provided. When you are satisfied with your comments, follow the prompts, and then click ''Submit Comment.''

DHS will post comments to the federal e-Rulemaking portal at *https://www.regulations.gov* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines is offensive. For more information, please read the ''Privacy & Security Notice,'' via the link in the footer of *https://www.regulations.gov*. DHS will consider all comments and materials received during the comment period and may change this rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov* and insert ''ICEB 2021–0010'' in the ''Search'' box. Next, click on ''Dockets,'' then on the name of the rule, and finally on ''Browse All Comments.'' Individuals without internet access can request alternate arrangements for viewing comments and documents related to this rulemaking (see the **FOR FURTHER INFORMATION CONTACT** section of this document). You may also sign-up on the online docket for email alerts whenever comments are posted, or a final rule is published.

II. Abbreviations

Abbreviation	Amplification
CFR	Code of Federal Regulations
COVID 19	Coronavirus disease 2019
DHS	Department of Homeland Security
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
IRCA	Immigration Reform and Control Act of 1986
NEPA	National Environmental Policy Act
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PRA	Paperwork Reduction Act
U.S.	United States
U.S.C.	United States Code
USCIS	U.S. Citizenship and Immigration Services

III. Background and Purpose

A. Legal Authority

In 1986, Congress reformed U.S. immigration laws by passing the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603, to amend the Immigration and Nationality Act (INA), which appears in Title 8 of the U.S. Code. Among other reforms, the

IRCA amendments made it unlawful for employers to knowingly hire individuals who were not eligible to work in the United States and established a system for verifying the identity and U.S. employment authorization of all employees hired after November 6, 1986. IRCA imposed employer sanctions, codified in section 274A of the Immigration and Nationality Act (INA), 8 U.S.C. 1324a, including financial, criminal, and other penalties for those who failed to verify the identity and the employment eligibility of all new employees, or those who knowingly hired, recruited, or referred for a fee, or continued to employ ''unauthorized aliens'' after November 6, 1986. Among other goals, IRCA sought to ensure that only eligible individuals were hired for employment in the United States, and that employers did not discriminate against any employee on the basis of national origin or citizenship status.[1]

IRCA prompted the creation of the Form I–9, *Employment Eligibility Verification,* which was designated as the means of documenting that the employer verified an employee's identity and U.S. employment authorization. *See* 8 CFR 274a.2. Employers must complete the Form I–9 to document verification of the identity and employment authorization of each employee (both citizen and noncitizen) hired after November 6, 1986 to work in the United States.[2] If an employee's employment authorization expires, the employer must reverify the employee's employment authorization to ensure the employee continues to be employment-authorized in the United States.[3] If an employee is rehired, the employer must also ensure that the employee is still authorized to work in the United States.[4] The employer must retain the Form I–9 in a paper, electronic, or microfilm or microfiche format, or in an acceptable combination of such formats, for as long as the individual works for the employer and for a specified period after the individual's employment has ended.[5]

The Homeland Security Act of 2002, Public Law 107–296 moved the responsibility for overseeing the examination of documentation evidencing identity and employment authorization from the former U.S. Immigration and Naturalization Service, which was a component of the U.S. Department of Justice, to the newly formed DHS, specifically to U.S. Citizenship and Immigration Services (USCIS) and Immigration and Customs Enforcement (ICE). USCIS issues most employment authorization documentation to noncitizens and administers an electronic employment eligibility verification program called E-Verify,[6] while ICE monitors and enforces compliance with the requirements of the Form I–9. The Immigrant and Employee Rights Section of the U.S. Department of Justice's Civil Rights Division enforces the investigates and prosecutes employment anti-discrimination provision of the INA, 8 U.S.C. 1324b.

B. Background

Within three business days after the first day of employment (*i.e.,* the first day of work in exchange for wages or other remuneration), employers must physically examine the documentation presented by new employees from the Lists of Acceptable Documents (*i.e.,* ''Form I–9 documents''),[7] or an acceptable receipt,[8] to ensure that the presented documentation appears to be genuine and to relate to the individual who presents them. *See* 8 CFR 274a.2(b)(1)(ii)(A), (b)(1)(vi). Employers must then complete Section 2, ''Employer Review and Verification,'' of the Form I–9. *See* 8 CFR 274a.2(b)(1)(ii)(B). If reverification is required, the employee or referred individual must present a document that shows continued employment authorization or a new grant of employment authorization. *See* 8 CFR 274a.2(b)(1)(vii). If the employer rehires an individual for whom it had previously completed the Form I–9 and complied with the document verification requirements, the employer may inspect the original Form I–9. *See* 8 CFR 274a.2(c). If the rehired employee's employment authorization on the original Form I–9 had expired when the individual was rehired, the employer must conduct reverification. *See* 8 CFR 274a.2(c).

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[1] *See* 8 U.S.C. 1324a and 8 U.S.C. 1324b.

[2] In the Commonwealth of the Northern Mariana Islands, employers complete the Form I–9 for each new employee (both citizen and noncitizen) hired after November 27, 2011. Additional information about completing the Form I–9 is available at *https://www.uscis.gov/i-9-central.*

[3] 8 CFR 274a.2(b)(1)(vii).

[4] 8 CFR 274a.2(c).

[5] Employers must retain and store Forms I–9 for three years after the date of hire, or for one year after employment is terminated, whichever is later. Additional information for employers and employees about the Form I–9 is available at *https://www.uscis.gov/i-9.*

[6] *See* Learn More About E-Verify, E-Verify, *https://www.e-verify.gov/* (last visited May 6, 2022).

[7] The Lists of Acceptable Documents are included with the Form I–9.

[8] Occasionally, employees may present a ''receipt'' in place of a List A, B, or C document. An acceptable receipt is valid for a short period of time so an employer can complete Section 2 or Section 3 (reverification) of Form I–9, Employment Eligibility Verification. Employers cannot accept receipts if employment will last less than 3 days. An acceptable receipt may be a receipt for the application to replace a List A, B, or C document that was lost, stolen, or damaged; the arrival portion of Form I–94 (Arrival/Departure Record) with a temporary Form I–551 stamp and a photograph of the individual; the departure portion of Form I–94 (Arrival/Departure Record) with an unexpired refugee admission stamp; or an admission code of ''RE.'' *See* USCIS, Handbook for Employers, M–274, *https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/40-completing-section-2-of-form-i-9/43-acceptable-receipts* (last visited June 21, 2022).

Table 1: Lists of Acceptable Form I-9 Documents

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Native American tribal document
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		7. Employment authorization document issued by the Department of Homeland Security
		8. Native American tribal document		
		9. Driver's license issued by a Canadian government authority		
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI				

BILLING CODE 9111–28–C

Due to the physical proximity precautions implemented by employers related to combating the coronavirus disease 2019 (COVID–19) pandemic, on March 20, 2020, ICE posted an announcement on its website that stated DHS would defer the physical examination requirements associated with the Form I–9.[9] Under that guidance, an employer, or an authorized representative acting on the employer's behalf, could inspect Form I–9 documents remotely (*e.g.,* over video link, fax, or email) within three business days of the employee's first day of employment. If inspecting Form I–9 documents remotely, the employer was required to obtain, inspect, and retain copies of the documents within three business days. Such employers were further directed to enter COVID–19 as the reason for the physical examination delay in the Section 2 ''Additional Information'' field, of the Form I–9. Under the guidance, the employer would be required, once normal operations resumed, to physically examine the documents and enter the notation ''documents physically examined'' along with the date of inspection in the Section 2 ''Additional Information'' field. DHS initially allowed these provisions to be in place for a period of 60 days from the date of the notice (or within three business days after the termination of the national emergency, whichever came first).

This guidance applied only to employers and workplaces that were operating remotely. Specifically, the guidance stated: ''[i]f there are employees physically present at a work location, no exceptions are being implemented at this time for in-person verification of identity and employment eligibility documentation for Form I–9, Employment Eligibility Verification. However, if newly hired employees or existing employees are subject to COVID–19 quarantine or lockdown protocols, DHS will evaluate this on a case-by-case basis.''

ICE periodically extended this announcement as the COVID–19 national emergency [10] continued. On March 31, 2021, ICE updated the announcement made on March 20, 2020, stating that, as of April 1, 2021, only those employees who physically reported to work at a company location on any regular, consistent, or

[9] ICE, DHS announces flexibility in requirements related to Form I–9 compliance (Effective Apr. 1, 2021), *https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance* (last updated Mar. 31, 2021).

[10] *See* 85 FR 15337 (Mar. 18, 2020).

predictable basis needed to undergo an in-person examination of their Form I–9 identity and employment eligibility documentation.[11] Further, the announcement indicated that employees who were hired on or after April 1, 2021, and who worked exclusively in a remote setting due to COVID–19-related precautions, were temporarily exempted from the physical examination of their Form I–9 documents until they undertook non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements was terminated, whichever occurred earlier.[12] Subsequently, due to the continuation of the COVID–19 pandemic, ICE extended these flexibilities several times: the latest announcement, issued on April 25, 2022, extended the temporary flexibilities until October 31, 2022.[13]

On October 26, 2021, USCIS published a notice in the **Federal Register** seeking input from the public regarding document examination practices associated with the Form I–9.[14] Of the 315 public comments received, the vast majority supported a remote document examination option, stating that such an option reduces burdens on employers and employees. Some commenters raised concerns about document fraud, while others recommended measures to mitigate such risk. DHS thanks the public for its comments and encourages commenters to participate in this rulemaking by submitting comments in response to the specific proposal contained in this proposed rule, as well as the alternatives presented. As noted below, this proposed rule would not directly authorize remote document examination, but it would create a framework under which DHS could pilot various options, respond to emergencies similar to the COVID–19 pandemic, or implement permanent flexibilities upon a specific determination as to level of security, including, but not limited to, fraud risk.

C. Need for the Proposed Change

DHS recognizes that more employers may have adopted telework and remote work arrangements because of the COVID–19 pandemic. For instance, the Pew Research Center conducted a study to better understand how the work experiences of employed adults had changed during the pandemic. That survey found that, among workers who said their job responsibilities could mainly be done from home, most said that they rarely or never teleworked before the pandemic. However, in October 2020, 71 percent of those workers were working from home all or most of the time.[15] In addition, on March 11, 2021, the U.S. Bureau of Labor Statistics reported that nearly 1 in 4 people (22.7 percent) employed in February 2021 teleworked or worked at home for pay because of the COVID–19 pandemic.[16] This rapid shift to telework and remote work was possible because of advances in technology and workplace modernization, such as cloud-based solutions that allowed employees to work despite not physically reporting to a company location on a regular basis. For instance, the study conducted by the Pew Research Center found that, of those workers doing their jobs from home all or most of the time, about three-quarters or more said it was easy to have the technology and equipment they needed to do their job and more than half said they wanted to keep working from home after the pandemic subsided, if given a choice to do so.[17] Another study by the Pew Research Center found that the impetus for working from home has shifted considerably since 2020, with more workers saying they are working from home today by choice rather than necessity. For instance, among workers with a workplace outside of their home, 61 percent now say they are choosing not to go into their physical workplace, while only 38 percent say they are working from home because their physical workplace is closed. Earlier in the pandemic, 64 percent said they were working from home because their office was closed.[18] For these reasons, DHS anticipates that work patterns for many employees may be permanently affected.

In light of these advances in technology and new work arrangements, DHS is exploring alternative options, including making permanent some of the current COVID–19 pandemic-related flexibilities to examine employees' identity and employment authorization documents for the Form I–9. This rule would not create such alternatives but would instead formalize the authority for the Secretary to extend flexibilities, provide alternative options, or conduct a pilot program to further evaluate an alternative procedure option (in addition to the procedures set forth in regulations) for some or all employers, regardless of whether their employees physically report to work at a company location. DHS would introduce any such alternative procedure in a future **Federal Register** notice that would include the parameters for the alternative procedures, any applicable conditions for participation, and for how long the alternative procedures would be available.

D. Proposed Changes

To allow DHS to evaluate and implement options that provide employers with more flexibilities, and in recognition of many employees' changing work environments and advances in technology, DHS proposes to revise the language currently in 8 CFR 274a.2(b) and (c). This proposed revision includes additional language in paragraphs (b)(1)(ii)(A), (b)(1)(vii), and (c)(1)(ii) stating that an alternative procedure may be authorized by the Secretary for examining the documentation presented by individuals to establish identity [19] and/or employment authorization when completing Form I–9 when they are

[11] *See* ''ICE announces extension, new employee guidance to I–9 compliance flexibility,'' U.S. Immigration and Customs Enforcement (Effective Apr. 1, 2021), *https://www.ice.gov/news/releases/ice-announces-extension-new-employee-guidance-i-9-compliance-flexibility*.

[12] *See* USCIS, DHS Extends Form I–9 Flexibility (Effective Mar. 31, 2021), *https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/dhs-extends-form-i-9-requirement-flexibility-effective-mar-31-2021* (last updated Mar. 31, 2021); ICE announces extension, new employee guidance to I–9 compliance flexibility, *https://www.ice.gov/news/releases/ice-announces-extension-new-employee-guidance-i-9-compliance-flexibility* (last updated Apr. 1, 2021).

[13] *See* DHS Extends Form I–9 Requirement Flexibility (Effective May 1, 2022), *https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/dhs-extends-form-i-9-requirement-flexibility-effective-may-1-2022* (last updated Apr. 25, 2022); ICE announces extension to I–9 compliance flexibility, *https://www.ice.gov/news/releases/ice-announces-extension-i-9-compliance-flexibility-3* (last updated Apr. 25, 2022).

[14] 86 FR 59183.

[15] *See* Pew Research Center, How the Coronavirus Outbreak Has—and Hasn't—Changed the Way Americans Work (Dec. 9, 2020), *https://www.pewresearch.org/social-trends/2020/12/09/how-the-coronavirus-outbreak-has-and-hasnt-changed-the-way-americans-work/* (last visited Feb. 14, 2022).

[16] *See* U.S. Bureau of labor Statistics, Mar. 11, 2021, The Economics Daily, *https://www.bls.gov/opub/ted/2021/workers-ages-25-to-54-more-likely-to-telework-due-to-covid-19-in-february-2021.htm* (last visited Oct. 20, 2021).

[17] *See* Pew Research Center, How the Coronavirus Outbreak Has—and Hasn't—Changed the Way Americans Work (Dec. 9, 2020), *https://www.pewresearch.org/social-trends/2020/12/09/how-the-coronavirus-outbreak-has-and-hasnt-changed-the-way-americans-work/* (last visited Apr. 1, 2022).

[18] *See* Pew Research Center, COVID–19 Pandemic Continues To Reshape Work in America, (Feb. 16, 2022), *https://www.pewresearch.org/social-trends/2022/02/16/covid-19-pandemic-continues-to-reshape-work-in-america/* (last visited Apr. 6, 2022).

[19] This proposed rule relates to the physical presentation or inspection of documents for the Form I–9 only, and not to other regulatory programs or requirements that may require physical presentation or inspection of documents.

hired, reverified, or rehired. Moreover, a new paragraph (b)(1)(ix) would be added to state that, in lieu of the physical examination procedure described in paragraphs (b)(1)(ii)(A), (b)(1)(vii), and (c)(1)(ii), the Secretary may authorize optional alternative documentation examination procedures with respect to some or all employers, and that such procedures may be adopted as part of a pilot program, upon the Secretary's determination that such procedures offer an equivalent level of security, or as a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services or a national emergency declared by the President. DHS plans to introduce any such alternative procedure in a future **Federal Register** notice.

E. Proposed Form I–9 Changes and Potential Conditions for Alternative Procedures

DHS expects that any future alternative procedures that may be authorized by the Secretary for examining the documentation presented by individuals to establish identity and/or employment authorization for the Form I–9 when they are hired, have their employment authorization reverified, or rehired, may require the employer (or agents acting on the employer's behalf) to indicate on the Form I–9 whether documentation was examined consistent with such alternative procedure(s). Therefore, DHS is proposing changes to the Form I–9 and its accompanying instructions that would allow employers to indicate that alternative procedures were used (should such alternative procedures be authorized in the future). Specifically, DHS is proposing adding a box to the Form I–9 that, if an alternative procedure were used for either Section 2 or Section 3, an employer (or an agent acting on an employer's behalf) would select to indicate that the employee's documentation was examined consistent with the alternative procedure(s). DHS is also proposing to update the instructions to the Form I–9 to explain the new box. These Form I–9 changes would allow ICE, when conducting an audit, to know that the employer (or an agent acting on an employer's behalf) has represented that the employer examined (and, if required by the procedure, retained) documentation consistent with the alternative procedure(s). These changes would help ICE enforce and monitor compliance with the provisions of the alternative procedure(s) referenced above. DHS has provided estimates of the resulting potential paperwork burden changes related to the Form I–9 in Section F, Paperwork Reduction Act—Collection of Information.

DHS is considering other requirements that may impact this collection of information for any alternative procedure that may be authorized by the Secretary for examining the documentation presented by individuals to establish identity and employment authorization for the Form I–9. DHS invites comment on a range of potential changes to the collection of information.

Specifically, DHS welcomes comments on the effects of the below potential changes with respect to employers, employees, and DHS, including comments on the associated burdens or benefits, such as reducing risks to the integrity of the alternative procedure(s), avoiding discrimination in the process, and protecting privacy interests:

1. DHS is considering various document retention requirements. For instance, DHS could impose some or all of the document retention requirements applicable to the remote examination process during the flexibilities period discussed above, which required employers to retain copies of the documentation employees chose to present. DHS is also considering requiring employers to retain copies of any documents presented remotely via video, fax, or email. DHS requests comments on any cost(s) or increased burden(s) for employers to retain such documentation, as well as comments on the benefits, costs, or any burdens for employees related to such document retention.

2. DHS is considering adding a fraudulent document detection and/or an anti-discrimination training requirement for employers. For example, the employer or authorized representative who uses the alternative procedure may be required to take a 30–60-minute online training on detecting fraudulent documents remotely and avoiding discrimination in the process. DHS requests comments on any cost(s) or increased burden(s) for employers to complete such training, as well as comments on the benefits, costs, or any burdens for employees related to such training.

3. DHS is considering a variety of options with respect to the population that will be eligible to utilize the alternative procedure(s), and requests comments on such options and on how they may affect the collection of information. (For example, one potential option for consideration might be to limit the eligible population to those employers who have enrolled, and are participants in good standing, in E-Verify; another potential option for consideration might be to place some limits on employers who have been the subject of a fine, settlement, or conviction related to employment eligibility verification practices.) DHS requests comments on all relevant options with respect to the population that will be eligible to use the alternative procedure(s).

IV. Statutory and Regulatory Requirements

DHS developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. The below sections summarize the analyses based on a number of these statutes or Executive orders.

A. Executive Orders 12866 and 13563: Regulatory Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') 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 (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Management and Budget (OMB) has designated this rule a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by OMB.

This proposed rule would allow the Secretary to authorize alternative options for document examination procedures with respect to some or all employers when they are hired, have their employment authorization reverified, or rehired, as part of a pilot program, upon the Secretary's determination that such procedures offer an equivalent level of security, or as a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services or a national emergency declared by the President. The proposed rule would not itself implement an alternative procedure to physical examination. If an alternative procedure is authorized, this would provide employers (or agents acting on an employer's behalf) an alternative option for examining the Form I–9 documentation presented by individuals seeking to establish identity

and/or employment authorization. This proposed rule would also allow the Secretary the option of conducting a pilot program before deciding whether to use the option provided in this rule. If DHS introduces an alternative procedure, employers would still have the option to physically examine documents for the Form I–9 and would not be required to use the alternative method.

DHS has examined the potential impacts of an alternative procedure to physical examination. However, DHS is currently unable to fully quantify these potential impacts due to a lack of information about the specifics of a possible future alternative procedure. DHS discusses some of the potential impacts below. DHS also includes an estimate of the cost to employers for the Form I–9 revisions proposed in this rule.

Impacts of Form I–9 Revisions

As discussed in Section III, DHS is proposing to add boxes to Sections 2 and 3 of the Form I–9 that an employer (or an agent acting on an employer's behalf) must select if using any available alternative procedure(s) and to make corresponding edits to the form's instructions. DHS estimates that it would take an employer one minute to read the revised instructions about the box indicating if an employer used the alternative procedure(s) and mark the box, if needed, or 0.02 hours (1 minute/60 minutes). Employer estimates and wage rates are taken from the existing Collection of Information, titled ''Employment Eligibility Verification'', OMB Control Number 1615–0047. DHS uses the same wage rates and employer estimates to maintain consistency and to capture the changes due to this proposed rule. DHS estimates the total number of employers who complete the Form I–9 annually is 55,400,000.[20] Assuming all employers would read the revised instructions about the new boxes, the total annual increase in time burden for employers would be 1,108,000 hours (0.02 hours × 55,400,000 employers). Using a fully loaded wage rate of $35.78 per hour, DHS estimates the total annual costs to employers for the additional box would be $39,644,240 (1,108,000 hours × $35.78 per hour).

Potential Impacts of an Alternative Procedure

If the alternative procedure option (not requiring the physical examination of Form I–9 documentation) becomes available to some or all employers, the employers who decide to exercise this option may face new costs. If, for example, the alternative procedures were to make permanent the COVID–19 flexibilities for remote examination (*e.g.,* examination done over video, fax, or email) or other similar remote examination procedures, the new costs could include the acquisition and set-up costs for any new information technology that may be needed for this purpose. Employers may also incur the related costs of training personnel to operate any new equipment or to apply the alternative procedures. If employers choose to delegate this work to contractors, they would also face additional contracting costs. Furthermore, if DHS authorizes alternative procedures on the condition that participating employers engage in particular activities, such as enrolling in E-Verify, collecting and retaining images of Form I–9 documents presented by employees, or completing related fraudulent document detection and/or anti-discrimination training, these conditions may entail costs and benefits as well. For example, if the alternative procedure(s) require(s) E-Verify enrollment, any unenrolled employers who choose to enroll in E-Verify to use the alternative procedure may incur costs associated with enrollment (such as the time it takes to enroll, complete any required training, and remain participants in good standing). DHS expects employers will only opt to use the alternative procedure(s) if they believe it is in their best interests to do so. Therefore, DHS expects that the benefits to employers using the alternative procedures option would outweigh the costs. DHS requests comments on the types of costs that employers may face if the Secretary were to authorize an alternative procedure to the physical examination of documentation presented by individuals to establish identity and/or employment authorization for the Form I–9. DHS specifically calls commenters' attention to the types of conditions identified above.

As an example of potential benefits to employers who exercise the alternative procedure(s) option, we can consider those employers who operate in more than one location. These employers may be able to allow their human resources staff to perform the examination and verification procedure for Form I–9 documents from a single location or remotely, rather than having the verification performed at each location or be required to use an authorized representative to perform physical document examination on the employers' behalf. By centralizing their Form I–9 processing in this manner, these employers may streamline the completion of the Form I–9 and also be able to reap the savings that would result from these economies of scale. In addition, contractors that perform the same operations may be able to benefit in the same way from such economies of scale. With the existence of competition among those contractors, the costs to firms that hire these contractors may be reduced as well if those contractors can perform the work at a lower cost.

The alternative procedures would potentially offer benefits to new and rehired employees as well as those whose employment authorization needs to be reverified, especially in cases where they may not need to make an extra trip to a company location to allow for the physical examination of their Form I–9 documentation. Recent statistics on commuting times have indicated that most workers (who do not work from home) travel, on average, about one hour, roundtrip, to commute to work each day.[21] By potentially minimizing travel, the alternative procedures would save time spent commuting to a physical location and other travel expenses (such as road tolls and gasoline), as well as save employers the expenses they incur receiving employees at a company location, such as preparing visitors badges.

Additional potential benefits to employees and employers may arise from the alternative procedures in the area of remote work. Employers who are seeking to hire new remote workers or rehire former employees will have greater flexibility to hire a new employee who would otherwise have difficulty making the trip to a company location to physically present his or her identity and employment authorization documentation. Thus, in some cases, the alternative procedures may enable some employers to benefit from a larger pool of candidates competing for the employer's available positions. By the same token, individuals seeking employment may be able to seek positions from a larger field of potential employers.

DHS requests comments about the costs and benefits from the physical examination of Form I–9 documentation with respect to: (1) employers hiring employees, or (2) employees seeking,

[20] Estimates can be found in the document titled ''I–9 Supporting Statement'' available at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201906-1615-001.*

[21] Average One-Way Commuting Time by Metropolitan Area, U.S. Census Bureau, *https://www.census.gov/library/visualizations/interactive/travel-time.html* (last visited Oct. 20, 2021).

obtaining, or re-obtaining employment. DHS also requests comments on any cost savings that employers or employees may incur if the Secretary were to authorize an alternative procedure to the physical examination of documentation presented by individuals to establish identity and employment authorization for the Form I–9.

B. Regulatory Flexibility Act

DHS has reviewed this proposed rule in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, tit. II, 110 Stat. 847. This rule would allow the Secretary to authorize alternative options for document examination procedures with respect to some or all employers as part of a pilot program, upon the Secretary's determination that such procedures offer an equivalent level of security, or as a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services or a national emergency declared by the President. The proposed rule would not itself implement an alternative procedure to physical inspection. If DHS introduces an alternative procedure, employers would still have the option to physically examine documents for the Form I–9 and would not be required to use the alternative method(s). Accordingly, DHS certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

Pursuant to Section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 858–59, DHS wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please use the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this document.

D. Unfunded Mandates Reforms Act of 1995

The Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1531–1538) requires federal agencies to assess the effects of their discretionary regulatory actions. In particular, the UMRA 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 year. This proposed rule would not result in such an expenditure, and for this reason, no additional actions were deemed necessary under the provisions of the UMRA.

E. Paperwork Reduction Act—Collection of Information

Under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–12, DHS must submit to OMB, for review and approval, any reporting requirements inherent in a rule unless they are exempt.

DHS invites the general public and other Federal agencies to comment on the impact of the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument. DHS calls commenters' attention to the proposal to add boxes to Sections 2 and 3 of the Form I–9 and to revise the form instructions to refer to alternative procedures. If you have questions concerning this proposal, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. DHS also welcomes comments on the burden(s) associated with the potential conditions for using alternative procedures, as described earlier in this preamble. Following this period of public comment, DHS may seek OMB approval to further revise the collection of information to accommodate such potential conditions following publication of the final rule, pilot program, or alternative procedures, if and when appropriate.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule.

Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the 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 submission of responses.

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–9; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households; Business or other for-profit. The Form I–9 was developed to facilitate compliance with Section 274A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, making employment of unauthorized aliens unlawful and diminishing the flow of illegal workers in the United States. DHS is revising this form and its accompanying instructions to correspond with revisions related to any alternative procedure(s) that may be authorized by the Secretary for examining the documentation presented by individuals to establish identity and employment authorization for the Form I–9.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–9 for Employers is 55,400,000 and the estimated hour burden per response is 0.35 hours. The estimated total number of respondents for the information collection I–9 for Employees is 55,400,000 and the estimated hour burden per response is 0.17 hours. The estimated total number of respondents for the information collection Record Keeping is 20,000,000 and the estimated hour burden per response is 0.08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 30,408,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

F. Executive Order 13132: Federalism

A rule has implications for federalism under section 6 of Executive Order

13132, Federalism, if it has 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. DHS has analyzed this proposed rule under that Order and has determined that it does not have implications for federalism.

G. Executive Order 12988: Civil Justice Reform

This proposed rule meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform,* to minimize litigation, eliminate ambiguity, and reduce burden.

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

DHS has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. DHS has determined that it is not a ''significant energy action'' under that order because it is a ''significant regulatory action'' under Executive Order 12866 but is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Environmental Policy Act

DHS Management Directive 023–01 Rev. 01 and Instruction Manual 023–01–001–01 Rev. 01 establish the policy and procedures that DHS and its Components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, and the Council on Environmental Quality regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations enable federal agencies to establish categories of actions that do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1508.4. The DHS Categorical Exclusions are listed in IM 023–01–001–01 Rev. 01, Appendix A, Table 1.

For an action to be categorically excluded, the action must satisfy each of the following three conditions:

(1) The entire action clearly fits within one or more of the Categorical Exclusions;

(2) The action is not a piece of a larger action; and

(3) No extraordinary circumstances exist that create the potential for a significant environmental effect. IM 023–01–001–01 Rev. 01 section V(B)(2)(a)–(c).

If the action does not clearly meet all three conditions, DHS or the Component prepares an Environmental Assessment or Environmental Impact Statement, according to CEQ requirements, MD 023–01, and IM 023–01–001–01 Rev. 01.

DHS has analyzed this action under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev.01. DHS has made a determination that this rulemaking action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This action clearly fits within the Categorical Exclusions found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, numbers A3(a) and (d): ''*Promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature [and] (d) Those that interpret or amend an existing regulation without changing its environmental effect.*'' This rule is not part of a larger action. This rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, more detailed NEPA review is not necessary. DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this rule.

J. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

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

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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

Executive Order 13045 requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this proposed rule and determined that this proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

M. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation, test methods, sampling procedures, and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, DHS did not consider the use of voluntary consensus standards.

N. Family Assessment

DHS has determined that this action would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Penalties, Reporting and recordkeeping requirements, Students, Verification of identity and employment.

Regulatory Amendments

Accordingly, DHS proposes to amend part 274a of chapter I, subchapter B, of title 8 of the Code of Federal Regulations as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 1. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 2. Section 274a.2 is amended by:
■ a. Revising paragraph (b)(1)(ii)(A) and the second sentence in paragraph (b)(1)(vii).
■ b. Adding paragraph (b)(1)(ix).
■ c. Revising paragraph (c)(1)(ii).

The addition and revisions read as follows:

§ 274a.2 Verification of identity and employment authorization.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) Physically examine (or otherwise examine pursuant to an alternative procedure authorized by the Secretary under paragraph (b)(1)(ix) of this section) the documentation presented by the individual establishing identity and employment authorization as set forth in paragraph (b)(1)(v) of this section and ensure that the documents presented appear to be genuine and to relate to the individual; and

* * * * *

(vii) *** Reverification on the Form I–9 must occur not later than the date work authorization expires and must comply with the applicable document presentation and examination procedures in paragraphs (b)(1)(ii)(A) and (b)(1)(ix) of this section, and form instructions. * * *

* * * * *

(ix) As an optional alternative to the physical examination procedure described in paragraph (b)(1)(ii)(A) of this section, the Secretary may authorize alternative documentation examination procedures with respect to some or all employers. The Secretary may adopt such procedures:

(A) As part of a pilot program;

(B) Upon the Secretary's determination that such procedures offer an equivalent level of security; or

(C) As a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services pursuant to Section 319 of the Public Health Service Act, or a national emergency declared by the President pursuant to Sections 201 and 301 of the National Emergencies Act.

* * * * *

(c) * * *

(1) * * *

(ii) If upon inspection of the Form I–9, the employer determines that the individual's employment authorization has expired, the employer must reverify such employment authorization on the Form I–9 in accordance with paragraph (b)(1)(vii) of this section, including complying with the applicable document presentation and examination procedures in paragraphs (b)(1)(ii)(A) and (b)(1)(ix) of this section, and form instructions; otherwise the individual may no longer be employed.

* * * * *

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2022–17737 Filed 8–17–22; 8:45 am]

BILLING CODE 9111–28–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590–AB21

2023–2024 Multifamily Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is issuing a proposed rule with request for comments on the multifamily housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2023 and 2024. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act) requires FHFA to establish annual housing goals for mortgages purchased by the Enterprises. Under FHFA's existing housing goals regulation, the multifamily housing goals for the Enterprises include benchmark levels through the end of 2022 based on the total number of affordable units in multifamily properties financed by mortgage loans purchased by the Enterprise each year. This proposed rule would amend the regulation to establish benchmark levels for the multifamily housing goals for 2023 and 2024 based on a new methodology—the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year.

DATES: FHFA will accept written comments on the proposed rule on or before October 17, 2022.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB21, by any one of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB21.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB21, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB21, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Associate Director, Housing and Community Investment, Division of Housing Mission and Goals, (202) 649–3157, *Ted.Wartell@fhfa.gov;* Padmasini Raman, Supervisory Policy Analyst, Housing and Community Investment, Division of Housing Mission and Goals, (202) 649–3633, *Padmasini.Raman@fhfa.gov;* Kevin Sheehan, Associate General Counsel, Office of General Counsel, (202) 649–3086, *Kevin.Sheehan@fhfa.gov.* These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments germane to the proposed rule into consideration before issuing a final rule. Copies of all such comments will be posted without change, including any personal information you provide such as your name, address, email address, and telephone number, on

FHFA's public website at *http://www.fhfa.gov.* In addition, copies of all such comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

Commenters are encouraged to review and comment on all aspects of the proposed rule, including the proposed multifamily housing goals benchmark levels and the proposed new multifamily housing goals methodology based on the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year.

II. Background

A. Statutory and Regulatory Background for the Housing Goals

The Safety and Soundness Act requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.[1] The achievement of the annual housing goals is one measure of the extent to which the Enterprises are meeting their public purposes, which include ''an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return.'' [2]

Since 2010, FHFA has established annual housing goals for Enterprise purchases of both single-family and multifamily mortgages by rulemaking, consistent with the requirements of the Safety and Soundness Act. FHFA's most recent rule, issued in December 2021, amended the housing goals regulation to establish benchmark levels for the single-family housing goals for 2022 through 2024 and benchmark levels for the multifamily housing goals for 2022 only.[3] FHFA established the multifamily housing goals for a single year in response to the uncertainty in housing markets associated with COVID–19 and the potential for unforeseen changes to multifamily market conditions in 2023 and 2024. FHFA also considered comment letters submitted in response to the 2021 proposed rule that urged the Agency to establish one- or two-year multifamily goal benchmark levels, in part due to those same factors.

B. Adjusting the Housing Goals

If, after publication of the final rule establishing the multifamily housing goals for 2023 and 2024, FHFA determines that any of the single-family or multifamily housing goals or subgoals should be adjusted in light of market conditions to ensure the safety and soundness of the Enterprises, or for any other reason, FHFA will take any steps that are necessary and appropriate to adjust the goal(s) such as reducing the benchmark level(s) through the processes in the existing regulation. FHFA may also take other actions consistent with the Safety and Soundness Act and the Enterprise housing goals regulation based on new information or developments that occur after publication of the final rule.

For example, under the Safety and Soundness Act and the Enterprise housing goals regulation, FHFA may reduce the benchmark levels in response to an Enterprise petition for reduction for any of the single-family or multifamily housing goals or subgoals in a particular year based on a determination by FHFA that: (1) market and economic conditions or the financial condition of the Enterprise require a reduction; or (2) efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Enterprises' charter acts.[4]

The Safety and Soundness Act and the Enterprise housing goals regulation also take into account the possibility that achievement of a particular housing goal or subgoal may or may not have been feasible for an Enterprise to achieve. If FHFA determines that a housing goal or subgoal was not feasible for an Enterprise to achieve, then the statute and regulation provide for no further enforcement of that housing goal or subgoal for that year.[5]

If FHFA determines that an Enterprise failed to meet a housing goal or subgoal and that achievement of the housing goal or subgoal was feasible, then the statute and regulation provide FHFA with discretionary authority to require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to improve its housing goals or subgoals performance.

The actions described in this section provide some flexibility for FHFA to respond to new information or developments that occur after publication of the final rule. The new methodology proposed here and discussed further below, which would set the benchmark levels as a percentage share of goal-eligible units backing mortgages acquired by each Enterprise, could reduce the likelihood that FHFA will be required to modify the benchmark levels in response to unexpected market developments after publication of the final rule.

C. Housing Goals Under Conservatorship

On September 6, 2008, FHFA placed each Enterprise into conservatorship. Although the Enterprises remain in conservatorship at this time, they continue to have the mission of supporting a stable and liquid national market for residential mortgage financing. FHFA has continued to establish annual housing goals for the Enterprises and to assess their performance under the housing goals each year during conservatorship.

III. Proposed Change in Methodology for Measuring the Multifamily Housing Goals

Since publication of the December 2021 final housing goals rule, FHFA has considered alternative ways to measure Enterprise performance on the multifamily housing goals. As a result, FHFA is now proposing multifamily housing goals for both 2023 and 2024 that would measure Enterprise performance as the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprises, rather than using the current methodology of measuring performance based on the absolute number of affordable units in the properties. The requirements for determining which multifamily mortgage purchases are counted, or not counted, continue to be defined in the existing housing goals regulation and this proposed rule would not make any changes to those requirements. This proposed rule specifically requests comment on the proposed new methodology for measuring Enterprise performance on the multifamily housing goals, as well as on the proposed benchmark levels for 2023 and 2024 under this new methodology.

The multifamily goals, as defined under the Safety and Soundness Act, include categories for mortgages on multifamily properties (properties with five or more dwelling units) with rental units affordable to low-income families and mortgages on multifamily properties with rental units affordable to very low-income families. The Enterprise housing goals regulation also

[1] *See* 12 U.S.C. 4561(a).

[2] *See* 12 U.S.C. 4501(7).

[3] *See* 86 FR 73641 (December 28, 2021).

[4] *See* 12 CFR 1282.14(d).

[5] *See* 12 CFR 1282.21(a); 12 U.S.C. 4566(b).

includes a small multifamily low-income subgoal for properties with 5 to 50 units. Under the current regulation, the performance of the Enterprises on the multifamily goals is evaluated based on the number of affordable units in properties backing mortgages purchased by an Enterprise.

Under the proposed rule, the Enterprises would continue to report on the number of multifamily units acquired each year, including data on units that are affordable to low-income households, very low-income households, and low-income households in small multifamily properties. In order to meet each of the multifamily goals, each Enterprise would be required to ensure that the percentage of units that are affordable meets or exceeds the benchmark level. By changing to a percentage share of the total multifamily units in properties securing goal-eligible mortgages acquired by each Enterprise in a year, the proposed multifamily housing goals would adjust automatically to the volume of the Enterprise's multifamily business each year, while ensuring that each Enterprise's focus remains on affordable segments.

FHFA is not proposing any changes to the current rules in §§ 1282.13, 1282.15, and 1282.16 of the Enterprise housing goals regulation for determining which multifamily mortgages are eligible to be counted towards the goals, and of those, which meet the affordability criteria. FHFA is proposing technical revisions to § 1282.15 to reflect the new proposed methodology. Section 1282.15(c) would be revised to express the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprises in terms of a defined numerator and denominator. Proposed § 1282.15(c) would mirror the description of the single-family housing goals that currently exists in § 1282.15(a), which already measures the single-family housing goals as percentages.

In addition, proposed § 1282.15(e)(3) would clarify the treatment of rental units with missing affordability information. Under the current regulation, an Enterprise is permitted to estimate the affordability of such units, up to a maximum of 5 percent of the total number of rental units in properties securing multifamily mortgages purchased by the Enterprise in the current year. Rental units with missing affordability information are not counted for purposes of the multifamily housing goals to the extent that the number of such units exceeds the nationwide maximum of 5 percent. Rental units also are excluded if it is not possible to estimate the affordability of such units. The proposed rule would clarify that under the new methodology, any units with missing affordability information in excess of the 5 percent nationwide maximum would be excluded from the numerator of the multifamily goals but would be included in the denominator. This treatment would be consistent with the objective of the current regulation to encourage the Enterprises to obtain affordability information whenever possible. The proposed rule would exclude rental units with missing affordability information from both the numerator and the denominator if it is not possible to estimate the affordability of such units. This treatment would reflect the fact that the availability of information needed to estimate affordability is outside the control of the Enterprises.

In this preamble, ''goal-eligible units'' is used as a synonym for ''denominator,'' to refer to all dwelling units that are financed by mortgage purchases that could be counted for purposes of the multifamily housing goals and subgoals. ''Goal-qualifying units'' is used as a synonym for ''numerator,'' to refer to the goal-eligible units that meet the respective affordability requirements of each multifamily goal.[6] The counting rules in § 1282.16(b) exclude certain types of mortgages from eligibility for housing goals credit, such as multifamily mortgages with federal guarantees and subordinate lien multifamily mortgages. FHFA specifically requests comment on whether any other changes to the existing rules for counting multifamily mortgages should be made to address any unintended interactions that the proposed change to the methodology for measuring the multifamily housing goals might have on the market or affordable market segments.

The proposed change to the methodology would address recurring issues that arise under the existing housing goals structure. Under the current methodology, FHFA sets the multifamily housing goal benchmark levels based on the absolute number of units in properties securing goal-eligible mortgages that the Enterprise acquire in order to meet the benchmark levels. This requires FHFA to be able to forecast the multifamily market and the Enterprise volume of multifamily mortgage purchases when setting the benchmark levels. Attempting to forecast multifamily market conditions and Enterprise purchase volumes three or four years into the future is an exceedingly difficult exercise, made even more complicated by the lack of a comprehensive dataset of multifamily loan origination volume similar to the Home Mortgage Disclosure Act (HMDA) data available for the single-family mortgage market. Under the proposed new methodology, FHFA would set the benchmark levels as a percentage share of the goal-eligible units in properties securing mortgages acquired by each Enterprise in a year. This would encourage the Enterprises to continue focusing on serving low-income renter families in a prudent and deliberate manner within the context of their loan acquisitions. The proposed new percentage-based benchmark levels would also mean that the absolute number of affordable units needed to meet each of the housing goals each year would adjust automatically based on the Enterprise's multifamily loan purchase volume and reflect actual multifamily market conditions, as the number of goal-qualifying units needed would scale up or down in proportion with Enterprise loan acquisitions. Operationally, the proposed change to the methodology would have minimal impact as it would not change the existing counting rules, reporting requirements, or definitions used for the housing goals in the housing goals regulation.

Setting the multifamily goal benchmark levels as the percentage of affordable units among all goal-eligible units backing mortgages acquired by the Enterprise is consistent with the percentage-based methodology followed for the single-family housing goals and should be familiar to both Enterprises and external stakeholders. The proposed change in methodology would continue to allow FHFA to track, report, and verify data on multifamily units backing mortgages purchased by the Enterprises, including data on affordable units by income level.

Although FHFA believes the proposed change to the methodology for measuring the multifamily housing goals will make the multifamily housing goals more responsive to market conditions and minimize operational impact on FHFA and the Enterprises, FHFA recognizes that there may be some drawbacks associated with the proposed change. For example, by setting the benchmark levels as a percentage share of goal-eligible units, the benchmark levels will no longer specify a minimum number of affordable units backing mortgages acquired by the Enterprises.

However, there are a number of other factors that support the proposed change to percentage-based multifamily

[6] *See* 12 CFR 1282.15(c).

housing goals. For example, the existing methodology for measuring the multifamily housing goals does not incentivize or require that an Enterprise continue to acquire mortgages backed by goal-qualifying units after the Enterprise has purchased enough mortgages to meet the minimum numeric benchmark levels. The proposed percentage-based benchmark levels would require the Enterprises to continue to support the affordable segment of the market as their mortgage acquisitions increase, rather than potentially reducing their focus on supporting affordable multifamily properties once the minimum numeric benchmark levels are achieved.

Furthermore, the proposed change in methodology for measuring the multifamily housing goals would help address concerns raised in a number of comment letters received in response to the 2022–2024 Enterprise housing goals proposed rule published in August 2021.[7] FHFA received several comment letters suggesting that the Agency create and implement an alternative multifamily goal structure. A trade association proposed an alternative goal structure to align the multifamily housing goals, the Conservatorship Scorecard cap on multifamily volume, which includes requirements for supporting affordable multifamily properties, and limits on multifamily lending under the January 14, 2021 letter agreements amending the Preferred Stock Purchase Agreements (PSPAs)[8] into a single set of standards, as these three standards are not aligned and measure Enterprise multifamily loan purchase performance differently. A policy advocacy group similarly suggested aligning the multifamily housing goals with the Conservatorship Scorecard requirements for supporting affordable multifamily properties, stating that fixed-unit goals do not vary based on the actual size of the market and could lead the Enterprises to stretch to meet the goals, particularly in an inflationary or rising interest rate environment. Another trade association commented that fixed-unit goals require periodic adjustment to incorporate unknown market factors, can become disjointed from actual market conditions, and can incentivize erratic Enterprise competitive behavior. In addition to the comments received in response to the 2022–2024 proposed rule, FHFA has received comments in response to prior rulemakings suggesting that the multifamily goals should be flexible based on market dynamics.[9]

FHFA specifically requests comment on the proposal to change the methodology for measuring the multifamily housing goals from a fixed number of goal-qualifying units to a goal-qualifying percentage share of all goal-eligible units, as well as any other changes that might be appropriate if a change to percentage-based multifamily housing goals is adopted in the final rule.

IV. Multifamily Housing Goals

A. Factors Considered for the Proposed Multifamily Housing Goal Benchmark Levels

In proposing benchmark levels for the multifamily housing goals for 2023 and 2024, FHFA has considered the statutory factors outlined in section 1333(a)(4) of the Safety and Soundness Act. The statutory factors are:

1. National multifamily mortgage credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market;
2. The performance and effort of the Enterprises in making mortgage credit available for multifamily housing in previous years;
3. The size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;
4. The ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for multifamily housing affordable to low-income and very low-income families;
5. The availability of public subsidies; and
6. The need to maintain the sound financial condition of the Enterprises.[10]

This section analyzes key data related to several of the factors that impact each of the multifamily goals, including the overall economic outlook, multifamily mortgage market conditions, affordability concerns in the multifamily mortgage market, the role of the Enterprises in supporting the multifamily mortgage market, and the need to maintain the sound financial condition of the Enterprises. The following sections include additional analysis specific to each multifamily goal and subgoal, including data on the past performance of the Enterprises and the size of the market for each multifamily goal and subgoal.

Overall economic outlook. There are many factors that impact the affordable housing market as a whole, and changes to any one of them could significantly impact the ability of the Enterprises to meet the housing goals. FHFA will continue to monitor the affordable housing market and take these factors into account when considering the feasibility of the goals.

On June 15, 2022, the Federal Reserve noted that despite recent strong job gains and a low unemployment rate, inflation remains elevated.[11] The Federal Reserve noted that the invasion of Ukraine by Russia and related events are causing additional upward pressure on inflation and affecting global economic activity. The Federal Reserve added that COVID–19 pandemic-related lockdowns in China are likely to worsen supply chain disruptions. In an effort to achieve maximum employment and inflation of 2 percent in the long run, the Federal Open Market Committee (FOMC) raised its target range for the federal funds rate to 1.5 percent to 1.75 percent, with plans to increase the target range as appropriate until its goals are achieved.[12]

Interest rates are very important determinants of mortgage market trajectory. Moody's May 2022 consensus forecast projects that 30-year fixed-rate mortgage interest rates will rise from an annual average rate of 3.0 percent in 2021 to 4.8 percent in 2022, then stabilize at 4.9 percent in 2023 and 2024. As of June 16, 2022, the weekly average rate for a 30-year fixed-rate mortgage was 5.78 percent.[13] Moody's forecast also projects that the unemployment rate will be 3.6 percent from 2022 to 2024. In addition, Moody's projects a modest increase in per capita disposable nominal income growth—from $55,700 in 2021 to $61,400 in 2024. Furthermore, Moody's forecast estimates that the annual average inflation rate will decline from a projected 40-year high of 6.9 percent in 2022 to 2.2 percent in 2024. The year-over-year inflation rate for May 2022 was 8.6 percent.[14]

[7] *See* comments received in response to the 2022–2024 Enterprise Housing Goals Proposed Rule, 86 FR 47398 (August 25, 2021), *https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Comment-List.aspx?RuleID=706.*

[8] FHFA announced on September 14, 2021, that certain provisions of the January 14, 2021 letter agreements, including the limits on multifamily lending, were being suspended pending further review. *See* FHFA Press Release, ''FHFA and Treasury Suspending Certain Portions of the 2021 Preferred Stock Purchase Agreements,'' *https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-and-Treasury-Suspending-Certain-Portions-of-the-2021-Preferred-Stock-Purchase-Agreements.aspx.*

[9] *See* comments received in response to the 2015–2017 Enterprise Housing Goals Proposed Rule, 79 FR 54481 (September 11, 2014), *https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Comment-List.aspx?RuleID=498.*

[10] *See* 12 U.S.C. 4563(a)(4).

[11] *See https://www.federalreserve.gov/newsevents/pressreleases/monetary20220615a.htm.*

[12] Ibid.

[13] *See https://www.freddiemac.com/pmms/docs/historicalweeklydata.xls.*

[14] *See https://data.bls.gov/timeseries/CUUR0000SA0&output_view=pct_12mths.*

Table 1. Historical and Projected Trends of Key Macroeconomic Variables

	Historical Trends						Projected Trends		
	2016	2017	2018	2019	2020	2021	2022	2023	2024
Real GDP Growth Rate	1.7	2.3	2.9	2.3	-3.4	5.7	3.1	2.3	2.1
Unemployment Rate	4.9	4.4	3.9	3.7	8.1	5.4	3.6	3.6	3.6
Labor Force Participation Rate	62.8	62.8	62.9	63.1	61.8	61.7	62.4	62.6	62.7
Inflation Rate (Change in CPI)	1.3	2.1	2.4	1.8	1.2	4.7	6.9	3.1	2.2
Consumer Confidence Index	99.8	120.5	130.2	128.3	101.0	112.7	110.1	113.9	114.7
30-Year Mortgage Fixed Rate	3.6	4.0	4.5	3.9	3.1	3.0	4.8	4.9	4.9
Per Capita Disposable Income (1,000s $)	$43.6	$45.3	$47.5	$49.1	$52.5	$55.7	$56.2	$58.7	$61.4

Note: Historical values and projected trends are provided by Moody's Analytics.

Multifamily mortgage market. FHFA's consideration of the multifamily mortgage market addresses the size of, and competition within, the multifamily mortgage market, as well as the subset of the multifamily mortgage market affordable to low-income and very low-income families. In July 2022, the Mortgage Bankers Association (MBA) forecast that multifamily mortgage originations would decline from the 2021 record of $487 billion to $436 billion in 2022, and would rise to $454 billion in 2023.[15]

Rising interest rates, rising rent growth, and the decline of alternative real estate investment opportunities such as commercial and retail lending during the pandemic have resulted in an influx of new market participants and competition in the multifamily market. Renewed interest from debt funds and other institutional investors in the multifamily market has created additional competition for the Enterprises, particularly around their ability to compete for multifamily affordable deals.

Low vacancy rates in the multifamily market pushed rents upwards in 2021. Based on the nationwide CoStar data, on a year-over-year basis, rent growth increased sharply from less than 1 percent in 2020 during the COVID–19 pandemic to 11.3 percent in 2021.[16] CoStar's 2022 Q1 Base Case forecast projects national rent growth to be 6.6 percent in 2022, then slow down to 3.5 percent by 2024. While rent increases were most significant for 4 & 5 Star properties, which had a rent increase of 13.9 percent in 2021, the more affordable buildings also experienced significant rent increases.[17] For example, 3 Star building rents increased by 11.7 percent in 2021, and are projected to increase by still-strong 6.7 percent in 2022, and by 5.2 percent and 3.5 percent in the following two years, respectively. In addition, 1 & 2 Star building rent growth is forecast to rise from a two-decade high of 5.2 percent in 2021 to 5.7 percent in 2022, and remain high at 5.1 percent in 2023. The 1 & 2 Star building rents are forecast to grow by 3.6 percent in 2024.

Vacancy rates are expected to remain low through 2024, only increasing from 4.8 percent in 2021 to 5.3 percent in 2023 then slightly declining to 5.2 percent in 2024. As with rents, this tightening can be observed in all building classes, including the more affordable segments. Vacancies in 3 Star properties are forecast to expand from 4.3 percent in 2021 to 4.9 percent in 2023, then decline to 4.6 percent in 2024, while 1 & 2 Star property vacancies are expected to rise from a very tight 3.8 percent in 2021 to 4.1 percent in 2024.

The path for these various economic trends is uncertain, and whether the projected trends materialize remains to be seen. In this context, the Federal Reserve's monetary policy, other domestic economic policies, and developments in the global economy will also have an impact on the multifamily mortgage market.

Affordability in the multifamily mortgage market. There are several factors that impact the affordable share of the multifamily mortgage market in any given year, such as the overall multifamily mortgage market origination volume, competition between purchasers of mortgages within the affordable multifamily mortgage market segment, and the availability of affordable housing subsidies.

The Safety and Soundness Act requires FHFA to determine affordability for purposes of the Enterprise housing goals based on a family's rent and utility expenses not exceeding 30 percent of area median income (AMI).[18] Using this measure, affordability for families living in rental units has decreased in recent years for many families. The Joint Center for Housing Studies of Harvard University's (JCHS) *State of the Nation's Housing Report 2022* noted the growing presence of cost-burdened renters in certain income segments.[19] The report shows that the share of cost-burdened renters rose by 2.6 percent—from 43.6 percent in 2019 to 46.2 percent in 2020.[20] The report states that 82.6 percent of renters earning less than $15,000 and 77.9 percent of renters earning between $15,000 and $29,999 were cost-burdened in 2020. The share of cost-burdened renters earning between $30,000 and $44,999 increased the most, rising approximately 9.0 percent—from 49.2 percent in 2019 to 58.3 percent in 2020.[21]

Multifamily housing assistance is primarily available in two forms—demand-side subsidies which either directly assist low-income tenants (*e.g.,* Section 8 vouchers) or provide project-based rental assistance (*e.g.,* Section 8

[15] *See https://www.mba.org/news-and-research/newsroom/news/2022/07/19/higher-rates-economic-uncertainty-to-slow-commercial-multifamily-lending-in-the-second-half-of-2022.*

[16] FHFA tabulations of CoStar data.

[17] CoStar building ratings definitions are available at *https://www.costar.com/docs/default-source/brs-lib/costar_buildingratingsystem-definition.pdf.*

[18] *See* 12 U.S.C. 4563(c).

[19] *See* ''The State of the Nation's Housing 2022,'' Joint Center for Housing Studies of Harvard University, June 2022, p.6, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf.*

[20] *See* ''The State of the Nation's Housing 2022: Appendix and Web Tables,'' Joint Center for Housing Studies of Harvard University, June 2022, Table W–2, available at *https://www.jchs.harvard.edu/sites/default/files/interactive-item/files/Harvard_JCHS_State_Nations_Housing_2022_Appendix_Tables_0.xlsx.*

[21] Ibid.

contracts), and supply-side subsidies which support the creation and preservation of affordable housing (*e.g.,* public housing and low-income housing tax credits (LIHTC)). The availability of public subsidies impacts the overall affordable multifamily housing market, and significant changes to long-standing programs could impact the ability of the Enterprises to meet the housing goals. The Enterprises also play a role in providing liquidity to facilitate the preservation of public subsidies such as expiring Section 8 Housing Assistance Payment contracts and LIHTC properties reaching the end of the use-restricted affordability period.

Financing for affordable multifamily buildings, particularly those that are affordable to very low-income families, often uses an array of state and federal housing subsidies, such as LIHTC, tax-exempt bonds, Section 8 rental assistance, or soft subordinate financing.[22] Investor interest in tax credit equity projects of all types and in all markets has been strong in recent years, especially in markets in which bank investors are seeking to meet Community Reinvestment Act (CRA) goals. Consequently, there should continue to be opportunities in the multifamily mortgage market to provide permanent financing for properties with LIHTC during 2023 and 2024. Additionally, there should be opportunities for market participants, including the Enterprises, to purchase mortgages that finance the preservation of existing affordable housing units (especially for restructurings of older properties that reach the end of their initial 15-year LIHTC compliance periods, and for refinancing properties with expiring Section 8 Housing Assistance Payment contracts.)

The need for public subsidies persists as the number of cost-burdened renters remains high, at over 20.4 million renter households in 2019.[23] The Center for Budget Policy Priorities estimates that only one in four households eligible for federal housing assistance currently receives it.[24]

Role of the Enterprises. In proposing the multifamily housing goal benchmark levels for 2023 and 2024, FHFA has considered the ability of the Enterprises to lead the market in making multifamily mortgage credit available. The share of the overall multifamily mortgage origination market that is purchased by the Enterprises increased in the years immediately following the financial crisis, but their share has declined more recently in response to growing private sector participation. The share of the multifamily mortgage origination market that was purchased by the Enterprises was over 70 percent in 2008 and 2009, compared to 36 percent in 2015.[25] The total share was at 40 percent or higher from 2016 to 2020.[26] In 2021, a record multifamily volume year, the combined Enterprise share was estimated to have been around 29 percent.[27] [28] [29]

FHFA recognizes that there are numerous Enterprise activities that impact how the Enterprises contribute to and participate in the multifamily market, including through their Duty to Serve Underserved Markets Plans, their Equitable Housing Finance Plans, and the mission-driven elements of the Conservatorship Scorecard. FHFA will continue to monitor these initiatives and priorities to ensure appropriate focus by the Enterprises and compliance with the Enterprises charter acts and safety and soundness considerations.

FHFA expects the Enterprises to continue to demonstrate leadership in multifamily affordable housing lending by providing liquidity and supporting housing for tenants at different income levels in various geographic markets and in various market segments. This support should continue throughout the economic cycle, with the Enterprises providing steady support even as the overall volume of the multifamily mortgage market fluctuates.

Maintaining the sound financial condition of the Enterprises. In proposing multifamily housing goals benchmark levels for 2023 and 2024, FHFA must balance the role that the Enterprises play in providing liquidity and supporting various multifamily mortgage market segments with the need to maintain the Enterprises' sound and solvent financial condition. The Enterprises have served as a stabilizing force in the multifamily mortgage market. During conservatorship, the Enterprises' portfolios of loans on multifamily affordable housing properties have experienced low levels of delinquency and default, similar to the performance of multifamily loans on market rate properties.

FHFA continues to monitor the activities of the Enterprises in FHFA's capacity as safety and soundness regulator and as conservator. As discussed above, FHFA may take any steps it determines necessary and appropriate to address the multifamily housing goals benchmark levels to ensure the Enterprises' continued safety and soundness.

B. Proposed Multifamily Housing Goals Benchmark Levels

Based on FHFA's consideration of the statutory factors described above and the performance of the Enterprises described in this section, the proposed rule would establish the benchmark levels for the multifamily housing goal and subgoals for 2023 and 2024 as follows:

Goal	Criteria	Proposed benchmark for 2023 and 2024 (%)
Low-Income Goal	Percent of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	61

[22] LIHTCs are a supply-side subsidy created under the Tax Reform Act of 1986 and are the main source of new affordable housing construction in the United States. LIHTCs are used for the acquisition, rehabilitation, and/or new construction of rental housing for low-income households. LIHTCs have facilitated the creation or rehabilitation of approximately 2.4 million affordable units since inception of the program in 1986.

[23] ''America's Rental Housing 2022,'' Joint Center for Housing Studies of Harvard University, January 2022, p.32, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf.*

[24] *See https://www.cbpp.org/research/housing/more-housing-vouchers-most-important-step-to-help-more-people-afford-stable-homes.*

[25] *See* Fannie Mae, ''Multifamily Business Information Presentation,'' May 2022, pg. 3, available at *https://multifamily.fanniemae.com/media/9131/display.*

[26] Ibid.

[27] *See https://www.mba.org/news-and-research/newsroom/news/2022/07/19/higher-rates-economic-uncertainty-to-slow-commercial-multifamily-lending-in-the-second-half-of-2022.*

[28] *See https://freddiemac.gcs-web.com/news-releases/news-release-details/freddie-mac-hits-2021-multifamily-cap-707-billion-total-housing.*

[29] *See https://multifamily.fanniemae.com/news-insights/multifamily-wire/fannie-mae-multifamily-reports-2021-financial-results.*

Goal	Criteria	Proposed benchmark for 2023 and 2024 (%)
Very Low-Income Subgoal	Percent of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI.	12
Small Multifamily Low-Income Subgoal.	Percent of all goal-eligible units in multifamily properties of all sizes financed by mortgages purchased by the Enterprises that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	2

Before finalizing the benchmark levels for the multifamily housing goals, FHFA will review any additional data that becomes available about the multifamily housing goals performance of the Enterprises, any other information about the multifamily mortgage market or other factors, and comments received in response to the proposed rule.

Each of the proposed multifamily housing goals benchmark levels is discussed further below.

1. Multifamily Low-Income Housing Goal

The proposed multifamily low-income housing goal would be based on the percentage of rental units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The proposed rule would set the annual benchmark level for this goal for both 2023 and 2024 at 61 percent of goal-eligible units acquired. For example, if an Enterprise acquires 100,000 goal-eligible multifamily units in 2023, 61 percent of those goal-eligible units (or 61,000 units) must be for low-income households in order to meet the goal. FHFA has calculated what the Enterprise performance would have been in previous years if the multifamily housing goals had been based on this percentage-based approach. The historic performance average for the pre-pandemic years of 2017–2019 would have been 65.1 percent for Fannie Mae and 67.3 percent for Freddie Mac. FHFA believes the proposed benchmark level of 61 percent is appropriate to ensure a strong focus on affordability by the Enterprises in 2023–2024 while recognizing the increased competitive pressures described above. The proposed benchmark level of 61 percent would take into account the rising interest rate environment and the additional challenges the Enterprises currently face in the competitive market, without diminishing the Enterprises' focus on affordability.

Table 2 shows the Enterprise acquisitions of goal-qualifying low-income multifamily units, as well as the goal-qualifying low-income units as a percentage of the total goal-eligible units that were acquired in each year. It is difficult to compare the proposed benchmark level of 61 percent to the current numeric benchmark level of 415,000 units because the percentage depends on the volume of Enterprise business as well as the composition of that business. However, the recent performance of the Enterprises indicates that the number of goal-qualifying units in properties backing mortgages purchased by the Enterprises varies more widely from year-to-year than the percentage of goal-qualifying units, as seen in Table 2. This is especially true as the market expands and contracts from year-to-year illustrating one of the major advantages of shifting from numeric benchmark levels to percentage-based benchmark levels.

The proposed benchmark level of 61 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 61 percent, the role of the Enterprises in this market, and any other matters related to the multifamily low-income housing goal.

Table 2. Multifamily Low-Income Housing Goal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Low-Income Multifamily Benchmark	300,000	300,000	300,000	315,000	315,000	315,000	315,000	415,000	61%	61%
Fannie Mae Performance										
Low-Income Multifamily Units	307,510	352,368	401,145	421,813	385,763	441,773	384,488			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Low-Income % Total	65.6%	63.7%	63.6%	67.1%	64.7%	69.3%	69.0%			
Freddie Mac Performance										
Low-Income Multifamily Units	379,042	406,958	408,096	474,062	455,451	473,338	373,225			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Low-Income % of Total Units	73.7%	68.1%	64.8%	68.2%	68.9%	70.9%	68.7%			

2. Multifamily Very Low-Income Housing Subgoal

The proposed multifamily very low-income housing subgoal would be based on the percentage of rental units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI. The proposed rule would set the annual benchmark level for this subgoal for 2023 and 2024 at 12 percent of goal-eligible units acquired. FHFA has calculated what the Enterprise performance would have been in previous years if the subgoal had been based on this percentage-based

approach. The average performance of the Enterprises under this subgoal during the pre-pandemic years of 2017–2019 would have been 13.1 percent for Fannie Mae and 15.6 percent for Freddie Mac. FHFA believes that the proposed benchmark level of 12 percent is appropriate to ensure that the Enterprises continue to adequately serve very low-income families while accounting for the challenges associated with increasing interest rates and uncertain economic conditions.

It is difficult to compare this proposed benchmark level of 12 percent to the current numeric benchmark level of 88,000 units because the percentage depends on the volume of Enterprise business as well as the composition of that business. Nevertheless, Table 3 lays out the percentage shares and the number of units that qualify for the very low-income subgoal at both Enterprises from 2015 to 2021. As with the multifamily low-income goal, the recent performance of the Enterprises on the multifamily very low-income subgoal indicates that the number of goal-qualifying units in properties backing mortgages purchased by the Enterprises varies more widely from year-to-year than the percentage of goal-qualifying units.

The proposed benchmark level of 12 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 12 percent, the role of the Enterprises in this market, and any other matters related to the multifamily very low-income housing subgoal.

Table 3. Multifamily Very Low-Income Subgoal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Very Low-Income Multifamily Benchmark	60,000	60,000	60,000	60,000	60,000	60,000	60,000	88,000	12%	12%
Fannie Mae Performance										
Very Low-Income Multifamily Units	69,078	65,910	82,674	80,891	79,649	95,416	83,459			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Very Low-Income % of Total Units	14.7%	11.9%	13.1%	12.9%	13.4%	15.0%	15.0%			
Freddie Mac Performance										
Very Low-Income Multifamily Units	76,935	73,030	92,274	105,612	112,773	107,105	87,854			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Very Low-Income % of Total Units	15.0%	12.2%	14.6%	15.2%	17.1%	16.0%	16.2%			

3. Small Multifamily Low-Income Housing Subgoal

The proposed small multifamily low-income housing subgoal would be based on the percentage of rental units in all multifamily properties financed by mortgages purchased by the Enterprises that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The Enterprise housing goals regulation defines a small multifamily property as a property with 5 to 50 units. The proposed rule would set this subgoal as a percentage of the overall Enterprise multifamily loan purchases each year rather than as a percentage of the small multifamily properties only, consistent with the objectives FHFA has previously expressed for this subgoal. The proposed rule would set the annual benchmark level for affordable units in small multifamily properties for 2023 and 2024 at 2 percent of goal-eligible units in all multifamily properties securing mortgages acquired by an Enterprise each year.

This subgoal was created in the 2015–2017 housing goals rulemaking to position the Enterprises to respond quickly to potential need in this segment.[30] Due to increased private sector financing and current market conditions in the small multifamily market, FHFA is interested in ensuring that the Enterprises remain positioned to support this market when needed without crowding out other sources of financing for small multifamily properties. The proposed benchmark level would be set as a share of total goal-eligible units and not the affordable share of units in small multifamily properties to ensure that the Enterprises maintain a minimum level of engagement in the small multifamily segment of the market.

The small low-income multifamily housing market historically has been challenging to size and monitor. FHFA is aware that conditions in the small multifamily market may have changed recently in part due to the return of private sector financing since its pandemic-related slowdown in 2020.[31] As a result, the need for a significant presence by the Enterprises in this market may no longer be necessary. Furthermore, as reflected by the different numeric benchmark levels for each Enterprise in the 2021 final rule, FHFA recognizes that the Enterprises have different multifamily business models and each Enterprise sets its own credit risk tolerance for multifamily products. As a result, Fannie Mae and Freddie Mac perform very differently on this subgoal.

Taking all of these factors into account, FHFA is proposing a benchmark level for this subgoal for each Enterprise of 2 percent of goal-eligible units in all multifamily properties securing mortgages acquired by an Enterprise each year. FHFA believes that this proposed benchmark level would reflect a reduced level of Enterprise participation that would adjust with Enterprise loan acquisitions but also maintain Enterprise participation in this small, but specialized, segment. Furthermore, the benchmark level could be increased in future notice-and-comment rulemaking should the need arise.

It is difficult to compare the proposed percentage-based benchmark level to the current numeric benchmark level of 17,000 units for Fannie Mae and 23,000 units for Freddie Mac because the percentage depends on the volume of Enterprise business as well as the composition of that business. Table 4 shows Enterprise performance on this subgoal both in terms of the actual numeric benchmark levels applicable through 2022, as well as the proposed

[30] *See* 80 FR 53392 (Sept. 3, 2015).

[31] *See https://www.walkerdunlop.com/insights/2021/07/19/small-balance-multifamily-sizable-and-resilient/*. FHFA defines small multifamily properties as properties with 5 to 50 units, while this article defines small multifamily properties to include properties with 5 to 99 units and multifamily properties with a principal loan balance at origination between $1 and $10 million.

subgoal metric that would be based on percentages.

The proposed benchmark level of 2 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before the publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 2 percent, the effectiveness of this subgoal, small multifamily market dynamics, and the role of the Enterprises in this market.

Table 4. Small Multifamily Low-Income Subgoal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Fannie Mae Benchmark	6,000	8,000	10,000	10,000	10,000	10,000	10,000	17,000	2%	2%
Freddie Mac Performance	6,000	8,000	10,000	10,000	10,000	10,000	10,000	23,000	2%	2%
Fannie Mae Performance										
Small Low-Income Multifamily Units	6,731	9,312	12,043	11,890	17,832	21,797	14,409			
Total Small Multifamily Units	11,198	15,211	20,375	17,894	25,565	36,880	25,416			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Small Low-Income % of Total Small Multifamily Units	60.1%	61.2%	59.1%	66.4%	69.8%	59.1%	56.7%			
Small Low-Income % of Total Units	1.4%	1.7%	1.9%	1.9%	3.0%	3.4%	2.6%			
Freddie Mac Performance										
Small Low-Income Multifamily Units	12,801	22,101	39,473	39,353	34,847	28,142	31,913			
Total Small Multifamily Units	21,246	33,984	55,116	53,893	46,879	41,275	41,874			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Small Low-Income % of Total Small Multifamily Units	60.3%	65.0%	71.6%	73.0%	74.3%	68.2%	76.2%			
Small Low-Income % of Total Units	2.5%	3.7%	6.3%	5.7%	5.3%	4.2%	5.9%			

V. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted the proposed rule to OMB for review.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act and FHFA certifies that the proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the regulation only applies to Fannie Mae and Freddie Mac, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the Preamble, under the authority of 12 U.S.C. 4511, 4513, and 4526, FHFA proposes to amend part 1282 of Title 12 of the Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER E—HOUSING GOALS AND MISSION

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

■ 1. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561–4566.

■ 2. Amend § 1282.13 by revising paragraphs (b) through (d) to read as follows:

§ 1282.13 Multifamily special affordable housing goal and subgoals.

* * * * *

(b) *Multifamily low-income housing goal.* The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 61 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

(c) *Multifamily very low-income housing subgoal.* The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to very low-income families shall meet or exceed 12 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

(d) *Small multifamily low-income housing subgoal.* The percentage share of dwelling units in small multifamily properties financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 2 percent of the total number of dwelling units in all multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

■ 3. Amend § 1282.15 by revising paragraphs (c) and (e)(3) to read as follows:

§ 1282.15 General counting requirements.

* * * * *

(c) *Calculating the numerator and denominator for multifamily housing goals.* Performance under the multifamily housing goal and subgoals shall be measured using a fraction that is converted into a percentage. Neither the numerator nor the denominator shall include Enterprise transactions or activities that are not mortgage purchases as defined by FHFA or that are specifically excluded as ineligible under § 1282.16(b).

(1) *The numerator.* The numerator of each fraction is the number of dwelling units that count toward achievement of a particular multifamily housing goal or subgoal in properties financed by mortgages purchased by an Enterprise in a particular year.

(2) *The denominator.* The denominator of each fraction is the total number of dwelling units in properties financed by mortgages purchased by an Enterprise in a particular year.

* * * * *

(e) * * *

(3) The estimation methodology in paragraph (e)(2) of this section may be used up to a nationwide maximum of 5 percent of the total number of rental units in properties securing multifamily mortgages purchased by the Enterprise in the current year. Multifamily rental units with missing affordability information in excess of this maximum shall be included in the denominator for the multifamily housing goal and subgoals, but such rental units shall not be counted in the numerator of any multifamily housing goal or subgoal. Multifamily rental units with missing affordability information for which estimation information is not available shall be excluded from both the numerator and the denominator for purposes of the multifamily housing goal and subgoals.

* * * * *

Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2022–17868 Filed 8–17–22; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF LABOR

29 CFR Parts 1910 and 1926

[Docket No. OSHA–2018–0004]

RIN 1218–AD10

Advance Notice of Proposed Rule Making (ANPRM)—Blood Lead Level for Medical Removal

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); extension of comment period.

SUMMARY: The period for submitting public comments is being extended by 60 days to allow stakeholders interested in this rulemaking additional time to collect information and data necessary for comment and response to this ANPRM.

DATES: The comment period for the proposed rule that published at 87 FR 38343 on June 28, 2022, is extended. Comments on the ANPRM and other information must be submitted by October 28, 2022.

ADDRESSES:

Written comments: You may submit comments and attachments, identified by Docket No. OSHA–2018–0004, electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions.

Instructions: All submissions must include the agency's name and the docket number for this ANPRM Docket No. OSHA–2018–0004. When uploading multiple attachments into *Regulations.gov,* please number all of your attachments because *www.regulations.gov* will not automatically number the attachments. For example, Attachment 1—title of your document, Attachment 2—title of your document, Attachment 3—title of your document, etc. When submitting comments or recommendations on the issues that are raised in this ANPRM, commenters should explain their rationale and, if possible, provide data and information to support their comments or recommendations. Wherever possible, please indicate the title of the person providing the information and the type and number of employees at your worksite.

All comments, including any personal information you provide, will be placed in the public docket without change and will be publicly available online at *www.regulations.gov.* Therefore, OSHA cautions commenters about submitting information they do not want to be made available to the public or submitting materials that contain personal information (either about themselves or others) such as Social Security Numbers and birthdates.

Docket: To read or download comments and materials submitted in response to this **Federal Register** document, go to Docket No. OSHA–2018–0004 at *www.regulations.gov.* All comments and submissions are listed in the *www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through that website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Documents submitted to the docket by OSHA or stakeholders are assigned document identification numbers (Document ID) for easy identification and retrieval. The full Document ID is the docket number plus a unique four-digit code. OSHA is identifying supporting information in this ANPRM by author name and publication year, when appropriate. This information can be used to search for a supporting document in the docket a *https://www.regulations.gov.* Contact the OSHA Docket Office at 202–693–2350 (TTY number: 877–889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Contact Frank Meilinger, Director, Office of Communications, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General information and technical inquiries: Contact Andrew Levinson, Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–1950; email: *levinson.andrew@dol.gov.*

SUPPLEMENTARY INFORMATION: On June 28, 2022, OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) to seek input on potential revisions to its standards for occupational exposure to lead based on medical findings since the issuance of OSHA's lead standards that adverse health effects in adults can occur at Blood Lead Levels (BLLs) lower than the medical removal level (≥60 μg/dL in general industry, ≥50 μg/dL in construction) and lower than the level required under current standards for an employee to return to their former job status (<40 μg/dL). The agency is seeking input on reducing the current BLL triggers in the medical surveillance and medical removal protection provisions of the general industry and construction standards for lead. The agency is also seeking input about how current ancillary provisions in the lead standards can be modified to reduce worker BLLs.

The public comment period for this ANPRM was to close on August 29, 2022, 60 days after publication of the ANPRM. However, OSHA received multiple stakeholder requests for an extension of the public comment period (Document ID OSHA–2018–0004–0088 (requesting an extension of 90 additional days), OSHA–2018–0004–0089 (requesting an extension of 90 additional days), OSHA–2018–0004–0091 (requesting an extension of 60 days), OSHA–2018–0004–0092 (requesting a minimum extension of 30 days) and OSHA–2018–0004–0093 (requesting an extension of 90 days)). The comments state that due to the breadth and complexity of the technical issues involved in this ANPRM, more

time is needed to gather data and information and to coordinate responses from organization members to develop a comprehensive response.

OSHA agrees to an extension and believes a 60-day extension of the public comment period is sufficient and appropriate in order to address these stakeholder requests. Therefore, the public comment period will be extended until October 28, 2022.

Authority and Signature

Douglas Parker, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this document pursuant to the following authorities: sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 8–2020 (85 FR 58393 (Sept. 18, 2020)) 29 CFR part 1911 and 5 U.S.C. 553.

Signed at Washington, DC, on August 2, 2022.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–17800 Filed 8–17–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2022–0070; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BE86

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Magnificent Ramshorn and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list magnificent ramshorn (*Planorbella magnifica*), a freshwater snail species from southeastern North Carolina, as an endangered species and to designate critical habitat for the species under the Endangered Species Act of 1973, as amended (Act). In total, approximately 739 acres (299 hectares) of two ponds in Brunswick County, North Carolina, fall within the boundaries of the proposed critical habitat designation. We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for magnificent ramshorn. In addition, this document serves as our 12-month finding on a petition to list magnificent ramshorn. If we finalize this rule as proposed, it would extend the Act's protections to this species and its designated critical habitat.

DATES: We will accept comments received or postmarked on or before October 17, 2022. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by October 3, 2022.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2022–0070, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R4–ES–2022–0070, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: For the proposed critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the decision file, are available at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2022–0070, and on the Service's website at *https://www.fws.gov/office/eastern-north-carolina/library.* Any additional tools or supporting information that we may develop for the critical habitat designation will also be available in the preamble of this proposed rule or at *https://www.regulations.gov.* The species status assessment (SSA) report is also available in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office, P.O. Box 33726, Raleigh, NC 27636–3726; telephone 919–856–4520. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that magnificent ramshorn meets the definition of an endangered species; therefore, we are proposing to list it as such and proposing designation of its critical habitat. Both listing a species as an endangered or threatened species and making a critical habitat determination can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process.

What this document does. We propose to list magnificent ramshorn as an endangered species under the Act, and we propose to designate critical habitat for the species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined the species may no longer exist in the wild, as it has not been found in surveys over the past 40 years at the only known historical locations. While likely locally extirpated from the wild, it does persist in captive populations. The most significant stressor that likely led to the extirpation of magnificent ramshorn in

the wild is the loss of suitable lentic (still or slow-flowing) habitat (Factor A) that individuals and populations need to complete their life history. The primary causes of historical habitat loss are related to anthropogenic activities coupled with extreme weather events that have altered water quality (Factor E) such that the breeding, feeding, sheltering, and dispersal needs of the snails cannot be met. There are no existing regulatory mechanisms that ameliorate or reduce these threats such that the species does not warrant listing (Factor D).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical range, including distribution patterns;

(d) Historical population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including information regarding the following factors that the regulations identify as reasons why designation of critical habitat may be not prudent:

(a) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species; or

(b) Such designation of critical habitat would not be beneficial to the species. In determining whether a designation would not be beneficial, the factors the Services may consider include but are not limited to: Whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat.''

(6) Specific information on:

(a) The amount and distribution of magnificent ramshorn habitat;

(b) Any additional areas occurring within the range of the species (New Hanover and Brunswick Counties in southeastern North Carolina) that should be included in the designation because they (1) are occupied at the time of listing and contain the physical or biological features that are essential to the conservation of the species and that may require special management considerations, or (2) are unoccupied at the time of listing and are essential for the conservation of the species; and

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change.

(7) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(8) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(9) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts and any additional information regarding probable economic impacts that we should consider.

(10) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. If you think we should exclude any additional areas, please provide information supporting a benefit of exclusion.

(11) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available, and section 4(b)(2) of the Act directs that the Secretary shall designate critical habitat on the basis of the best scientific data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document

that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Because we will consider all comments and information received during the comment period, our final determinations may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. For critical habitat, our final designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, or may exclude some areas if we find the benefits of exclusion outweigh the benefits of inclusion.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on the Service's website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

We identified magnificent ramshorn (with the name Cape Fear ramshorn snail, *Helisoma magnificum* (Pilsbry, 1903)) as a Category 2 candidate in our May 22, 1984, notice of review (49 FR 21664). A Category 2 candidate species was one for which there was some evidence of vulnerability, but for which additional biological information was needed to support a proposed rule to list as an endangered or threatened species. The species (as magnificent (=Cape Fear) ramshorn, *Planorbella* (=*Helisoma*) *magnifica*)) remained so designated in subsequent candidate notices of review (CNORs) (54 FR 554, January 6, 1989; 56 FR 58804, November 21, 1991; 59 FR 58982, November 15, 1994). In the February 28, 1996, CNOR (61 FR 7596), we discontinued the designation of Category 2 species as candidates; therefore, magnificent ramshorn was no longer a candidate species.

On April 20, 2010, we were petitioned to list 404 aquatic species in the southeastern United States, including magnificent ramshorn. In response to the petition, we completed a partial 90-day finding on September 27, 2011 (76 FR 59836), in which we announced our finding that the petition contained substantial information that listing may be warranted for numerous species, including magnificent ramshorn.

On October 26, 2011, we published the annual CNOR (76 FR 66370) and announced magnificent ramshorn as a new candidate species with a listing priority number (LPN) of 2, indicating that the full species was imminently threatened by a high magnitude of threats. Candidates are those fish, wildlife, and plants for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing regulation is precluded by other, higher priority listing activities. Magnificent ramshorn was included with an LPN of 2 in all of our subsequent annual CNORs (77 FR 69994, November 21, 2012; 77 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014; 80 FR 80584, December 24, 2015; 81 FR 87246, December 2, 2016; 84 FR 54732, October 10, 2019; 85 FR 73164, November 16, 2020; 87 FR 26152, May 3, 2022). This document constitutes our 12-month petition finding, proposed listing rule, and proposed critical habitat rule. This document also serves to meet a court-approved settlement agreement with the Center for Biological Diversity to deliver a finding to the **Federal Register** by September 30, 2022 (*Center for Biological Diversity* v. *FWS,* No. 1:21–cv–00884–EGS (May 4, 2022)).

Supporting Documents

A species status assessment (SSA) team prepared a report for magnificent ramshorn. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of five appropriate specialists regarding the SSA report. We received two responses.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of magnificent ramshorn (*Planorbella magnifica*) is presented in the SSA report (version 1.0; Service 2019, pp. 9–16).

Magnificent ramshorn is a species of air-breathing snail endemic to southeastern North Carolina. It is a freshwater snail in the family Planorbidae (Pilsbry 1903) and is the largest North American snail in this family. It has a discoidal (*i.e.,* coiling in one plane) relatively thin shell that reaches approximately 1.5 inches (38 millimeters) in diameter. The aperture of the shell is somewhat bell-shaped and very wide, extending beyond the sides of the shell. Like other members of the Planorbidae family, magnificent ramshorn is primarily herbivorous, feeding on emergent and submerged aquatic plants, algae, and detritus (decomposing plant material). Available information indicates that suitable habitat for the species is restricted to relatively shallow, sheltered portions of still or sluggish, freshwater (no salinity) bodies with an abundance and diversity of emergent and submerged aquatic vegetation and a circumneutral (nearly neutral) pH (see table 1, below).

TABLE 1—MAGNIFICENT RAMSHORN'S HABITAT NEEDS

Waterbody attribute	Description
pH	Ideal is 6.8 to 7.5; inactive below 6.5 and above 8.
Salinity	Ideal is 0 parts per thousand (ppt); 1.0 ppt (1.0 grams per liter (g/L)) caused snails to withdraw.
Temperature	60 °F (16 °C) and above. Still able to feed at 93 °F (34 °C). Dormant below 60 °F.

TABLE 1—MAGNIFICENT RAMSHORN'S HABITAT NEEDS—Continued

Waterbody attribute	Description
Hardness*	Ideal hardness is: Lab: 30 ppm (30 mg/L); Hatchery ponds: between 60 ppm (60 mg/L) and 220 ppm (200 mg/L).
Emergent vegetation	Aquatic vegetation in sufficient littoral depth (about 0.5 to 6 feet (ft) (0.15 to 2 meters (m))) used for feeding and shelter.

*''Hardness'' is considered to be the sum of the calcium and magnesium ions in water, expressed as milligrams per liter (mg/L) or parts per million (ppm) as calcium carbonate. It affects snail survival, particularly shell shape.

Historically, magnificent ramshorn was documented from only four sites in the lower Cape Fear River Basin in North Carolina: (1) Greenfield Lake, a millpond located on a tributary to the Cape Fear River within the present city limits of Wilmington, New Hanover County; (2) Orton Pond (also known as Sprunt's Pond), a millpond located on Orton Creek in Brunswick County; (3) Big Pond (also known as Pleasant Oaks Pond or Sand Hill Creek Pond), a millpond on Sand Hill Creek in Brunswick County; and (4) McKinzie Pond, a millpond on McKinzie Creek, in Brunswick County. Species-specific surveys of more than 100 potential sites (including most historical locations) over the last few decades have not documented any magnificent ramshorn snails, and the species is currently likely extirpated in the wild.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an endangered species or a threatened species. On July 5, 2022, the U.S. District Court for the Northern District of California vacated regulations that the Service (jointly with the National Marine Fisheries Service) had promulgated in 2019 (*Center for Biological Diversity* v. *Haaland,* No. 4:19–cv–05206–JST, Doc. 168 (*CBD* v. *Haaland*). As a result of that vacatur, regulations that were in effect before those 2019 regulations now govern listing and critical habitat decisions. Our analysis for this decision applied those pre-2019 regulations. However, given that litigation remains regarding the court's vacatur of those 2019 regulations, we also undertook an analysis of whether the decision would be different if we were to apply the 2019 regulations. We concluded that the decision would have been the same if we had applied the 2019 regulations. The analysis based on the 2019 regulations is included in the record for this decision.

The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Because the decision in *CBD* v. *Haaland* vacated our 2019 regulations regarding the foreseeable future, we refer to a 2009 Department of the Interior Solicitor's opinion entitled ''The Meaning of 'Foreseeable Future' in Section 3(20) of the Endangered Species Act'' (M–37021). That Solicitor's opinion states that the foreseeable future ''must be rooted in the best available data that allow predictions into the future'' and extends as those predictions are ''sufficiently reliable to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.'' *Id.* at 13.

It is not always possible or necessary to define the foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R4–ES–2022–0070 on *https://www.regulations.gov.*

To assess magnificent ramshorn's viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. Although magnificent ramshorn is considered a large snail, its shell is thin and fragile, indicating that it is adapted to lentic (still or slow-flowing) aquatic habitats. Available information indicates that suitable habitat for the species is restricted to relatively shallow, sheltered portions of still or sluggish, freshwater bodies with an abundance and diversity of emergent and submerged aquatic vegetation and a circumneutral pH (pH within the range of 6 to 8) (Jones 2020, pers. comm.). The species is not able to survive in flowing water, nor is it able to tolerate any amount of salinity, thus restricting it to inland, freshwater, pond-like habitats.

Loss of Lentic (Pond) Habitats

Although the complete historical range of magnificent ramshorn is unknown, available information indicates that the species was likely once an inhabitant of beaver ponds on tributaries in the lower Cape Fear River basin; the species may also have once inhabited backwater and other sluggish portions of tributaries and the main channel of lower Cape Fear River. Beaver pond habitat was eliminated throughout much of the lower Cape Fear River as a result of the extirpation of the beaver due to trapping and hunting during the 19th and early 20th centuries. This, together with draining and destruction of beaver ponds for development, agriculture, and other purposes, is believed to have led to a significant decline in the snails' habitat and significant reduction in its abundance (Wood 2010, pp. 6, 7). Surveys in the 1990s also noted the loss of ponds due to hurricanes (Adams 1993, p. 26). Several ponds that were created or maintained by old mill dams have structures that will fail, or have failed, during catastrophic events. Catastrophic rainfall can overtop old mill dam structures and cause portions of them to wash out, thus draining the ponds behind them. This is likely what happened at McKinzie Pond. The four known historical sites where magnificent ramshorn were found are, or were, ponds likely created by old mill dams.

Saltwater Intrusion

Dredging and deepening of the Cape Fear River channel, which began as early as 1822, and opening of the Atlantic Intracoastal Waterway (through Snow's Cut) in 1930 for navigational purposes have caused saltwater intrusion, altered the diversity and abundance of aquatic vegetation, and changed flows and current patterns far up the river channel and its lower tributaries (Adams 1993, p. 22; Wood 2010, p. 7). Under these circumstances, magnificent ramshorn could have survived only in lentic areas of tributary streams not affected by saltwater intrusion and other changes, such as the millponds protected from saltwater intrusion by their dams (Adams 1993, p. 22).

Climate change and sea level rise pose a significant long-term threat to the survival of magnificent ramshorn. As previously noted, magnificent ramshorn is salt-intolerant (Wood 2002, p. 3), and saltwater intrusion into its habitat is one of the primary factors that contributed to its extirpation in the wild. In general during the past century, sea level has risen by 8+ inches (20+ centimeters (cm)), and available information indicates the rate of sea level rise is increasing (U.S. Global Change Research Program (USGCRP) 2009, p. 18; Kopp et al. 2015, p. 700). Sea levels are rising at a rate of about an inch (2.5 cm) per year (5 inches (12.7 cm) from 2011–2015) in some areas along the east coast of North Carolina (Valle-Levinson et al. 2017, p. 7876). While future rates of sea level change are uncertain, continued sea level rise threatens the southeastern U.S. coastal zone with retreat of shorelines, inundation of coastal wetlands and streams, and increased salinity of estuaries, coastal wetlands, and tidal rivers and creeks, pushing freshwater coastal ecosystems farther inland. In addition, in the future, the southeastern United States faces potential higher average temperatures (resulting in increased evaporation rates), less frequent rainfall (resulting in potentially more frequent and longer dry periods), and an increase in intensity of storm events, including hurricanes; all of which are likely to increase the rate and upstream distance of saltwater intrusion into coastal streams. Also, higher average temperatures and longer periods between rainfall events, together with increased development and human population levels in Brunswick and New Hanover Counties, will result in an increased demand on freshwater systems for drinking, irrigation, and other water needs, exacerbating the

effects of sea level changes on streams in the lower Cape Fear River basin, which encompass the entire known historical range of magnificent ramshorn (adapted from USGCRP and references therein 2009, pp. 1111–1116).

Disrupted Nutrient Cycles—Pollution and Nutrient Inputs

The human residential population of Brunswick and New Hanover Counties is rapidly increasing; both counties are popular vacationing and retirement areas (see section 5–6 of the SSA report (Service 2019, pp. 31–35)). Both counties are among the most rapidly developing counties in the State, with population growth greater than 25 percent during the period of 2000–2010 (WRAL 2019, unpaginated). Typically, as development increases, the input of nutrients (through both surface and groundwater), silt, and other pollutants into the aquatic system increases. Increased input of these pollutants into the stream from point and non-point sources may result in eutrophication, decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry. Impacts from development within the areas that formerly harbored magnificent ramshorn or within areas that may provide potential habitat for the species, have the potential to reduce groundwater levels, which could have a serious adverse effect on pH, water hardness, and salinity levels.

Altered Aquatic Vegetation Communities

Aquatic vegetation is common in pond systems, but sometimes the vegetation can be invasive and overwhelm the aquatic system, such as in Greenfield Lake, formerly occupied snail habitat in Wilmington. Managing vegetation in ponds takes many forms; some practices are compatible with molluscan pond inhabitants (like magnificent ramshorn), such as aeration or mechanical cutting/removal, but some practices can significantly impact snails, such as using grass carp, using copper-based herbicides, or drawing water out of the pond and subsequently drying out vegetation for complete removal, as was once done in Big Pond, formerly occupied by the ramshorn. The latter practices result in snail mortality, either from complete elimination of aquatic vegetation on which the snails depend, exposure to toxic metals like copper, lethal temperatures, predation, or desiccation from no access to water (Adams 1993, p. 12).

Extreme Weather Events

Changes in climate and weather patterns may affect ecosystem processes and communities by altering the abiotic conditions experienced by biotic assemblages, resulting in potential effects on community composition and individual species interactions (DeWan et al. 2010, p. 7). This is especially true for aquatic systems where increases in droughts or severe storm events resulting from climate change can trigger a cascade of ecological effects. For example, increases in air temperatures can lead to subsequent increases in water temperatures that, in turn, may lower water quality parameters (like pH), ultimately influencing overall habitat suitability for species like magnificent ramshorn.

Impacts from climate change affect sea levels; alter precipitation patterns and subsequent delivery of freshwater, nutrients, and sediment; and change the frequency and intensity of coastal storms (Michener et al. 1997, p. 770; Scavia et al. 2002, p. 149; Neumann et al. 2015, p. 97). During the time when magnificent ramshorn became extremely rare in the wild (1990s–2000s), three of the top five strongest/most intense storms experienced in Wilmington, North Carolina, occurred (1996, 1998, and 1999) and caused massive flooding and saltwater intrusion into the ponds where magnificent ramshorn occurred (Service 2019, p. 24).

The North Carolina Wildlife Action Plan (NCWRC 2015, pp. 5–48) identifies climate change as a ''very high'' threat to magnificent ramshorn. In addition, in an assessment of ecosystem response to climate change, factors associated with climate change ranked high with other factors that were deemed imminent risks to magnificent ramshorn's historical population locations (*e.g.,* development, pollution, flood regime alteration, etc.; NCNHP 2010, entire). Furthermore, it should be recognized that the greatest threat from climate change to magnificent ramshorn habitat may come from synergistic effects. That is, factors associated with a changing climate may act as risk multipliers by increasing the risk and severity of more imminent threats (Arabshahi and Raines 2012, p. 8). As a result, impacts from rapid urbanization in the region might be exacerbated under even a mild-to-moderate climate future.

Regulatory Mechanisms

Magnificent ramshorn is currently listed by the State of North Carolina as an endangered species. However, this designation does not protect the species from ''incidental'' harm, injury, or death (that is, harm, injury, or death resulting from activities not specifically intended to harm the species) or provide any protection to the species' habitat except on State-owned lands.

Conservation Efforts

Captive holding of magnificent ramshorn began in the early 1990s, when individuals were collected to learn about their life-history requirements (Adams 1993, entire). In the mid-1990s, snails were held in captivity at the North Carolina Aquarium at Fort Fisher but were later moved to a private residence due to the influence of salt-laden air at the aquarium. There is a well-maintained snail sanctuary at the private residence, kept since the mid-1990s with approximately 100 breeding ramshorn snails.

In early 2012, a small (35 individuals) captive population was established at North Carolina State University's College of Veterinary Medicine's (CVM) Aquatic Epidemiology Conservation Laboratory in Raleigh, North Carolina. These captive snails have reproduced successfully and there are currently approximately 100 snails at the facility (which has had to scale back operations temporarily due to Covid-19 restrictions).

Additional facilities for holding and propagating magnificent ramshorn at the NCWRC's hatchery in Watha, North Carolina, were established in 2011. In 2018, NCWRC hired a snail technician to focus on magnificent ramshorn husbandry at the Watha hatchery. The NCWRC subsequently moved the snail technician and all snails to their Conservation Aquaculture Center in Marion, North Carolina; there are currently approximately 775 breeding snails at this location.

In 2012–2013, several potentially suitable locations, including portions of Orton Pond, McKinzie Pond, Big Pond (Sand Hill Creek/Pleasant Oaks Pond), and nearby Pretty Pond, were all brought under single ownership. In 2014, the landowner approached the Service to determine the possibility of restoring the snail to Big Pond at the Pleasant Oaks Plantation. A proposal to assess snail restoration potential under a candidate conservation agreement with assurances (CCAA) has been formulated but not finalized or implemented.

The North Carolina Division of Water Resources and the Service are working with the city of Wilmington, North Carolina, to improve the water quality of Greenfield Lake, which formerly supported the species. Greenfield Lake is currently on the State's list of

impaired water bodies due to excessive nutrient inputs.

In 2018, Service staff performed an analysis to determine the suitability of potential habitats within the former range to support introduction of magnificent ramshorn. The results are being used by staff to field-verify the suitability of potential locations. In preparation for potential reintroduction, the Service has drafted experimental protocols to detail necessary steps for possible introduction of the species into the wild. Further, the Service is drafting a CCAA for landowners interested in contributing to the conservation of the State's aquatic species; this agreement would broadly cover aquatic species and is in addition to the draft CCAA with the owner of three ponds in the species' historical range.

In 2019 and 2020, Service staff met with Department of Defense (DoD) and the North Carolina Plant Conservation Program (NCPCP), both landowners with several ponds on their properties within the historical range of magnificent ramshorn. The DoD's Military Ocean Terminal Sunny Point is immediately adjacent to the private property where the species was last known to occur in the wild. The NCPCP and DoD own ponds in the same watershed as the historical locations. Both are amenable to having water quality analyzed to determine whether their ponds could be suitable habitat for snail introduction, and that habitat assessment work began in 2021, under the lead of NCWRC.

Further, in a 2019 legal settlement involving a major highway project, NCDOT committed $250,000 for magnificent ramshorn propagation into the future while we work on reintroduction site assessment and landowner agreements.

Summary

Based on the results of repeated surveys from the 1980s to 2010s by qualified species experts in the species' historical habitat and suitable habitat in surrounding areas, there appear to be no extant populations of magnificent ramshorn in the wild. While several factors have likely contributed to the extirpation of magnificent ramshorn in the wild, the primary factors include loss of lentic habitats, perhaps associated with the extirpation of beavers (and their impoundments) between the early and late 20th century; increased salinity and alteration of flow patterns in the lower Cape Fear River Basin; and increased input of nutrients and other pollutants that may have altered the pH of pond waters beyond what the species can tolerate.

The extirpation of magnificent ramshorn from Greenfield Lake is likely attributable to the alteration of the lake's water quality and chemistry resulting from past events such as breaks in sewer lines on the bottom of the lake; sewage overflows during storm events; runoff of fertilizers, sediment, toxic chemicals, and other pollutants from heavy development in the watershed; and efforts by the city of Wilmington to control aquatic plants and algae within the lake. All of these changes to Greenfield Lake likely led to salinization of the waters to levels beyond what the species could tolerate. Additionally, application of herbicides (usually containing copper) to control aquatic plants would not only have eliminated the snail's food source but could have directly killed individual snails.

The Big Pond population of magnificent ramshorn was likely extirpated in 1996, when the dam on the pond was breached during flooding associated with Hurricane Fran. This resulted in the subsequent drawdown of the pond due to failure of the dam, and saltwater intrusion into the pond from upstream movement of the saltwater wedge in the Cape Fear River, which killed the aquatic vegetation and eliminated the salt-intolerant magnificent ramshorn.

Magnificent ramshorn was last observed in McKenzie Pond in 2004, but was likely extirpated due to saltwater intrusion resulting from prolonged drought conditions that allowed tidal flow of saltwater to extend into the areas harboring the snail.

Magnificent ramshorn may have been eliminated from Orton Pond by the landowner's multiple past attempts to control aquatic vegetation by drawing down the pond for extended periods of time, thus eliminating essential habitat components of water and vegetation, causing snail extirpation.

The ongoing anthropogenic activities described above, coupled with the effects of climate change, such as extreme weather events (*e.g.,* storms/hurricanes) that may blow out dams and cause saltwater intrusion, have the potential to continue to alter habitat and water quality such that the breeding, feeding, sheltering, and dispersal needs of magnificent ramshorn cannot be met.

While efforts have been made to restore habitat for magnificent ramshorn at one of the sites known to have previously supported the species, all of the sites continue to be affected by many of the same factors (*i.e.,* saltwater intrusion and other water quality degradation, nuisance aquatic plant control, storms, sea level rise, etc.) thought to have resulted in extirpation of the species from the wild. Currently, only three captive populations exist, with approximately 1,000 snails in existence. Although captive populations have been maintained since 1993, a catastrophic event, such as a severe storm, disease, or predator infestation, affecting one or more of the captive populations, could result in the near extinction of the species.

Magnificent ramshorn lacks the resiliency, redundancy, and representation necessary for viability. Magnificent ramshorn populations were not able to survive habitat degradation resulting from impacts including saltwater intrusion, pollutant influx, and human alteration of aquatic vegetation communities, thus eliminating the species' resiliency. Based on knowledge of the snail and the systems it depends on, the loss of habitat, and the lack of finding any magnificent ramshorns despite surveying dozens of possible locations, magnificent ramshorn has no redundancy in the wild. Furthermore, the historical range of the species is narrow and limited to lentic habitats within the Coastal Plain of southeastern North Carolina. We do not know the level of genetic diversity of the captive animals; however, we do know that the individuals in captivity are all descendants of adult snails from two distinct populations: Pleasant Oaks Pond and McKinzie Pond. The captive ramshorns have extremely limited representation, and since no magnificent ramshorns are known to exist in the wild, the species has no representation in the wild. We cannot project future conditions because there are no known extant populations on which we can project those conditions. While magnificent ramshorn is likely extirpated from the wild, recovering the species means re-establishing self-sustaining populations in the wild.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. The primary causes of historical habitat loss within the range of the magnificent ramshorn are related to anthropogenic activities coupled with extreme weather events that have altered water quality such that the breeding, feeding, sheltering, and dispersal needs of the snails cannot be met. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the condition of the

species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be negatively or positively influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Determination of Magnificent Ramshorn's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of endangered species or threatened species. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

We have determined that magnificent ramshorn is likely extirpated in the wild. The most significant stressor that likely led to the extirpation of magnificent ramshorn in the wild is the loss of suitable lentic (still or slow-flowing) habitat that individuals and populations need to complete their life history (Factor A). The primary causes of historical habitat loss are related to anthropogenic activities that removed aquatic vegetation, coupled with extreme weather events (*e.g.,* hurricanes that breach dams) that have altered water quality via saltwater intrusion (Factor E) such that the breeding, feeding, sheltering, and dispersal needs of the snails cannot be met. Existing regulatory mechanisms that would ameliorate or reduce these threats are not adequate (Factor D).

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, magnificent ramshorn lacks the three factors for viability. Based on the findings of decades of surveys to locate the species, magnificent ramshorn is likely extirpated in the wild. The past loss of suitable pond habitat and the challenge of finding suitable introduction sites exacerbates the current situation for magnificent ramshorn. The only known surviving individuals of the species are being held as part of captive populations. Although captive populations have been maintained since 1993, a catastrophic event, such as a severe storm, disease, or predator infestation, affecting one or more of the captive populations, could result in the near extinction of the species. Thus, after assessing the best available information, we conclude that magnificent ramshorn is in danger of extinction throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that magnificent ramshorn is in danger of extinction throughout all of its range and accordingly did not undertake an analysis of any significant portion of its range. Because magnificent ramshorn warrants listing as endangered throughout all of its range, our determination does not conflict with the decision in *Center for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), because that decision related to significant portion of the range analyses for species that warrant listing as threatened, not endangered, throughout all of their range.

Determination of Status

Our review of the best scientific and commercial data available indicates that magnificent ramshorn meets the Act's definition of an endangered species. Therefore, we propose to list magnificent ramshorn as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/program/endangered-species*), or from our Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of North Carolina would be eligible for Federal funds to implement management actions that promote the protection or recovery of magnificent ramshorn. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Although magnificent ramshorn is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include issuance of permits under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) by the U.S. Army Corps of Engineers, and construction and maintenance of roads or highways by the Federal Highway Administration.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any species listed as an endangered species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing. Based on the best available information, normal rice cultivation impoundment water level management practices that are carried out in accordance with any existing regulations, permit requirements, and best management practices are unlikely to result in a violation of section 9.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act if they are not authorized in accordance with applicable law; this list is not comprehensive:

(1) Unauthorized handling or collecting of the species;

(2) Destruction or alteration of the species' habitat by draining, ditching, tiling, or diverting or altering surface or ground water flow into or out of ponds or other slack water areas;

(3) Herbicide or other pesticide applications in violation of label restrictions in areas occupied by magnificent ramshorn;

(4) Introduction of nonnative species that compete with or prey upon magnificent ramshorn;

(5) Removal or destruction of emergent aquatic vegetation in areas designated as critical habitat or in any body of water in which magnificent ramshorn becomes established; and

(6) Discharge of chemicals into any waters in which magnificent ramshorn becomes established.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the

Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals). Additionally, although on June 24, 2022, we published a final rule rescinding the 2019 regulations at 50 CFR 424.02 defining the word ''habitat'' (87 FR 37757), we have determined that, even if we had to apply definition in the 2019 regulations, this proposed critical habitat designation would meet this definition.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We note that the court in *CBD* v. *Haaland* vacated the provisions from the 2019 regulations regarding unoccupied critical habitat. Therefore, the regulations that now govern designations of critical habitat are the implementing regulations that were in effect before the 2019 regulations.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that a designation of critical habitat is not prudent when any of the following situations exist:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species; or

(ii) Such designation of critical habitat would not be beneficial to the species. In determining whether a designation would not be beneficial, the factors the Services may consider include but are not limited to: Whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species or whether any areas meet the definition of ''critical habitat.''

There is currently no imminent threat of collection or vandalism for this species because it is presumed extirpated from the wild, and identification and mapping of critical habitat is not expected to initiate any such threat. In our SSA report and this proposed listing determination for magnificent ramshorn, we have determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to magnificent ramshorn. We are able to identify areas that meet the definition of critical habitat. Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) have been identified, we have determined that the designation of critical habitat is prudent for magnificent ramshorn.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for magnificent ramshorn is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where the species was historically located. This and other information represent the best scientific data available and led us to conclude that the designation of critical habitat is determinable for magnificent ramshorn.

Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection. The regulations at 50 CFR 424.02 define physical or biological features as the features that support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential to the conservation of magnificent ramshorn from studies of the species' habitat, ecology, and life history as described below. Additional information can be found in the SSA report (Service 2019, entire; available on *https://www.regulations.gov* under Docket No. FWS–R4–ES–2022–0070). We have determined that the physical or biological features essential to the conservation of magnificent ramshorn consist of waterbodies within the species' historical range that:

1. Maintain permanent, lentic flow conditions;

2. Have sufficient littoral depth (approximately 0.5 to 6 feet) to sustain large-leaved emergent aquatic vegetation (*e.g.,* water lilies, spatterdock, etc.);

3. Maintain circumneutral pH (*i.e.,* between pH 6 and 8);

4. Have no salinity (*i.e.,* 0 parts per thousand (ppt) salinity); and

5. Maintain natural water hardness to promote shell growth (greater than 60 parts per million (ppm) calcium carbonate).

Criteria Used To Identify Critical Habitat

Conservation Strategy

Future viability for magnificent ramshorn depends on maintaining multiple resilient populations over time. While the species is currently likely extirpated from the wild, species experts have identified several strategic efforts that will be important to build the future viability of the species. These could include:

1. Maintain at least two secure captive populations of magnificent ramshorn until such time as there are enough populations in the wild to no longer necessitate such an effort.

2. Reintroduce magnificent ramshorn snails to at least two known historical locations and establish monitoring to ensure reintroductions are successful; augment until populations are established and success criteria are met.

3. Introduce magnificent ramshorn snails to at least two other locations with suitable habitat within the historical range of the species. Monitor to ensure reintroductions are successful; augment until populations are established.

These strategic efforts to promote at least four wild populations (two historical locations occupied and self-sustaining, as well as two other locations within the historical range occupied and self-sustaining), will be more thoroughly addressed in future recovery planning for the species.

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In

accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. Because the species is likely extirpated in the wild, we have determined that there are no occupied areas to ensure the conservation of the species. Accordingly, we are proposing to designate critical habitat in two unoccupied areas within the historical range for the species. In addition, these unoccupied areas are essential for the conservation of the species. Each of the two unoccupied units contain suitable habitat for the magnificent ramshorn—the ponds contain slow-moving waters, are of sufficient depth to sustain emergent aquatic vegetation, and are managed consistent with magnificent ramshorn's life requisites. Both ponds were previously occupied by magnificent ramshorn, and we determined the factors that led to the species' decline in these locations have been ameliorated or are manageable.

To delineate critical habitat units, we used the U.S. Geological Survey's high resolution National Hydrography Dataset (NHD) to determine the boundaries of each pond. We included all waters from the base of the dams upstream to the upper limits of the pond features that became more stream-like, as demarcated in the NHD data layer. For areas outside the geographic area occupied by the species at the time of listing, we identified the critical habitat units using the following considerations:

a. Unoccupied habitats have historical records of species occurrence;

b. Unoccupied areas exhibit suitable habitat availability, providing the physical or biological features necessary for survival, growth, and reproduction of the species;

c. Unoccupied areas provide habitat for reintroduction, with potential to reduce the level of stochastic and human-induced threats, and decrease the risk of extinction because the areas currently contain the essential physical or biological features to support life-history functions of magnificent ramshorn; and

d. Unoccupied habitat currently supports diverse aquatic pond communities, including the presence of closely related species requiring physical or biological features similar to magnificent ramshorn.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack the physical or biological features necessary for magnificent ramshorn. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We have determined that because there are no occupied areas at the time of listing, unoccupied areas are essential for the conservation of the species. Accordingly, we have identified and are proposing two unoccupied units as critical habitat. As detailed in *Conservation Strategy* above, additional units will be needed for recovery, but we cannot currently determine what other areas will have the best chance of successful species introduction. To consider for designation areas not occupied by the species at the time of listing, we must demonstrate that these areas are essential for the conservation of magnificent ramshorn. Because the species is likely extirpated from the wild, the only way for the species to be conserved and have viable populations in the wild is via captive propagation and reintroduction to unoccupied areas.

Magnificent ramshorn is historically known from four locations, all ponds/impoundments. Of these four historical locations, only two meet all of the criteria for designation as critical habitat. Both Greenfield Lake and McKinzie Pond no longer have suitable habitat for the species, and would require extensive restoration and threat abatement measures before possibly becoming suitable again. Based on our review, we determined that Orton Pond and Big Pond, the two other known historical locations for magnificent ramshorn, have the potential for future reintroduction and reoccupation by the species. Reestablishing viable populations in those two ponds will provide redundancy within the historical range and increase the species' ecological representation. Orton Pond and Big Pond represent habitat within the historical range with the best potential for recovery of the species due to current pond conditions, suitability for reintroductions, compatibility between landowner's existing habitat management and habitat needs of magnificent ramshorn, and landowner interest in recovery and access for monitoring.

Accordingly, we propose to designate two units as critical habitat for magnificent ramshorn. Both units contain the identified physical or biological features, appear to be capable of supporting multiple life-history processes of the species, and are essential for the conservation of the species.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation. We include more-detailed information on the boundaries of the proposed critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *https://www.regulations.gov* at Docket No. FWS–R4–ES–2022–0070 (see **FOR FURTHER INFORMATION CONTACT**) and on the Service's website at *https://www.fws.gov/office/eastern-north-carolina/library*.

Proposed Critical Habitat Designation

We are proposing to designate approximately 739 acres (ac) (299 hectares (ha)) in two units as critical habitat for magnificent ramshorn. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for magnificent ramshorn. The two areas we propose as critical habitat are: (1) Orton Pond and (2) Big Pond (Pleasant Oaks Pond). The table below shows the proposed critical habitat units and the approximate area of each unit.

TABLE 2—PROPOSED CRITICAL HABITAT UNITS FOR MAGNIFICENT RAMSHORN

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)	Occupied?
1. Orton Pond	Private	688 ac (278 ha)	No.
2. Big Pond (Pleasant Oaks Pond)	Private	51 ac (21 ha)	No.
Total		739 ac (299 ha).	

We present brief descriptions of each unit, and reasons why they meet the definition of critical habitat for magnificent ramshorn, below.

Unit 1: Orton Pond

Unit 1, Orton Pond, consists of 688 ac (278 ha) of unoccupied lentic habitat in an impounded section of Orton Creek in Brunswick County, North Carolina, approximately ½ mile upstream from its confluence with the Cape Fear River, located east of the town of Boiling Spring Lakes. This pond is privately owned and has a conservation easement along the entire southeastern shore and along the dam right-of-way. Access to Orton Pond by researchers surveying for magnificent ramshorn has been restricted since the mid-1990s, and the species was last observed in this location in 1995. Orton Pond is one of four known historical locations for the species, and it currently has extensive suitable habitat for the ramshorn, including sluggish flows, sufficient littoral depth for emergent aquatic vegetation, and no salinity. Its management is consistent with magnificent ramshorn's life requisites. For these reasons, we find that the formerly occupied Orton Pond is essential for the conservation of the species.

Unit 2: Big Pond (Pleasant Oaks Pond)

Unit 2, Big Pond, consists of 51 ac (21 ha) of unoccupied lentic habitat in an impounded section of Sand Hill Creek in Brunswick County, North Carolina, just upstream of the confluence with the Cape Fear River across from Campbell Island. This pond is privately owned and has a conservation easement surrounding the entire pond. The species was last observed in this location in 1994. Big Pond is one of four known historical locations for the species, and it currently has extensive suitable habitat for the ramshorn, including sluggish flows and sufficient littoral depth for emergent aquatic vegetation. Its management is consistent with magnificent ramshorn's life requisites. For these reasons, we find that the formerly occupied Big Pond is essential for the conservation of the species. Because of its proximity to the upstream saltwater wedge in the Cape Fear River, and the potential for dam failure during hurricanes, this pond will require permanent maintenance to prevent effects of saltwater intrusion and the landowner has indicated that maintaining the dam to keep freshwater in the pond is a priority.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final rule with a revised definition of destruction or adverse modification on February 11, 2016 (81 FR 7214). (Although we also published a revised definition after that (on August 27, 2019), that 2019 definition was subsequently vacated by the court in *CBD* v. *Haaland*.) Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project

modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate formal consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law) and, subsequent to the previous consultation: (a) If the amount or extent of taking specified in the incidental take statement is exceeded; (b) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (c) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or (d) if a new species is listed or critical habitat designated that may be affected by the identified action.

In such situations, Federal agencies sometimes may need to request reinitiation of consultation with us, but the regulations also specify some exceptions to the requirement to reinitiate consultation on specific land management plans after subsequently listing a new species or designating new critical habitat. See the regulations for a description of those exceptions.

Application of the ''Destruction or Adverse Modification'' Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that we may, during a consultation under section 7(a)(2) of the Act, find are likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would cause physical habitat disturbance. Such activities could include, but are not limited to, draining, dredging, channelization, placement of fill, or activities that modify or compromise the dam structure such that pond habitat quality is degraded. These activities could eliminate or reduce the habitat necessary for the conservation of these snails.

(2) Actions that would degrade water quality in tributaries or the main pond. Such activities could include, but are not limited to, nonpoint discharges, inputs of dissolved solids or contaminants, erosion, and sedimentation. These activities could eliminate or greatly reduce the habitat necessary for the conservation of these snails.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense (DoD), or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act Improvement Act of 1997 (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. There are no DoD lands with a completed INRMP within the proposed critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act, 81 FR 7226 (Feb. 11, 2016) (2016 Policy)—both of which were developed jointly with the National Marine Fisheries Service (NMFS). We also refer to a 2008 Department of the Interior Solicitor's opinion entitled ''The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act'' (M–37016). We explain each decision to exclude areas, as well as decisions not to exclude, to demonstrate that the decision is reasonable.

In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise discretion to exclude the area only if such exclusion would not result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor. We describe below our process for considering each category of impacts and our analyses of the relevant impacts.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.''

The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts

attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary 4(b)(2) exclusion analysis.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. Section 3(f) of E.O. 12866 identifies four criteria when a regulation is considered a ''significant'' rulemaking, and requires additional analysis, review, and approval if met. The criterion relevant here is whether the designation of critical habitat may have an economic effect of greater than $100 million in any given year (section 3(f)(1)). Therefore, our consideration of economic impacts uses a screening analysis to assess whether a designation of critical habitat for the magnificent ramshorn is likely to exceed the economically significant threshold. For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for magnificent ramshorn (IEc 2020). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. This includes assessing whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation for the species that may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM are what we consider our draft economic analysis (DEA) of the proposed critical habitat designation for magnificent ramshorn; our DEA is summarized in the narrative below.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for magnificent ramshorn, first we identified, in the IEM dated February 25, 2020, probable incremental economic impacts associated with the following categories of activities: (1) Road maintenance and repair; and (2) dam maintenance. We considered each industry or category individually. Additionally, we considered whether the activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. If we list the species and also finalize this proposed critical habitat designation, our consultation would include an evaluation of measures to avoid the destruction or adverse modification of critical habitat.

In our IEM, we attempted to clarify the distinction between the effects that will result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for magnificent ramshorn's critical habitat. Because there are currently no occupied units, all consultations will be addressing adverse modification alone. At such time that the species is reintroduced, and as consultation under the jeopardy standard would focus on the effects of habitat degradation because threats to the species are habitat-related, critical habitat designation would not be expected to result in additional consultation in occupied habitat. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed critical habitat designation.

The proposed critical habitat designation for magnificent ramshorn totals approximately 739 ac (299 ha), all of which are currently unoccupied by the species but are essential for the conservation of the species. In these unoccupied areas, any conservation efforts or associated probable impacts would be considered incremental effects attributed to the critical habitat designation. Within the unoccupied critical habitat, rarely are any actions expected to occur that will result in section 7 consultation or associated project modifications because both of the units are privately owned and subject to conservation easements. Therefore, future activities and associated economic impacts in proposed critical habitat units are anticipated to be limited. Our analysis estimates that cost to private entities is expected to be relatively minor (administrative efforts will cost less than $8,900 per year, and potential incremental project modifications may cost up to $12,000 per year).

We are soliciting data and comments from the public on the DEA discussed above, as well as on all aspects of this proposed rule and our required determinations. During the development of a final designation, we will consider the information presented in the DEA and any additional information on economic impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2), and our implementing regulations at 50 CFR 424.19, and the joint 2016 Policy. We may exclude an area from critical habitat if we determine that the benefits of excluding

the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species

Consideration of National Security Impacts

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), then national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of ''critical habitat.'' However, the Service must still consider impacts on national security, including homeland security, on those lands or areas not covered by section 4(a)(3)(B)(i) because section 4(b)(2) requires the Service to consider those impacts whenever it designates critical habitat. Accordingly, if DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns, or we have otherwise identified national-security or homeland-security impacts from designating particular areas as critical habitat, we generally have reason to consider excluding those areas.

However, we cannot automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the basis of national-security or homeland-security impacts, we must conduct an exclusion analysis if the Federal requester provides information, including a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction, as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If we conduct an exclusion analysis because the agency provides a reasonably specific justification or because we decide to exercise the discretion to conduct an exclusion analysis, we will defer to the expert judgment of DoD, DHS, or another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary section 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

In preparing this proposal, we have determined that the lands within the proposed designation of critical habitat for magnificent ramshorn are not owned or managed by the DoD or DHS, and, therefore, we anticipate no impact on national security or homeland security. However, if through the public comment period we receive information regarding impacts on national security or homeland security from designating particular areas as critical habitat, then as part of developing the final designation of critical habitat, conduct a discretionary exclusion analysis to determine whether to exclude those areas under authority of section 4(b)(2), our implementing regulations at 50 CFR 424.19, and the 2016 Policy.

Consideration of Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. To identify other relevant impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are permitted conservation plans covering the species in the area—such as HCPs, safe harbor agreements, or CCAAs—or whether there are non-permitted conservation agreements and partnerships that may be impaired by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

We have not identified any areas to consider for exclusion from critical habitat based on other relevant impacts because there are no identified relevant impacts to Tribes, States, local governments, and there are no permitted conservation plans covering the species. However, during the development of a final designation, we will consider all information currently available or received during the public comment period. If we receive information that we determine indicates that there is a potential for supporting a benefit of excluding any areas, we will undertake an evaluation of that information to determine whether those areas should be excluded from the final critical habitat designation under the authority of section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19, as well as the 2016 Policy. If we evaluate information based on a request for an exclusion and we do not exclude, we will fully describe in the final critical habitat determination our rationale for not excluding. We may also exercise the discretion to undertake exclusion analyses for other areas as well, and we will describe all of our exclusion analyses as part of a final critical habitat determination.

Non-Permitted Conservation Plans, Agreements, or Partnerships

Shown below is a non-exhaustive list of factors that we consider in evaluating how non-permitted plans or agreements affect the benefits of inclusion or exclusion. These are not required elements of plans or agreements. Rather, they are some of the factors we may consider, and not all of these factors apply to every plan or agreement.

(i) The degree to which the record of the plan, or information provided by proponents of an exclusion, supports a conclusion that a critical habitat designation would impair the realization of the benefits expected from the plan, agreement, or partnership.

(ii) The extent of public participation in the development of the conservation plan.

(iii) The degree to which agency review and required determinations (*e.g.,* State regulatory requirements) have been completed, as necessary and appropriate.

(iv) Whether National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) reviews or similar reviews occurred, and the nature of any such reviews.

(v) The demonstrated implementation and success of the chosen mechanism.

(vi) The degree to which the plan or agreement provides for the conservation of the physical or biological features that are essential to the conservation of the species.

(vii) Whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan or agreement will be implemented.

(viii) Whether the plan or agreement contains a monitoring program and adaptive management to ensure that the conservation measures are effective and can be modified in the future in response to new information.

At this time, we are not considering excluding any areas within the proposed critical habitat for magnificent ramshorn that are covered by non-permitted plans. We are aware of the conservation partnership of the landowner of Big Pond and a portion of Orton Pond, and the possibility of a commitment to conserve magnificent ramshorn on their property. Therefore, we are requesting information supporting a benefit of excluding any areas from the proposed critical habitat designation. Based on our evaluation of the information we receive, we may determine that we have reason to exclude one or more areas from the final designation.

Summary of Exclusions Considered Under Section 4(b)(2) of the Act

In preparing this proposal, we have determined that no HCPs or other management plans for magnificent ramshorn currently exist, and the proposed designation does not include any Tribal lands or trust resources or any lands for which designation would have any economic or national-security impacts. Therefore, we anticipate no impact on Tribal lands, partnerships, or HCPs from this proposed critical habitat designation, and, as described above, we are not considering excluding any particular areas on the basis of the presence of conservation agreements or impacts to trust resources.

During the development of a final designation, we will consider any additional information we receive during the public comment period on this proposed rule regarding other relevant impacts to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) of the Act, and our implementing regulations at 50 CFR 424.19, and the joint 2016 Policy.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

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

(3) Use clear language rather than jargon;

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

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. While only Federal action agencies would be directly regulated if we adopt this proposed critical habitat designation, non-Federal applicants for federal funds or permits may be indirectly impacted because of additional evaluations that may be required during the application process for the federally funded or permitted project, but this is expected to be rare, and minor when it does occur. The RFA

does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that the designation of this proposed critical habitat will significantly affect energy supplies, distribution, or use because the proposed designated ponds are privately owned. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following finding:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or Tribal governments'' with two exceptions. It excludes a condition of Federal assistance. It also excludes a duty arising from participation in a voluntary Federal program, unless the regulation relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority, if the provision would increase the stringency of conditions of assistance or place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding, and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this proposed rule would significantly or uniquely affect small governments because only private lands are involved in the proposed designation. Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for magnificent ramshorn in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for magnificent ramshorn, and it concludes that, if adopted, this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this proposed rule would not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require

approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the proposed rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the elements of the physical or biological features essential to the conservation of the species. The proposed areas of designated critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that no Tribal lands fall within the boundaries of the proposed critical habitat for magnificent ramshorn, so no Tribal lands would be affected by the proposed designation.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Raleigh Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11, in paragraph (h), by adding an entry for ''Ramshorn, magnificent'' to the List of Endangered and Threatened Wildlife in alphabetical order under SNAILS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
SNAILS				
*	*	*	*	*
Ramshorn, magnificent ...	*Planorbella magnifica*	Wherever found	E	[**Federal Register** citation when published as a final rule]; 50 CFR 17.95(f).[CH]
*	*	*	*	*

■ 3. Amend § 17.95, in paragraph (f), by adding an entry for ''Magnificent Ramshorn (*Planorbella magnifica*)'' immediately following the entry for ''Rough Hornsnail (*Pleurocera foremani*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) * * *

* * * * *

Magnificent Ramshorn (*Planorbella magnifica*)

(1) Critical habitat units are depicted for Brunswick County, North Carolina, on the map in this entry.

(2) Critical habitat does not include humanmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on

which they are located existing within the legal boundaries on the effective date of this rule.

(3) Data layers defining map units were created in a Geographic Information System (GIS), and critical habitat units were mapped using the U.S. Geological Survey's National Hydrography Dataset. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at *https://www.regulations.gov* at Docket No. FWS–R4–ES–2022–0070, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(4) Unit 1: Orton Pond, Brunswick County, North Carolina.

(i) Unit 1 consists of 688 acres (ac) (278 hectares (ha)) in an impounded section of Orton Creek in Brunswick County, North Carolina, approximately ½ mile upstream from the confluence with the Cape Fear River and east of the town of Boiling Spring Lakes. Unit 1 is composed of lands in private ownership.

(ii) Map of Units 1 and 2 follows:

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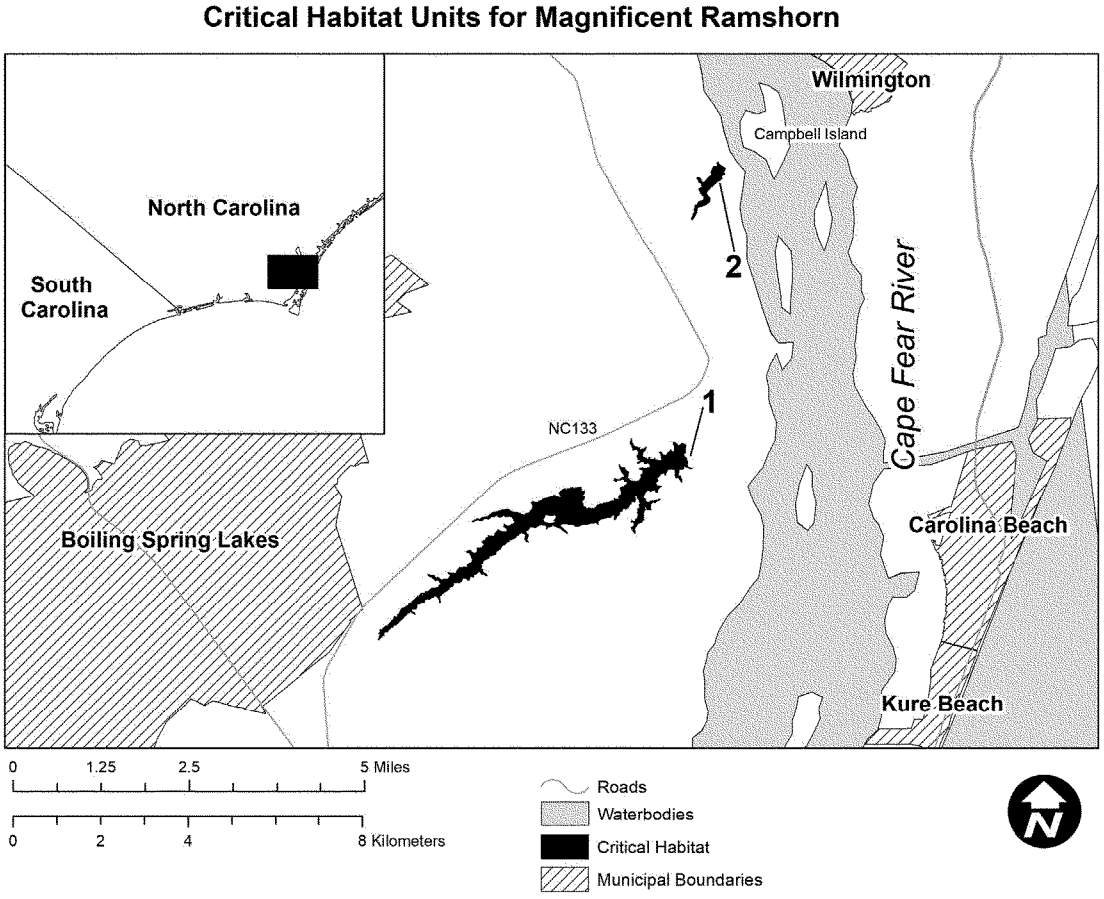
Figure 1 for Magnificent Ramshorn (*Planorbella magnifica*) paragraph (4)(ii)



(5) Unit 2: Big Pond (Pleasant Oaks Pond), Brunswick County, North Carolina.

(i) Unit 2 consists of 51 ac (21 ha) in an impounded section of Sand Hill Creek in Brunswick County, North Carolina, near the confluence with the Cape Fear River across from Campbell Island. Unit 2 is composed of lands in private ownership.

(ii) Map of Unit 2 is provided at paragraph (4)(ii) of this entry.

* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–17743 Filed 8–17–22; 8:45 am]

BILLING CODE 4333–15–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XC119]

Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 23 to the Pacific Coast Salmon Fishery Management Plan

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

ACTION: Announcement of availability of fishery management plan amendment and associated Environmental Assessment; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) has submitted Amendment 23 to the Pacific Coast Salmon Fishery Management Plan (Salmon FMP) to the Secretary of Commerce for review. If approved, Amendment 23 would amend the Salmon FMP's current harvest control rule (HCR) for the Southern Oregon/Northern California Coast (SONCC) Coho Salmon Evolutionarily Significant Unit (ESU).

DATES: Comments on Amendment 23 must be received by October 17, 2022. Comments on the accompanying Environmental Assessment must be received by October 3, 2022.

ADDRESSES: You may submit comments on Amendment 23, identified by NOAA–NMFS–2022–0065, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2022–0065 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

You may submit comments on the Environmental Assessment, identified by RTID 0648–XC119, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via electronic mail to the address: *salmon.harvest.comments@noaa.gov.* Include in the summary of your email ''*Comment SONCC EA*'', and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS by the applicable deadlines. 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. 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.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The draft Salmon FMP, as amended through Amendment 23, with notations showing how Amendment 23 would change the Salmon FMP, if approved, is available on the NMFS website at *https://www.fisheries.noaa.gov/action/fisheries-west-coast-states-west-coast-salmon-fisheries-amendment-23-pacific-coast-salmon?check_logged_in=1.*

The Council and NMFS prepared a draft Environmental Assessment. An electronic copy of this document may be obtained from the West Coast Regional Office website at *https://www.fisheries.noaa.gov/west-coast/laws-and-policies/west-coast-region-national-environmental-policy-act-documents.*

FOR FURTHER INFORMATION CONTACT: Shannon Penna at 562–980–4239.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the exclusive economic zone (EEZ) (3–200 nautical miles; 5.6–370.4 kilometers) off Washington, Oregon, and California are managed under the Salmon FMP. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that each regional fishery management council submit any fishery management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary) (MSA 304(a)). The MSA also requires that NMFS, upon receiving an FMP or plan amendment, immediately publish a notice that the FMP or plan amendment is available for public review and comment. Publication occurs on or before the fifth day after the day on which a Council transmits to the Secretary a FMP or plan amendment. This document announces that proposed Amendment 23 to the Salmon FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove Amendment 23 to the Salmon FMP.

In 2018, the Hoopa Valley Tribe filed a lawsuit alleging a failure by NMFS to reinitiate Endangered Species Act (ESA) consultation regarding the impacts of ocean salmon fisheries on the SONCC Coho Salmon ESU. Coho salmon in the ESU are listed under the ESA and are caught incidentally in ocean salmon fisheries primarily targeting Chinook salmon. In March 2020, the parties reached a stipulated agreement to stay the litigation provided certain conditions were met, including a timeline by which NMFS would confer with the Council on completion of a new SONCC coho salmon harvest control rule (HCR) and a timeline for ESA consultation, as warranted on the effects of the control rule. HCRs guide how the Council develops annual management measures for ocean salmon fisheries.

In June 2020, the Council established the ad-hoc SONCC Coho Salmon Workgroup (Workgroup) and tasked it to develop a new control rule for the SONCC Coho Salmon ESU for Council consideration. In January 2022, based on the Workgroup's analysis,[1] the Council recommended two HCRs for the SONCC Coho Salmon ESU, developed through the Council process, for consideration by NMFS. In April 2022, NMFS completed an ESA consultation on NMFS's authorization of the ocean salmon fishery in the west coast EEZ (3–200 nautical miles; 5.6–370.4 kilometers) through approval of the FMP including proposed Amendment 23 and promulgation of regulations implementing the FMP. NMFS

[1] The SONCC Workgroup's analysis report can be found on the NMFS website: *https://www.fisheries.noaa.gov/west-coast/partners/southern-oregon-northern-california-coast-coho-working-group.*

concluded that it would not jeopardize the ESU.

If approved, Amendment 23 would replace the current HCR with two new HCRs. The first would limit total fishery exploitation rates (ERs) on each of five individual representative population units within the SONCC coho salmon ESU to no more than 15 percent annually, except for the Trinity River population unit (represented by the Upper Trinity River, Lower Trinity River, and South Fork Trinity River populations). The second HCR would limit the total ER on the Trinity River population unit to 16 percent. Both HCRs account for all ocean and inland sources of fishery mortality annually and include landed and non-landed mortality of age-3 adult SONCC coho salmon.

During its annual salmon preseason planning process for developing recommended annual management measures governing ocean salmon fisheries, the Council would evaluate ocean salmon fisheries using the coho salmon Fishery Regulation Assessment Model (FRAM) so that, when combined with estimated freshwater impacts, the preseason projected total ERs would not exceed the adopted HCRs. The estimated freshwater impacts would be determined using projections provided by co-managing agencies (*i.e.,* the Oregon Department of Fish and Wildlife, Yurok Tribe, Hoopa Valley Tribe, or California Department of Fish and Wildlife). Postseason ERs would be estimated for each year once postseason harvest and abundance estimates become available. Coho-directed salmon fisheries and retention of coho salmon in Chinook-directed salmon fisheries would remain prohibited in the EZZ seaward of California. Management measures implemented under Amendment 23 would be applied in concert with measures designed to meet other requirements of the FMP including conservation objectives and annual catch limits for specific salmon stocks and stock complexes.

All comments received by the end of the comment period (see **DATES** and **ADDRESSES** above) will be considered in the Secretary's decision to approve, disapprove, or partially approve Amendment 23. To be considered in this decision, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: August 15, 2022.

Kelly Denit,

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

[FR Doc. 2022–17805 Filed 8–17–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 159
Thursday, August 18, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Collection Instruments for the Board for International Food and Agricultural Development

AGENCY: United States Agency for International Development.

ACTION: Notice of information collection.

SUMMARY: U.S. Agency for International Development (USAID), 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 the following new information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning: Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of the information on the respondents.

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.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed information collection to Clara Cohen, USAID, Bureau for Resilience and Food Security, (USAID/RFS/AA) at *ccohen@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: Clara Cohen, Executive Director, BIFAD, USAID Bureau for Resilience and Food Security, *ccohen@usaid.gov* or 202–712–0119.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Board for International Food and Agricultural Development (BIFAD) is a seven-member, presidentially appointed advisory board to USAID established in 1975 under Title XII of the Foreign Assistance Act, as amended, to ensure that USAID brings the assets of U.S. universities to bear on development challenges in agriculture and food security and supports their representation in USAID programming. BIFAD convenes diverse thought leadership through its public meetings around emerging issues related to food security, agricultural development, and nutrition. BIFAD has a strong interest in engaging with a broad and diverse stakeholder community, ensuring diverse participation in its events, and understanding how its public events and commissioned materials are used. A BIFAD support mechanism, implemented by Tetra Tech, also seeks to understand how effectively it is providing support to new BIFAD members through its orientation program.

The following six forms were developed:

1. Opt-in process for individuals electing to join a stakeholder database for Board for International Food and Agricultural Development (BIFAD), to receive occasional updates about BIFAD-led events and resources. for the stakeholder database and to better understand the types of participants reached through BIFAD activities. This information is important as BIFAD and USAID strive to diversify outreach of these activities.

2. An event registration form to facilitate the registration process for events hosted or co-hosted by the Board for International Food and Agricultural Development (BIFAD). This data will be collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) to facilitate event registration and to better understand the types of participants reached through BIFAD events. This information is important as BIFAD and USAID strive to diversify outreach of these activities.

3. A form to collect participant feedback following events hosted or co-hosted by the Board for International Food and Agricultural Development (BIFAD), related to participant reactions/level of satisfaction and intent to apply information to their work. This data will be collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) to inform BIFAD and USAID about participant engagement in BIFAD-supported activities.

4. A form to measure participant feedback before and after the new-member orientation process for the Board for International Food and Agricultural Development (BIFAD). The surveys will be administered to new BIFAD members with data collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) and maintained by Tetra Tech according to privacy and information protection protocols. This information is important as BIFAD and USAID strive to strengthen the new member orientation experience for the Board.

5. A form to collect information necessary when coordinating with speakers and authors for BIFAD-supported events and reports, while also collecting data to understand how well BIFAD is engaging a diverse community of experts. All speakers and authors will be asked to complete the survey with data collected by the BIFAD Support Contract implementer, Tetra Tech (as required in the Activity Monitoring, Evaluation, and Learning Plan) and maintained by Tetra Tech according to privacy and information protection protocols. This information is important as BIFAD and USAID strive to diversify engagement and to consistently collect information needed for planning and coordination with event speakers.

6. A form to collect information about BIFAD event participants' or report/product users' intent to use the information presented to inform their work, teaching, or research.

II. Method of Collection

Electronic. The data will be collected and maintained by the BIFAD Support Contract implementer, Tetra Tech, Inc.,

as per the Activity Monitoring, Evaluation, and Learning Plan.

III. Data

Number: 1.
Title: BIFAD Stakeholder Database Opt-in Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 1,000.
Estimated Total Annual Burden Hours: 50.

Number: 2.
Title: BIFAD Event Registration Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 1,000.
Estimated Total Annual Burden Hours: 80.

Number: 3.
Title: BIFAD Post-Event Feedback Survey.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 500.
Estimated Total Annual Burden Hours: 40 hours.

Number: 4.
Title: BIFAD New Member Orientation Survey.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 14.
Estimated Total Annual Burden Hours: 2.1.

Number: 5.
Title: BIFAD Speaker Information Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 30.
Estimated Total Annual Burden Hours: 4.5.

Number: 6.
Title: BIFAD Product Feedback Form.
OMB Number: Not yet known.
Expiration Date: Not yet known.
Type of Request: New collection.
Form Number: Not yet known.
Affected Public: Individuals.
Estimated Number of Respondents: 500.
Estimated Total Annual Burden Hours: 25.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of USAID, including whether the information collected has practical utility; (2) the accuracy of USAID's estimate of the burden (including both hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. The comments will also become a matter of public record.

Michael Vernon Michener,

Deputy Assistant to the Administrator, Bureau for Resilience and Food Security, U.S. Agency for International Development.

[FR Doc. 2022–17725 Filed 8–17–22; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–AMS–22–0056]

2022/2023 Rates Charged for AMS Services: Revised Rates for Audit Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing revisions to the 2022/2023 rates it will charge for Federal and State Audit Services provided by the Specialty Crop Program. Revisions correct the base units for these user fee rates, which were published on June 14, 2022. All other AMS user fee rates will remain unchanged.

DATES: August 19, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Slinsky, Legislative and Regulatory Review Officer, AMS, USDA, AMS, USDA, Room 2036–S, 1400 Independence Ave. SW, Washington, DC 20250; telephone (901) 287–9719, or email *stephen.slinsky@usda.gov*.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as amended (AMA) (7 U.S.C. 1621–1627), provides for the collection of fees to cover costs of various inspection, grading, certification, or auditing services covering many agricultural commodities and products.

On November 13, 2014, the U.S. Department of Agriculture (USDA) published in the **Federal Register** a final rule that established standardized formulas for calculating fee rates charged by AMS user-funded programs (79 FR 67313). Every year since then, USDA has published in the **Federal Register** a notice announcing rates for its user-funded programs.

On June 14, 2022, the notice announcing the 2022/2023 fee rates was published in the **Federal Register** (87 FR 35956). Since publication of this notice, personnel in AMS's Specialty Crop Program realized that the 2022/2023 rates pertaining to Federal and State Auditing Services were published with the wrong units specified—per-audit fee rates were published rather than per-hour rates. Therefore, AMS is announcing revisions to the 2022/2023 Federal and State Auditing Services rates. Revised rates are hourly rates and will become October 1, 2022, as anticipated.

Rates Calculations

AMS Specialty Crop Program's inspection, certification, and auditing services are voluntary tools paid for by the users on a fee-for-service basis. Industry participants may choose to use these tools to promote and communicate the quality of fresh and processed fruits and vegetables to consumers. AMS is required by statute to recover costs associated with providing these services. Rates reflect direct and indirect costs of providing services. Direct costs include the cost of salaries, employee benefits, operating costs and, if applicable, travel costs. Indirect or overhead costs include the cost of Program and Agency activities supporting services provided to the industry. The formula used to calculate these rates also considers the need to maintain operating reserves.

AMS calculated rates for services, on a per-hour basis or per-unit basis, by dividing total AMS operating cost associated with inspection, certification and auditing by the total number of hours required or units inspected and certified the previous year, which is then multiplied by the next year's percentage of cost-of-living increase, plus an allowance for bad debt rate. If applicable, travel expenses may also be

added to the cost of providing the service.

All rates are per-hour except when a per-unit cost is noted. The specific amounts in each rate calculation are available upon request.

2022/2023 RATES

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Specialty Crops Fees					
7 CFR Part 51—Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards) Subpart A—Requirements; §§ 51.37–51.44 Schedule of Fees and Charges at Destination Markets § 51.45 Schedule of Fees and Charges at Shipping Point Areas					
Quality and Condition Inspections for Whole Lots	$225.00 per lot			.....	Oct. 1, 2022.
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots.	$186.00 per lot			.....	Oct. 1, 2022.
Condition—Half Lot	$172.00 per lot			.....	Oct. 1, 2022.
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product.	$103.00 per lot			.....	Oct. 1, 2022.
Dockside Inspections—Each package weighing <30 lbs	$0.044 per pkg.			.....	Oct. 1, 2022.
Dockside Inspections—Each package weighing >30 lbs	$0.068/pkg.			.....	Oct. 1, 2022.
Charge per Individual Product for Dockside Inspection	$225.00/lot			.....	Oct. 1, 2022.
Charge per Each Additional Lot of the Same Product	$103.00/lot			.....	Oct. 1, 2022.
Inspections for All Hourly Work	$100.00	$137.00	$175.00	.....	Oct. 1, 2022.
Audit Services—Federal	$132.00			.....	Oct. 1, 2022.
Audit Services—State	$132.00			.....	Oct. 1, 2022.
GFSI Certification Fee [1]	$250.00/audit			.....	Oct. 1, 2022.
7 CFR Part 52—Processed Fruits and Vegetables, Processed Products Thereof, and Other Processed Food Products Subpart A—Requirements Governing Inspection and Certification; §§ 52.41—52.51 Fees and Charges					
Lot Inspections	$85.00	$112.00	$139.00	.....	Oct. 1, 2022.
In-plant Inspections Under Annual Contract (year-round)	$85.00	$107.00	$129.00	.....	Oct. 1, 2022.
Additional Graders (in-plant) or Less Than Year-Round	$91.00	$120.00	$149.00	.....	Oct. 1, 2022.
Audit Services—Federal	$132.00			.....	Oct. 1, 2022.
Audit Services—State	$132.00			.....	Oct. 1, 2022.
GFSI Certification Fee[1]	$250.00/audit			.....	Oct. 1, 2022.

[1] Global Food Safety Initiative (GFSI) Certification Fee—$250 per GFSI audit to recoup the costs associated with attaining technical equivalency to the GFSI benchmarking requirements.

Authority: 7 U.S.C. 1621–1627.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–17744 Filed 8–17–22; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2022–0008]

Emergency Livestock Relief Program (ELRP) and Emergency Relief Program (ERP) Clarification

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of funds availability; clarification and revision.

SUMMARY: The Farm Service Agency (FSA) is amending the definition of ''income derived from farming, ranching, and forestry operations'' for ELRP and ERP and clarifying policy around the filing of certifications of average adjusted gross farm income. FSA is clarifying the ERP Phase 1 policy related to producers who received both a crop insurance indemnity and a Noninsured Crop Disaster Assistance Program (NAP) payment. FSA is also amending ERP Phase 1 to include eligibility for Federal Crop Insurance policies with an intended use for nursery.

FOR FURTHER INFORMATION CONTACT: Tona Huggins; telephone: (202) 720–6825; email: *tona.huggins@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Revision and Clarification

FSA announced ELRP in a Notification of Funding Availability (NOFA) on April 4, 2022 (87 FR 19465–19470), and ERP in a NOFA on May 18, 2022 (87 FR 30164–30172). Implementation of ELRP Phase 1 began on April 4, 2022. Implementation of ERP Phase 1 began on May 18, 2022. In those documents, FSA provided the eligibility requirements, application process, and payment calculations for Phase 1 of each program. In this document, FSA is making clarifications and revising policy for those programs, as described below.

Clarification to Income Derived From Farming, Ranching, and Forestry Operations

The payment limits under both ELRP and ERP are higher for producers whose average adjusted gross farm income is at least 75 percent of their average

adjusted gross income (AGI) based on the 3 taxable years preceding the most immediately preceding complete tax year. Under the ERP and ELRP NOFAs income derived from farming, ranching, and forestry operations includes any other activity related to farming, ranching, and forestry, as determined by the Deputy Administrator. The Deputy Administrator considered the definition of ''income derived from farming, ranching, and forestry operations'' used in prior disaster programs and determined the need to clarify that the sale of equipment to conduct farm, ranch, or forestry operations and the provision of production inputs and services to farmers, ranchers, foresters and farm operations are considered eligible sources of income derived from farming, ranching, and forestry operations under certain conditions. Production inputs are materials to conduct farming operations, such as seeds, chemicals, and fencing supplies. Production services are services provided to support a farming operation, such as custom farming, custom feeding, and custom fencing. In this document, FSA is providing clarification regarding how the sale of equipment to conduct farm, ranch or forestry operations and the provision of production inputs and services will be considered for the purpose of determining whether at least 75 percent of the producer's average AGI was from income derived from farming, ranching, and forestry operations. This is only to the extent a producer's income derived from these sources is not already included under items 1 through 12 of the definition of income derived from farming, ranching, and forestry operations.

The sale of equipment used to conduct farm, ranch, or forestry operations and the provision of production inputs and services to farmers, ranchers, foresters, and farm operations will only be taken into account in an applicant's average adjusted gross farm income if the average adjusted gross farm income is at least 66.66 percent of the applicant's average AGI based on items 1 through 12 of the definition of income derived from farming, ranching, and forestry operations. For clarity, the full definition of ''average adjusted gross farm income'' is provided below. This definition is applicable to both ELRP and ERP. It replaces the definition provided in the ERP NOFA and will also apply to the ELRP NOFA.

Average adjusted gross farm income means the average of the person or legal entity's adjusted gross income derived from farming, ranching, or forestry operations for the 3 taxable years preceding the most immediately preceding complete taxable year.

(a) If the resulting average adjusted gross farm income derived from items 1 through 12 of the definition of income derived from farming, ranching and forestry operations is at least 66.66 percent of the average adjusted gross income of the person or legal entity, then the average adjusted gross farm income may also take into consideration income or benefits derived from the following:

(1) The sale of equipment to conduct farm, ranch, or forestry operations; and

(2) The provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

(b) The relevant tax years are:

(1) For the 2020 program year, 2016, 2017, and 2018;

(2) For the 2021 program year, 2017, 2018, and 2019; and

(3) For the 2022 program year, 2018, 2019, and 2020.

In response to inquiries made by CPAs and attorneys, FSA is providing additional clarity related to the certifications of average adjusted gross farm income. For legal entities not required to file a federal income tax return, or a person or legal entity that did not have taxable income in one or more tax years, the average will be the adjusted gross farm income, including losses, averaged for the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by FSA. A new legal entity will have its adjusted gross farm income averaged only for those years of the base period for which it was in business; however, a new legal entity will not be considered ''new'' to the extent it takes over an existing operation and has any elements of common ownership interest and land with the preceding person or legal entity. When there is such commonality, income of the previous person or legal entity will be averaged with that of the new legal entity for the base period. For a person filing a joint tax return, the certification of average adjusted farm income will be reported as if the person had filed a separate federal tax return and the calculation is consistent with the information supporting the filed joint return.

ELRP and ERP applicants filing certifications of average adjusted gross farm income are subject to an FSA audit of information submitted for the purpose of increasing the program's payment limitation. As a part of this audit, FSA may request income tax returns, and if requested, must be supplied by all related persons and legal entities. In addition to any other requirement under any Federal statute, relevant Federal income tax returns and documentation must be retained a minimum of 2 years after the end of the calendar year corresponding to the year for which payments or benefits are requested. Failure to provide necessary and accurate information to verify compliance, or failure to comply with these requirements will result in ineligibility for ELRP and ERP benefits. This is consistent with the current requirements for participants in both ERP Phase 1 and ELRP to retain documentation in support of their application for 3 years after the date of approval.

ERP Phase 1 Payments—Crop Insurance Policies and NAP

ERP Phase 1 covers certain losses for which a producer received a crop insurance indemnity or Noninsured Crop Disaster Assistance Program (NAP) payment. In some situations, a producer may have received both a NAP payment for a crop loss and an indemnity under a crop insurance policy that was included in ERP Phase 1 to address the same loss. Examples of these policies include Rainfall Index plans for Annual Forage; Pasture, Rangeland, and Forage; or Apiculture. In those situations, the producer's ERP Phase 1 payment will be calculated based only on the data associated with their indemnity under the crop insurance policy; for those producers no ERP Phase 1 payment will be calculated based on the data associated with their NAP payment. This policy is necessary to avoid compensating producers twice for the same loss under ERP Phase 1.

ERP Phase 1 Payments—Nursery

The original NOFA for ERP Phase 1 excluded payments for nursery stock covered by a Federal Crop Insurance policy. After further consideration, FSA has determined that nursery stock covered by a Federal Crop Insurance policy suffered qualifying losses similar to other crops covered under ERP Phase 1 and to be consistent with prior disaster programs administered by FSA, we are revising the policy to include eligible nursery losses during the 2020, 2021, or 2022 crop years for which a producer had a Federal Crop Insurance policy that provided coverage for eligible losses related to the qualifying disaster events and received an indemnity for a crop and unit.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501–3520), this NOFA does not change the approved information collection under

OMB control numbers 0560–0307 and 0560–0309, respectively.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Assistance Listing,[1] to which this document applies are 10.148—Emergency Livestock Relief Program, and 10.964—Emergency Relief Program.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 or (844) 433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

[1] See *https://sam.gov/content/assistance-listings.*

USDA is an equal opportunity provider, employer, and lender.

Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2022–17795 Filed 8–17–22; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a business meeting on Tuesday September 13, 2022 at 2:00 p.m. Eastern time. The Committee will discuss testimony received regarding the study of civil rights and fair housing in the state.

DATES: The meeting will take place on Tuesday September 13, 2022 from 2:00 p.m.–3:00 p.m. Eastern time.

ADDRESSES:

Join Online (Audio/Visual): https://www.zoomgov.com/j/1610157596?pwd=YlRaUUdDanMwZTI4TFRaRTZnazJrQT09.

Telephone (Audio Only): Dial 1–669–254–5252 USA Toll Free; Access code: 161 015 7596.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion. Committee meetings are available to the public through the above listed online registration link or call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email address.

Agenda

Welcome and Roll Call
Discussion: Civil Rights and Fair Housing in Pennsylvania
Future Plans and Actions
Public Comment
Adjournment

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17782 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Ohio Advisory Committee (Committee) will hold a web-based meeting on Wednesday August 24, 2022, at 12:00 p.m. Eastern Time. The purpose of the meeting is to discuss the concept stage in the planning process and explore various civil rights topics for the Committee's first project.

DATES: The meeting will be held on: Wednesday, August 24, 2022, at 12:00 p.m. Eastern Time.

Online Registration: https://www.zoomgov.com/meeting/register/vJItceqrqjgrHYsuqnWMiCAv570SnV8TckM

Join by Phone: 1–551–285–1373 US; Meeting ID: 160 633 4317

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 1–202–618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call-in number (audio only) or online registration link (audio/visual). An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individual who is deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Ohio Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Administration
III. Proposed Civil Rights Topics
IV. Next Steps
V. Public Comments
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given fewer than 15 calendar days prior to the meeting because of the exceptional circumstances of project selection.

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17777 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meetings of the South Dakota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public web briefings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the South Dakota State Advisory Committee to the U.S. Commission on Civil Rights will convene briefings on the following Mondays from 3:00 p.m. to 5:30 p.m. CT: September 12, September 26, and October 17, 2022. The purpose of the briefings is to hear from invited presenters on the topic of voting rights and voter access in South Dakota.

DATES: Monday, September 12, 2022, at 3:00 p.m. (CT); Monday, September 26, 2022, at 3:00 p.m. (CT); and Monday, October 17, 2022, at 3:00 p.m. (CT).

Public Web Conference Zoom Links and Phone Numbers (video and audio or phone only):

- *Panel II 9/12/22: https://tinyurl.com/465wf8w4;* If joining by phone: 1–551–285–1373; Meeting ID: 160 940 6713#.
- *Panel III 9/26/22: https://tinyurl.com/bdz88vp4;* If joining by phone: 1–551–285–1373; Meeting ID: 160 741 8213num;.
- *Panel IV 10/17/22: https://tinyurl.com/bdhb67cm;* If joining by phone: 1–551–285–1373; Meeting ID: 160 086 5334#.
- If needed, password for all briefings listed here is as follows: USCCR–SD.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota at *kfajota@usccr.gov.*

SUPPLEMENTARY INFORMATION: The meeting is available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request other accommodations, please email *kfajota@usccr.gov* at least 10 business days prior to the meeting for which accommodations are requested.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Kayla Fajota at *kfajota@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Mondays at 3:00 p.m. CT—9/12, 9/26 and 10/17/22

I. Welcome and Roll Call
II. Opening Remarks
III. Panel II, III, and IV: Voting Rights Briefings—Panelist Presentations
IV. Question and Answer
V. Public Comment
VI. Closing Remarks
VII. Adjournment

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17781 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Georgia Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Georgia Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via web conference on Thursday, September 29, 2022, at 2:00 p.m. Eastern Time for the purpose of discussing and voting on final approval

of their report on Civil Asset Forfeiture and its Impact on Communities of Color in Georgia.

DATES: The meeting will take place on Thursday, September 29, 2022, from 2:00 p.m.–3:00 p.m. ET.

Join Online (Audio/Visual): https://tinyurl.com/yc3f2844.

Telephone (Audio Only): Dial (551) 285–1373 USA Toll Free; Meeting ID: 161 348 5068.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *lschiller@usccr.gov* at least seven (7) business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Georgia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome and Roll Call
II. Approval of Minutes
III. Announcements and Updates
IV. Discussion: Civil Asset Forfeiture in Georgia
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17779 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of a Public Meeting of the Maine Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of a public briefing.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Maine Advisory Committee will hold a virtual briefing to hear testimony regarding indigent legal services in the state. The briefing will take place via Zoom on Thursday, October 20, 2022, at 12:00 p.m. (ET).

DATES: Thursday, October 20, 2022, at 12:00 p.m. (ET).

ADDRESSES:

Public Web Conference Registration Link (Video and Audio): https://tinyurl.com/yrusa9av; password, if needed: USCCR–ME.

If Joining by Phone Only, Dial: 1–551–285–1373; Meeting ID: 161 385 8073#.

FOR FURTHER INFORMATION CONTACT: Liliana Schiller at *lschiller@usccr.gov* or (202) 770–1856.

SUPPLEMENTARY INFORMATION: These meetings are available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided for these meetings.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Coordination Unit within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 539–8246. Records and documents discussed during the meetings will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Coordination Unit at the above phone number or email address.

Agenda

Thursday, October 20, 2022, at 12 p.m. ET

I. Welcome & Roll Call
II. Briefing on Indigent Legal Services in Maine: Panel I
V. Public Comment
VI. Adjournment

Dated: August 5, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17202 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Arizona Advisory Committee (Committee) to the Commission will hold a virtual business meeting via Zoom platform on Friday, September 2, 2022, from 11:00 a.m. to 12:30 p.m. Arizona Time, for the purpose of discussing changes to draft project proposal.

DATES: The meeting will take place on:

- Friday, September 2, 2022, from 11:00 a.m.–12:30 p.m. Arizona Time

Access Information:

Link to Join (Audio/Visual) *https://tinyurl.com/55xrr7mr;* Passcode: USCCR–AZ.

Telephone (Audio Only) Dial +1–551–285–1373; Meeting ID: 160 346 7651.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: Persons with hearing impairments may also follow the proceedings by first calling

the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012 or email Kayla Fajota (DFO) at *kfajota@usccr.gov*.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl2AAA.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Announcements and Updates
III. Approval of Last Meeting Minutes
IV. Discussion: Draft Project Proposal
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17780 Filed 8–17–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New Mexico Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public briefing.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the New Mexico Advisory Committee (Committee) will hold a virtual briefing via Webex on Thursday, September 22, 2022, from 10:00 a.m.–12:00 p.m. MT for the purpose of hearing testimony on education adequacy for Native American students.

DATES: This briefing will take place on:

- *Panel 1:* Thursday, September 22, 2022, from 10:00 a.m.–12:00 p.m. MT.

Public Registration Link:

- *Panel 1:* Thursday, September 22th: *https://tinyurl.com/yf8zs4wd.*

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or (202) 701–1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the public registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, Regional Programs Unit Office, 300 N Los Angeles St., Suite 2010, Los Angeles, CA 90012 or emailed to Brooke Peery at *bpeery@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlGAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

Agenda

I. Welcome and Opening Remarks
II. Panelist Remarks
III. Committee Q&A
IV. Public Comment
V. Adjournment

Dated: August 15, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–17776 Filed 8–17–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

2020 Census Tribal Consultation; Virtual Public Meeting

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of virtual public meeting.

SUMMARY: The Census Bureau will conduct a tribal consultation on the second and final 2010 Demonstration Data Product for the Demographic and Housing Characteristics File (DHC) on September 19, 2022, via national webinar. Feedback on this demonstration data product will help to determine the final parameter and settings for the 2020 DHC. The tribal consultation meeting reflects the Census Bureau's continuous commitment to strengthen nation-to-nation relationships with federally recognized tribes. The Census Bureau's procedures for outreach, notice, and consultation ensure involvement of tribes to the extent practicable and permitted by law before making decisions or implementing policies, rules, or programs that affect federally recognized tribal governments. These meetings are open to citizens of federally recognized tribes by invitation. The Census Bureau conducted a tribal listening session on Thursday, August 18, 2022, to prepare tribes for the September virtual tribal consultation and sent materials to the tribes to help with their analysis of the demonstration data product. The Census Bureau provided questions in preparation for the virtual tribal consultation focused on the DHC. In that regard, the Census Bureau is asking tribal governments to identify potentially problematic results from the application of disclosure avoidance to the 2010 demonstration data. Helpful feedback would include identification of tables and geographies that are acceptable and unacceptable. The purpose of the virtual tribal consultation is to hear tribes' recommendations.

DATES: The Census Bureau will conduct the tribal consultation webinar on Monday, September 19, 2022, from 3:00 p.m. to 4:30 p.m. EDT. Any questions or topics to be considered in the tribal

consultation meetings must be received in writing via email by Monday, September 12, 2022.

Meeting Information: The Census Bureau tribal consultation webinar meeting will be held via the Microsoft Teams platform at the following link: *https://teams.microsoft.com/registration/8RanOlnlzkGlMEfRgxPGAw,TIJcpXM2nESpQgaKulF03g,rT1DtLbTwkezvnebFVFaoQ,iUFZ8p48HkiUQKd6kUDang,Eg0luHKaP0K4SQLIrkwJpg,STi-JWx-hUaO3gRjCnuT8Q?mode=read&tenantId=3aa716f1-e559-41ce-a530-47d18313c603&webinarRing=gcc.*

Submit your comments by email. Send comments to: *2020DAS@census.gov.*

FOR FURTHER INFORMATION CONTACT: Dee Alexander Tribal Affairs Coordinator, Office of Congressional and Intergovernmental Affairs, Intergovernmental Affairs Office, U.S. Census Bureau, Washington, DC 20233; telephone (301) 763–6100; or email at *ocia.tao@census.gov.*

SUPPLEMENTARY INFORMATION: The Census Bureau is planning a national webinar on September 19, 2022, with federally recognized tribes, so tribes can provide feedback on the 2010 Demonstration Data Product—Demographic and Housing Characteristics File (DHC). This demonstration data product represents the near final version of the 2020 Census Disclosure Avoidance System (DAS) applied to 2010 Census Data. It allows comparisons of 2010 Census data with the new disclosure protections against the published 2010 Census products that were protected using the prior swapping mechanism. The DHC provides demographic and housing characteristics, including age, sex, race, Hispanic or Latino origin, relationship to householder, household type, couple type, housing tenure, and vacancy. Some subjects are repeated by major OMB race/ethnicity groups.

In accordance with Executive Order 13175 Consultation and Coordination with Indian Tribal Governments issued November 6, 2000, the Census Bureau has adhered to its tribal consultation policy by seeking the input of tribal governments in the planning and implementation of the 2020 Census with the goal of ensuring the most accurate counts and data for the American Indian and Alaska Native population. In that regard, the Census Bureau is seeking comments on the 2010 Demonstration Data Product—DHC. Note, that while the focus of this tribal consultation is the DHC, additional 2020 Census data products are planned including the Detailed DHC–A, Detailed DHC–B, and S–DHC. Detailed DHC–A and Detailed DHC–B include detailed race, ethnicity, and American Indian and Alaska Native tribe and village populations.

The Census Bureau will conduct two tribal consultation meetings on the Detailed DHC–A and Detailed DHC–B this October. Notification and materials will be sent to all federally recognized tribes in September 2022.

Demographic and Housing Characteristics File (DHC)

The DHC will include some of the demographic and housing tables previously included in the 2010 Census Summary File 1 (SF1).

- *Subjects:* Age, sex, race, Hispanic or Latino origin, relationship to householder, group quarters population, household and family type, housing occupancy, and housing tenure. Some subjects are repeated for major OMB race/ethnicity groups.
- Access: *data.census.gov.*
- *Lowest level of geography:* Geography varies by table with many available down to the block level.
- *Release Date:* Tentatively May 2023.
- Information about the content of these data products was released on September 16, 2021. Information was presented during the August 18, 2022, tribal listening session and were notified of the 30-day review period. Submit your comments by email. Send comments to: *2020DAS@census.gov.*

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: August 12, 2022.

Mary Reuling Lenaiyasa,

Program Manager, Paperwork Reduction Act, Policy Coordination Office, Census Bureau.

[FR Doc. 2022–17764 Filed 8–17–22; 8:45 am]

BILLING CODE 3510–07–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; National Sample Survey of Registered Nurses

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 March 14, 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: National Sample Survey of Registered Nurses.

OMB Control Number: 0607–1002.

Form Number(s): NSSRN (paper questionnaire).

Type of Request: Regular submission, reinstatement with changes request of a previously approved collection.

Number of Respondents: 37,500 Registered Nurses (RNs) and 25,000 Nurse practitioners (NPs) for a total of 62,500 respondents.

Average Hours per Response: 30 minutes for RNs and 33 minutes for NPs.

Burden Hours: 32,500.

Needs and Uses: Sponsored by the U.S. Department of Health and Human Services' (HHS) Health Resources and Services Administration's (HRSA) National Center for Health Workforce Analysis (NCHWA), the National Sample Survey of Registered Nurses (NSSRN) is designed to obtain the necessary data to determine the characteristics and distribution of Registered Nurses (RNs) throughout the United States, as well as emerging patterns in their employment characteristics. These data will provide the means for the evaluation and assessment of the evolving demographics, educational qualifications, and career employment patterns of RNs. Such data have become particularly important to better understand workforce issues given the recent dynamic changes in the RN population and, the transformation of the healthcare system.

The Census Bureau will request survey participation from up to 125,000 RNs using one of two modes. The first mode is a web instrument (Centurion) survey. All letters mailed to respondents will include a web link to complete the survey. The second mode is a mailout/mail back of a self-administered paper-and-pencil interviewing (PAPI) questionnaire. There will be one paper questionnaire mailing. All respondents will have access to a telephone questionnaire assistance line that they will be able to get login assistance, language support, and even complete

the interview with a Census telephone interview agent.

The National Sample Survey of Registered Nurses is proposing one experiment for the 2022 cycle utilizing unconditional monetary incentives. For the 2022 cycle, NSSRN is proposing $5 with an initial web invitation letter for 90% of the sample receiving. The intention of the monetary incentive is to test the efficacy of reducing nonresponse bias by encouraging response, that is, whether offering $5 increases response, thus reducing non-response bias, and reducing costs associated with follow-up mailings. The unconditional monetary incentive will be randomly assigned to 90% of the sample prior to data collection. The remaining 10% of the sample will not receive an unconditional monetary incentive and will be the control group.

Affected Public: Nurses.

Frequency: The 2022 collection is the second administration of the NSSRN. Data collection is every four years.

Respondent's Obligation: Voluntary.

Legal Authority: Census Authority: Title 13, United States Code (U.S.C.), Section 8(b) (13 U.S.C. 8(b)).

HRSA Authority: Public Health Service Act, 42 U.S.C. Section 294n(b)(2)(A) and 42 U.S.C. Section 295k(a)–(b).

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 0607–1002.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–17787 Filed 8–17–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting of the National Sea Grant Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting and notice of solicitation for nominations for the National Sea Grant Advisory Board.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Sea Grant Advisory Board (Board), a Federal Advisory Committee. Board members will discuss and provide advice on the National Sea Grant College Program (Sea Grant) in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the agenda found on the Sea Grant website. For more information on this Federal Advisory Committee please visit the Federal Advisory Committee database: *https://www.facadatabase.gov/FACA/FACAPublicPage.*

This notice also responds to the Sea Grant Program Improvement Act of 1976, which requires the Secretary of Commerce to solicit nominations at least once a year for membership on the National Sea Grant Advisory Board. To apply for membership to the Board, applicants should submit a current resume. A cover letter highlighting specific areas of expertise relevant to the purpose of the Board is helpful, but not required. Nominations will be accepted by email. NOAA is an equal opportunity employer.

DATES: The announced meeting is scheduled for Sunday September 11, 2022 from 9:30 a.m.–4:00 p.m. (EST) and Monday September 12, 2022 from 8:30 a.m.–5:00 p.m. (EST).

ADDRESSES: The meeting will be held at the Cleveland Marriott downtown at Key Tower in Cleveland, Ohio. For more information about the public meeting see below in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: For any questions concerning the meeting, please contact Ms. Donna Brown, National Sea Grant College Program. Email: *oar.sg-feedback@noaa.gov;* Phone Number 301–734–1088.

SUPPLEMENTARY INFORMATION:

Status: The meeting will be open to public participation with a public comment period on Sunday, September 11 at 9:40 a.m. (EST). The Board expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Donna Brown by Thursday, September 8, 2022 to provide sufficient time for Board review. Written comments received after the deadline will be distributed to the Board, but may not be reviewed prior to the meeting date.

Special Accommodations: The Board meeting is virtually accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Donna Brown by Thursday, September 8, 2022.

The Board, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The Board advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

Individuals Selected For Federal Advisory Committee Membership: Upon selection and agreement to serve on the National Sea Grant Advisory Board, you become a Special Government Employee (SGE) of the United States Government. According to 18 U.S.C. 202(a), an SGE is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a full time or intermittent basis. Please be aware that after the selection process is complete, applicants selected to serve on the Board must complete the following actions before they can be appointed as a Board member:

(a) Security Clearance (on-line Background Security Check process and fingerprinting), and other applicable forms, both conducted through NOAA Workforce Management; and (b) Confidential Financial Disclosure Report as an SGE, you are required to file a Confidential Financial Disclosure Report annually to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Form at the following

website. *https://www.oge.gov/web/oge.nsf/ethicsofficials_financial-disc.*

Matters To Be Considered: Board members will discuss and vote on Executive Committee Nominations, an Interim Report to Congress, and a Resilience and Social Justice Recommendations Report. *https://seagrant.noaa.gov/About/Advisory-Board*

Privacy Act Statement: Authority. The collection of information concerning nominations to the MCAM FAC is authorized under the FACA, as amended, 5 U.S.C. app. and its implementing regulations, 41 CFR part 102–3, and in accordance with the Privacy Act of 1974, as amended, (Privacy Act) 5 U.S.C. 552a. *Purpose.* The collection of names, contact information, resumes, professional information, and qualifications is required in order for the Under Secretary to appoint members to the MCAM FAC. *Routine Uses.* NOAA will use the nomination information for the purpose set forth above. The Privacy Act of 1974 authorizes disclosure of the information collected to NOAA staff for work-related purposes and for other purposes only as set forth in the Privacy Act and for routine uses published in the Privacy Act System of Records Notice COMMERCE/DEPT–11, Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees, available at *https://www.osec.doc.gov/opog/PrivacyAct/SORNs/dept-11.html,* and the System of Records Notice COMMERCE/DEPT–18, Employees Personnel Files Not Covered by Notices of Other Agencies, available at *https://www.osec.doc.gov/opog/PrivacyAct/SORNs/DEPT-18.html. Disclosure.* Furnishing the nomination information is voluntary; however, if the information is not provided, the individual would not be considered for appointment as a member of the MCAM FAC.

Dave Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–17796 Filed 8–17–22; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC232]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Tillamook South Jetty Repairs in Tillamook Bay, Oregon

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

ACTION: Notice; issuance of incidental harassment authorizations.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued two incidental harassment authorizations (IHAs) to the U.S. Army Corps of Engineers (USACE)—Portland District (Corps) to incidentally harass, by Level A and Level B harassment only, marine mammals during construction activities associated with a Tillamook South Jetty Repairs in Tillamook Bay, Oregon.

DATES: The Year 1 IHA is effective from November 1, 2022 through October 31, 2023. The Year 2 IHA is effective from November 1, 2024 through October 31, 2024.

FOR FURTHER INFORMATION CONTACT: Reny Tyson Moore, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On February 11, 2022, NMFS received a request from the Corps for two one-year IHAs to take marine mammals incidental to repairs of the Tillamook South Jetty in Tillamook Bay, Oregon. The application was deemed adequate and complete on May 23, 2022. The Corps' request is for take of five species of marine mammals by Level B harassment and, for a subset of these species (*i.e.,* harbor seals (*Phoca vitulina richardii*), northern elephant seals (*Mirounga angustriostris*), and harbor porpoises (*Phocoena phocoena*)), take by Level A harassment. Neither the Corps nor NMFS expect serious injury or mortality to result from this activity and, therefore, IHAs are appropriate.

Description of Activity

The Corps constructed, and continues to maintain, two jetties at the entrance of Tillamook Bay, Oregon to provide reliable navigation into and out of the bay. A Major Maintenance Report (MMR) was completed in 2003 to evaluate wave damage to the jetties and provide design for necessary repairs. Some repairs to the North Jetty were completed in 2010, and further repairs to the North Jetty root and trunk began in January 2022. The Tillamook South Jetty Repairs Project (*i.e.,* the ''Corps' activities'') will complete critical repairs to the South Jetty, as described in the MMR, with a focus on rebuilding the South Jetty head. Work will consist of repairs to the existing structures within the original jetty footprints (*i.e.,* trunk repairs and the construction of a 100-foot cap to repair the South Jetty Head), with options to facilitate land- and water-based stone transport, storage,

and placement operations. A temporary material offload facility (MOF), which will be approximately 15 meters (m) (50 feet (ft)) by 30 m (100 ft), will be constructed at Kincheloe Point to transfer jetty rock from barges to shore at the South Jetty.

The two IHAs requested by the Corps will be associated with the construction (Year 1 IHA) and removal (Year 2 IHA) of the temporary MOF. Construction of the MOF will involve vibratory (preferred) and/or impact pile driving of up to 10 12-inch H piles, 24 24-inch timber or steel pipe piles, and 250 24-inch steel sheets (type NZ, AZ, PZ, or SCZ) (Table 1), and is anticipated to take 20 to 23 days and to occur between November 1, 2022 and February 15, 2023 or between July 1, 2023 and August 31, 2023 (Year 1). Removal of the MOF will involve vibratory extraction of all installed piles and sheets and is anticipated to take 13 days and is anticipated to occur between November 1, 2024 and February 15, 2025 or between July 1, 2025 and August 31, 2025 (Year 2). The Corps' work windows are between November and February and between July and August each year to adhere to terms and conditions outlined in the U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BiOp) to minimize potential take of the Western snowy plover (WSP), currently listed as threatened under the Endangered Species Act (ESA). Sounds resulting from pile installation and removal from the Corps' may result in the incidental take of marine mammals by Level A and Level B harassment. The Year 1 IHA is effective from November 1, 2022 to October 31, 2023; the Year 2 IHA is effective from November 1, 2024 to October 31, 2025.

TABLE 1—SUMMARY OF PILE DETAILS AND ESTIMATED EFFORT REQUIRED FOR THE CONSTRUCTION AND DECONSTRUCTION OF THE TEMPORARY MOF

Pile type	Size	Number of sheets/piles	Vibratory installation duration per pile/sheet (minutes)	Vibratory removal duration per pile/sheet (minutes)	Potential impact strikes per pile, if needed	Production rate (piles/day)			Range of installation days anticipated [1]		Range of vibratory removal days anticipated [1]
						Installation (vibratory)	Installation (impact)	Removal (vibratory)	Vibratory only	Vibratory and impact	
AZ Steel Sheet [2]	24-inch ...	250	10	3	.....	25	.....	50	10–12	10–12	5–7
Timber or Steel Pile.	24-inch ...	24	15	5	533	8	4	12	3–6	6–9	2–4
H-Pile	12-inch ...	10	10	3	.....	10	.....	10	1–2	1–2	1–2
Project Totals		284	49.83 hours	16.17 hours	.....	.....	.....	.....	14–20	17–23	8–13

[1] The minimum days of installation and removal are based on the expected production rates. The maximum days of installation and removal are estimated assuming built in contingency days, which have been added into the construction schedule, are needed.
[2] Or comparable.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (87 FR 38116; June 27, 2022). Since that time, no changes have been made to the planned construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposal to issue two IHAs to the Corps was published in the **Federal Register** on June 27, 2022 (87 FR 38116). That notice described, in detail, The Corps' activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorizations, and any other aspect of the notice of proposed IHAs, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period.

NMFS received no public comments.

Changes From the Proposed IHA to Final IHA

No substantive changes from the proposed IHAs to the final IHAs have been made that affect our analysis. Per the Corps' request the phrase ''during pile driving'' has been added to item 5(a) in the Year 2 IHA to clarify when monitoring by Protected Species Observers (PSOs) is required. In addition, typographical errors were identified in Table 4 in the Proposed IHA which have been corrected in the Final IHA (now Table 3). Specifically, the weighted cumulative sound exposure ($L_{E,p}$) impulsive PTS onset thresholds for low frequency cetaceans, mid-frequency cetaceans, and phocid pinnipeds were incorrect and have been corrected. No other changes have been made from the proposed IHAs to the final IHAs.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, incorporated here by reference, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks for which take is expected and authorized for these activities, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species

represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs (*e.g.,* Carretta *et al.* 2021) or Alaska SARs (*e.g.,* Muto et al. 2020). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2020 SARs (Carretta *et al.* 2021, Muto *et al.,* 2020) and draft 2021 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	MMPA stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Phocoenidae (porpoises):						
Harbor Porpoise	*Phocoena phocoena*	Northern OR/WA Coast	-,-, N	21,487 (0.44; 15,123; 2011).	151	≥3.0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S.	-,-, N	257,606 (N/A.; 233,515; 2014).	14,011	>320
Steller sea lion	*Eumetopias jubatus*	Eastern	-,-, N	43,201 (N/A; 43,201; 2017).	2,592	112
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	OR/CA Coastal	-, N	24,732 (0.12; N/A; 1999)	UND	10.6
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-,-, N	187,386 (N/A; 85,369; 2013).	5,122	5.3

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (N.A.).

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

As indicated above, all 5 species (with 5 managed stocks) in Table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized it. All species (26 marine mammal species and 27 marine mammal stocks) that could potentially occur in the action areas are included in Table 3–3 of the Corps' application. The majority of the species listed in the Corps' table are unlikely to occur in the project vicinity. For example, numerous cetaceans (*i.e.,* sei whale, *Balaenoptera borealis borealis;* fin whale, *Balaenoptera physalus physalus;* Risso's dolphin, *Grampus griseus;* common bottlenose dolphin, *Tursiops truncatus truncatus;* striped dolphin, *Stenella coeruleoalba;* common dolphin, *Delphinus delphis;* short-finned pilot whale, *Globicephala macrorhynchus;* Baird's beaked whale, *Berardius bairdii;* Mesoplodont beaked whale, *Mesoplodon spp.;* Cuvier's beaked whale, *Ziphius cavirostris;* pygmy sperm whale, *Kogia breviceps;* dwarf sperm whale, *Kogia sima;* sperm whale, *Physeter macrocephalus*) are only encountered at the continental slope (>20 kilometers (km)/12 miles (mi) offshore) or in deeper waters offshore and will not be affected by construction activities. Other species may occur closer nearshore but are rare or infrequent seasonal inhabitants off the Oregon coast (*i.e.,* minke whale, *Balaenoptera acutorostrata scammoni;* Pacific white-sided dolphin, *Lagenorhynchus obliquidens;* Northern right-whale dolphin, *Lissodelphis borealis;* killer whale, *Orcinus orca* (''Eastern North Pacific Southern Resident Stock''); Dall's porpoise, *Phocoenoides dalli dalli*). Given these considerations, the temporary duration of potential pile driving, and noise isopleths that will not extend beyond the bay entrance (please see Estimated Take), there is no reasonable expectation for the Corps' activities to affect the above species and they will not be addressed further.

While ten marine mammal species could occur in the vicinity of the Corps' activities (*i.e.,* harbor seals; Northern elephant seal; Steller sea lion; California sea lion; humpback whales, *Megaptera novaeangliae;* fin whales, *Balaenoptera physalus physalus;* gray whales, *Eschrichtius robustus;* blue whales, *Balaenoptera musculus musculus;* killer whales, *Orcinus orca;* and harbor porpoises), Tillamook Bay is relatively shallow and noise resulting from the construction/deconstruction of the MOF will be limited to the interior waters of the bay and will not extend to coastal waters. Larger whales (*e.g.,* humpback whales, fin whales, gray whales, blue whales, killer whales) may transit the waters near the coastline but are unlikely inhabitants of Tillamook Bay itself. In reviewing OBIS–SEAMAP (2022) and records for all marine mammals recorded within a 16 km (10 mi) radius of Tillamook Bay, only humpback whales, gray whales, harbor porpoises, California sea lions, Steller sea lions, and harbor seals were commonly reported. Killer whales have only been seen on rare occasions (TinyFishTV, 2014; rempeetube, 2016; Corey.c, 2017), and Dall's porpoise (and northern right whale dolphins have been reported a bit further offshore (Halpin *et al.,* 2009; OBIS–SEAMAP, 2022). Gray whales and humpback whales have been observed in the vicinity of Tillamook Bay, however, they are highly unlikely to enter the relatively shallow waters of Tillamook Bay and be subject to pile driving noise

disturbance. Given these considerations, take of these species (*i.e.,* humpback whales, fin whales, gray whales, blue whales, killer whales) is not expected to occur, and they are not discussed further beyond the explanation provided here.

A detailed description of the species likely to be affected by the Corps' project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, was provided in the **Federal Register** notice for the proposed IHA (87 FR 33116; June 27, 2022). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the Corps' construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHAs IHA (87 FR 33116; June 27, 2022) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the Corps' construction activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHAs (87 FR 33116; June 27, 2022).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through these IHAs, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment, as use of the acoustic sources (*i.e.,* pile driving and removal) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency cetaceans and/or phocids because predicted auditory injury zones are larger than for otariids. Auditory injury is unlikely to occur for otariids. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μPa)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 μPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

The Corps' activity includes the use of continuous (vibratory pile driving/removal) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μPa are applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Corps' activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving/removal) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{p,0\text{-}pk,flat}$: 219 dB; $L_{E,p,\ LF,24h}$: 183 dB.	*Cell 2:* $L_{E,p,\ LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{p,0\text{-}pk,flat}$: 230 dB; $L_{E,p,\ MF,24h}$: 185 dB	*Cell 4:* $L_{E,p,\ MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{p,0\text{-}pk,flat}$: 202 dB; $L_{E,p,HF,24h}$: 155 dB	*Cell 6:* $L_{E,p,\ HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{p,0\text{-}pk.flat}$: 218 dB; $L_{E,p,PW,24h}$: 185 dB	*Cell 8:* $L_{E,p,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{p,0\text{-}pk,flat}$: 232 dB; $L_{E,p,OW,24h}$: 203 dB.	*Cell 10:* $L_{E,p,OW,24h}$: 219 dB

* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0\text{-}pk}$) has a reference value of 1 µPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1µPa²s. In this Table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript "flat" is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.,* 7 Hz to 160 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the Corp's activities. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* impact pile driving, vibratory pile driving, and vibratory pile removal).

Sound Source Levels of Activities—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate distances to the Level A harassment and Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used empirical data from sound source verification (SSV) studies reported in Navy (2015) and CALTRANS (2020), to develop source levels for the various pile types, sizes and methods (Table 4). These proxies were chosen as they were obtained from SSV studies on piles of comparable types and sizes and/or in comparable environments (*e.g.,* they had comparable water depths). Note that these source levels represents the SPL referenced at a distance of 10 m from the source. It is conservatively assumed that the Corps will use steel instead of timber for the 24-inch pipe piles as the estimated proxy values for steel are louder than timber (*e.g.,* Greenbusch Group, 2018; 84 FR 61026, November 12, 2019). It is also conservatively assumed that vibratory removal will produce comparable levels of in-water noise as vibratory installation.

TABLE 4—ESTIMATES OF UNDERWATER SOUND LEVELS GENERATED DURING VIBRATORY AND IMPACT PILE INSTALLATION, AND VIBRATORY PILE REMOVAL

Pile driving method	Pile description	Source level (dB Peak)	Source level (dB RMS)	Source Level (dB SEL)	Reference
Impact (attenuated [1])	24-inch steel pipe pile	198	184	173	CALTRANS (2020).
Vibratory (installation and removal; unattenuated).	24-inch steel pipe pile	177	161	.....	Navy (2015).
	24-inch AZ steel sheets	.....	163	163	CALTRANS (2020).
	12-inch steel H-piles	165	150	147	CALTRANS (2020).

[1] The estimated SPLs for 24-inch steel pipes assume a 5 dB reduction resulting from the use of a confined bubble curtain system.

Level B Harassment Zones—Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * \log10 (R1/R2)$,

Where:

B = transmission loss coefficient (assumed to be 15)

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that will lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for the Corps' construction activities in the absence of specific modelling. All Level B harassment isopleths are reported in Table 6

considering RMS SSLs for impact and vibratory pile driving, respectively.

Level A Harassment Zones—The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources, such as vibratory and impact pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported in Table 5.

TABLE 5—NMFS USER SPREADSHEET INPUTS

	Impact pile driving	Vibratory pile driving					
	Installation	Installation			Removal		
	24-inch steel pipe pile	24-inch steel pipe pile	24-inch AZ steel sheets	12-inch steel H-piles	24-inch steel pipe pile	24-inch AZ steel sheets	12-inch steel H-piles
Spreadsheet Tab Used.	E.1) Impact pile driving.	A.1) Non-Impul, Stat, Cont.	A.1) Non-Impul, Stat, Cont.	A.1) Non-Impul, Stat, Cont.	A.1) Non-Impul, Stat, Cont.	A.1) Non-Impul, Stat, Cont.	A.1) Non-Impul, Stat, Cont
Source Level (SPL).	173 dB SEL	161 dB RMS	163 dB RMS	150 dB RMS	161 dB RMS	163 dB RMS	150 dB RMS
Transmission Loss Coefficient.	15	15	15	15	15	15	15
Weighting Factor Adjustment (kHz).	2	2.5	2.5	2.5	2.5	2.5	2.5
Number of strikes per pile.	533						
Time to install/remove single pile (minutes).		15	10	10	5	3	3
Piles per day	4	8	25	10	12	50	10

TABLE 6—DISTANCES TO LEVEL A HARASSMENT, BY HEARING GROUP, AND LEVEL B HARASSMENT THRESHOLDS PER PILE TYPE AND PILE DRIVING METHOD

Activity	Pile description	Piles per day	Level A harassment distance (m)			Level A harassment areas (km^2) for all hearing groups	Level B harassment distance (m) all hearing groups [1]	Level B harassment areas (km^2) for all hearing groups [1]
			HF	PW	OW			
Impact Installation (attenuated) [2]	24-inch steel pipe pile	4	424.5	190.7	13.8	< 0.5	399	0.39
Vibratory Installation	24-inch steel pipe pile	8	16.0	6.6	0.5	< 0.1	5,412	20.14
	24-inch AZ steel sheets	14	35.5	14.6	1.0	< 0.1	7,357	27.01
	12-inch steel H-piles	10	2.6	1.1	0.1	< 0.1	1,000	1.84
Vibratory Removal	24-inch steel pipe pile	12	10.1	4.2	0.3	< 0.1	5,412	20.14
	24-inch AZ steel sheets	50	25.3	10.4	0.7	< 0.1	7,357	27.01
	12-inch steel H-piles	10	1.2	0.5	0.0	< 0.1	1,000	1.84

[1] Harassment areas have been truncated where appropriate to account for land masses.
[2] Distances to Level A harassment, by hearing group, for impact pile driving were calculated based on SEL source levels as they resulted in larger, thus more conservative, isopleths for calculating PTS onset than Peak source levels.

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information, that inform the take calculations. We also describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and which is authorized.

In most cases, recent marine mammal counts, density estimates, or abundance estimates were not available for Tillamook Bay. Thus, information regarding marine mammal occurrence from proximal data obtained from nearshore sightings and haul-out sites (*e.g.,* Three Arch Rock) is used to approximate local abundance in Tillamook Bay. When proximal count estimates were available (*i.e.,* for harbor seals, Steller sea lions, and California sea lions), the Corps derived density estimates with an assumption that surveys accounted for animals present in the entirety of Tillamook Bay, an area roughly 37 km^2 (Oregon Coastal Atlas, 2022). The Corps multiplied marine mammal densities by isopleth areas to estimate potential take associated with pile driving. Given that marine mammal densities are likely not uniform in Tillamook Bay, NMFS instead estimates take associated with pile driving for these and the other marine mammal species assuming maximum daily occurrence rates (based on the abovementioned nearby proximal count estimates) multiplied by the total number of action days estimated per activity. There may be 20 (vibratory pile driving only) to 23 (vibratory and impact pile driving) total days of noise exposure from pile driving during the Corps' activities in Year 1 and 13 (vibratory removal only) total days of noise exposure from pile driving during the Corps' activities in Year 2. Takes for Year one for all species except harbor porpoises (see below) are estimated assuming that both vibratory and impact pile driving will be necessary and thus the maximum number of days of action

days are required (*i.e.,* 23 days). Takes for Year two assume that 13 total action days are required. A summary of authorized take is available in Tables 7 and 8.

Harbor Porpoises

There were multiple occurrences of 1–2 harbor porpoises detected in the coastal waters just north of the Tillamook Bay entrance during June and July of 1990 (Halpin *et al.,* 2009; Ford *et al.,* 2013). More recently, aerial surveys have detected single animals near the Tillamook Bay entrance in October 2011 and September 2012 (Adams *et al.,* 2014). Although there were no recorded harbor porpoise observations within Tillamook Bay itself, the species is somewhat cryptic and there is potentially low detection during aerial surveys. Thus, NMFS estimates the daily harbor porpoise abundance within Tillamook Bay to be 1 individual.

During Year 1, if impact pile driving is necessary for driving steel piles, the Level A harassment distance for this activity for harbor porpoises is larger than the Level B harassment distance (Table 6) and the shutdown zone (see Table 9 in the Mitigation section). Therefore, the Corps proposed that all harbor porpoises in Tillamook Bay on days when impact pile driving occurs will be taken by Level A harassment. NMFS concurs with this estimate and authorizes 9 instances of take by Level A harassment for harbor porpoises in Year 1 during construction of the MOF (1 harbor porpoise per day × 9 days of impact pile driving = 9 takes by Level A harassment).

During Year 1, if vibratory and impact pile driving is required, the Corps estimated that there could be 14 takes of harbor porpoises by Level B harassment (1 harbor porpoise per day × 12 days vibratory installing steel sheets = 12 takes by Level B harassment, and 1 harbor porpoise per day × 2 days vibratory installing H piles = 2 takes by Level B harassment, for a total of 14 takes by Level B harassment; Table 1). If only vibratory pile driving is required, the Corps estimated that 20 harbor porpoises may be taken by Level B harassment (1 harbor porpoise per day × 20 total action days; Table 1). Therefore, to be conservative, NMFS authorizes 20 instances of take by Level B harassment for harbor porpoises (the maximum estimate of animals that may be taken by Level B harassment based on the two likely scenarios) in Year 1 during construction of the MOF.

During Year 2, the Corps requested and NMFS authorizes 13 instances of take by Level B harassment for harbor porpoises during vibratory removal of the MOF (1 harbor porpoise per day × 13 total action days; Table 1). No Level A harassment is anticipated to occur or is authorized. Considering the small Level A harassment zones (Table 6) in comparison to the required shutdown zones (see Table 9 in the Mitigation section) it is unlikely that a harbor porpoise will enter and remain within the area between the Level A harassment zone and the shutdown zone for a duration long enough to be taken by Level A harassment.

California Sea Lions

The estimate for daily California sea lion abundance (n = 11) is based on coastal surveys conducted between 2002 and 2005 (Scordino, 2006). While pile driving will occur in winter or summer, the maximum number of animals detected during any month (*i.e.,* 11 sea lions in April) at the Three Arch Rock haul out site, located approximately 23 km (14 mi) from the site of the MOF, was used to estimate daily occurrence by the Corps. Given the distance of this haul out site from the Corps' activities, the fact that pile driving is not expected to occur in April due to timing constrictions, and the low likelihood that all animals present at the Three Arch Rock will leave and enter Tillamook Bay on a single day; the Corps' estimated that approximately half of the individuals present at Three Arch Rock (6 California sea lions) could potentially enter Tillamook Bay during pile driving and be subject to acoustic harassment. NMFS concurs and estimates, based on the best available science, the daily California sea lion abundance within Tillamook Bay to be 6 individuals.

During Year 1, NMFS authorizes 138 instances of take by Level B harassment for California sea lions during the construction of the MOF (6 California sea lions per day × 23 total action days required for impact and vibratory pile driving; Table 1). During Year 2, NMFS authorizes 78 instances of take by Level B harassment for California sea lions during vibratory removal of the MOF (6 California sea lions per day × 13 total action days; Table 1). Under either scenario, Level A harassment is not anticipated or authorized for Year 1 or Year 2. Considering the small Level A harassment zones (Table 6) in comparison to the required shutdown zones (see Table 9 in the Mitigation section) it is unlikely that a California sea lion will enter and remain within the area between the Level A harassment zone and the shutdown zone for a duration long enough to be taken by Level A harassment.

Steller Sea Lions

The Corps and NMFS are unaware of any recent data regarding Steller sea lion abundance near Tillamook Bay. Therefore, seasonal Steller sea lion abundance was estimated based on the maximum number of animals detected (n = 38 for between November and February, and n = 58 between July and August) at the Three Arch Rock haul out site during coastal surveys between 2002 and 2005 (Scordino, 2006). Given that this haul out site is roughly 23 km (14 mi) away from the MOF, the Corps conservatively estimated that half of the individuals present at Three Arch Rock (19 Steller sea lions between November and February, and 29 Steller sea lions between July and August) could potentially disperse throughout Tillamook Bay during pile driving and be subject to harassment from the Corps' activities. For the purposes of our take estimation, NMFS conservatively assumes that the daily Steller sea lion abundance in Tillamook Bay is equivalent to the largest seasonal abundance that the Corps estimated will be present (*i.e.,* we assume that 29 individual Steller sea lions will be present each day in Tillamook Bay).

During Year 1, NMFS authorizes 667 instances of take by Level B harassment for Steller sea lions during the construction of the MOF (29 Steller sea lions per day × 23 total action days required for impact and vibratory pile driving; Table 1). During Year 2, NMFS authorizes 377 instances of take by Level B harassment for Steller sea lions during vibratory removal of the MOF (6 Steller sea lions per day × 13 total action days; Table 1). Under either scenario, Level A harassment is not anticipated or authorized for Year 1 or Year 2. The Level A harassment zones (Table 6) are smaller than the required shutdown zones (see Table 9 in the Mitigation section), therefore it is unlikely that a Steller sea lion will enter and remain within the area between the Level A harassment zone and the shutdown zone for a duration long enough to be taken by Level A harassment.

Harbor Seals

The latest (May 2014) pinniped aerial surveys conducted by the Oregon Department of Fish and Wildlife (ODFW, 2022) estimated 220 harbor seals (pups and non-pups combined) within Tillamook Bay (B.E. Wright, personal communication, February 12, 2021). After applying the Huber *et al.* (2001) correction factor of 1.53, used to account for likely imperfect detection during surveys, the adjusted number of harbor seals that may have been present

Tillamook Bay during the 2014 surveys is approximately 337 individuals. However, that estimate likely overestimates the number of harbor seals present in the non-pupping season. Therefore, the Corps used calculations from monthly surveys of Tillamook Bay haul out sites between 1978 and 1981 carried out by Brown and Mate (1983) to estimate the average proportion of animals present during the Corps' Nov–Feb and Jul–Aug construction windows (relative to counts observed in May). Accounting for these proportions (0.67 and 1.2, respectively), the Corps estimated that the 337 harbor seals likely present in May 2014 will have equated to an average abundance of 226 harbor seals between November and February and 404 harbor seals between July and August. For the purposes of our take estimation, NMFS conservatively assumes that the daily harbor seal abundance in Tillamook Bay is equivalent to the largest seasonal abundance that the Corps estimated will be present (*i.e.,* we assume that 404 individual harbor seals will be present each day in Tillamook Bay).

During Year 1, NMFS estimates that 9,292 total instances of take for harbor seals will occur during the construction of the MOF (404 harbor seals per day × 23 total action days required for impact and vibratory pile driving; Table 1). NMFS estimates that 3,636 of these instances of take will be attributed to impact pile driving (404 harbor seals per day × 9 days impact pile driving) and the remaining 5,656 instances of take will be attributed to vibratory pile driving (404 harbor seals per day × 14 days vibratory pile driving). During impact pile driving, while a 100 m shutdown zone will be implemented for harbor seals (see Table 9 in the Mitigation section), an area of approximately 0.07 km² will still be ensonified above the Level A harassment threshold for phocids (Table 6). Given this remaining Level A harassment area for phocids is 17.95 percent of the Level B harassment area (0.39 km²), NMFS authorizes 653 (17.95 percent) of the total instances of take attributed to impact pile driving (*i.e.,* 17.95 percent of 3,636 instances of take), as instances of take by Level A harassment. NMFS authorizes the remaining 8,639 instances of take by Level B harassment.

During Year 2, NMFS authorizes 5,252 instances of take by Level B harassment for harbor seals during vibratory removal of the MOF (404 harbor seals per day × 13 total action days; Table 1). No take by Level A harassment is anticipated to occur or is authorized. The Level A harassment zones (Table 6) are smaller than the required shutdown zones (see the Mitigation section), therefore it is unlikely that a harbor seal will enter and remain within the area between the Level A harassment zone and the shutdown zone for a duration long enough to be taken by Level A harassment during MOF deconstruction.

Northern Elephant Seal

There were no recorded sightings of elephant seals within 16 km (10 mi) of Tillamook Bay within the OBIS–SEAMAP database (Halpin *et al.,* 2009; OBIS–SEAMAP, 2022) nor were any animals detected at the closest haul out site (*i.e.,* Three Arch Rock) during pinniped surveys between 2002 and 2005 (Scordino, 2006). In fact, the closest haul out site with Northern elephant seal observations during surveys was Cape Arago (Scordino 2006), roughly 6 km (4 mi) south of Coos Bay and 256 km (159 mi) south of Tillamook Bay. Given the low likelihood of occurrence within the project vicinity and the lack of reported sightings within the bay (Halpin *et al.,* 2009; OBIS–SEAMAP, 2022), the Corps conservatively estimated, and NMFS assumes, elephant seal abundance within Tillamook Bay at 1 individual every other day.

During Year 1, the Corps estimated that 12 northern elephant seals may be taken during the construction of the MOF (1 elephant seal every other day × 23 total action days; Table 1). If impact pile driving is necessary for driving steel piles, the Corps estimated that the total take during the 9 days of impact pile driving will be 5 individuals (1 elephant seal every other day × 9 total action days; Table 1). While a 100 m shutdown zone will be implemented for northern elephant seals during impact pile driving (see Table 9 in the Mitigation section), an area of approximately 0.07 km² will still be ensonified above the Level A harassment threshold for phocids during this activity (Table 6). Given this remaining Level A harassment area for phocids (0.07 km²) is 17.95 percent of the Level B harassment area (0.39 km²), NMFS authorizes 17.95 percent, or 1, instance of take by Level A harassment for northern elephant seals during impact pile driving (17.95 percent of the 12 total instances of take). The remaining 11 instances of take are authorized to be take by Level B harassment.

During Year 2, the Corps requested and NMFS authorizes 7 instances of Level B harassment take for northern elephant seals during vibratory removal of the MOF (1 elephant seal every other day × 13 total action days; Table 1). Level A harassment is not anticipated or authorized. The Level A harassment zones (Table 6) are smaller than the required shutdown zones (see Table 9 in the Mitigation section), therefore it is unlikely that a northern elephant seal will enter and remain within the area between the Level A harassment zone and the shutdown zone for a duration long enough to be taken by Level A harassment during deconstruction of the MOF.

TABLE 7—AUTHORIZED AMOUNT OF TAKING IN YEAR 1

Species	Stock	Level A	Level B	Total	Instances of take as a percentage of stock abundance
Harbor porpoise	Northern OR/WA Coast	9	20	29	0.14
California sea lion	U.S	0	138	138	0.05
Steller sea lion	Eastern	0	667	667	1.54
Harbor seal	OR/CA Coastal	653	8,639	9,292	37.57
Northern elephant seal	California Breeding	1	11	12	0.01

TABLE 8—AUTHORIZED AMOUNT OF TAKING IN YEAR 2

Species	Stock	Level A	Level B	Total	Instances of take as a percentage of stock abundance
Harbor porpoise	Northern OR/WA Coast	0	13	13	0.06
California sea lion	U.S	0	78	78	0.03
Steller sea lion	Eastern	0	337	337	0.78
Harbor seal	OR/CA Coastal	0	5,252	5,252	21.24
Northern elephant seal	California Breeding	0	7	7	<0.01

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

The Corps must employ the following standard mitigation measures, as included in their application and the IHAs:

- The Corps must conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to ensure that responsibilities, communication procedures, marine mammal monitoring protocols, and operational procedures are clearly understood;
- For in-water work other than pile driving/removal (*e.g.,* stone placement, use of barge-mounted excavators, or dredging), if a marine mammal comes within 10 m (33 ft), operations shall cease. Should a marine mammal come within 10 m (33ft) of a vessel in transit, the boat operator will reduce vessel speed to the minimum level required to maintain steerage and safe working conditions. If human safety is at risk, the in-water activity will be allowed to continue until it is safe to stop;
- In-water work activities may only occur when PSOs can effectively visually monitor for the presence of marine mammals, and when the entire shutdown zone and adjacent waters are visible (*e.g.,* including during daylight hours and when monitoring effectiveness is not reduced due to rain, fog, snow, etc.).
- For all pile driving/removal activities, the Corps must establish a minimum 15 m (49 ft) shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the type of driving/removal activity type and by marine mammal hearing group (see Table 9). Here, shutdown zones are larger than the calculated Level A harassment isopleth shown in Table 6, except for harbor porpoises, harbor seals, and northern elephant seals during impact driving of 24-inch steel piles when a 100-m shutdown zone will be visually monitored;

TABLE 9—SHUTDOWN ZONES DURING PROJECT ACTIVITIES

Activity	Pile description	Distance (m)		
		HF	PW	OW
Impact Installation (attenuated)	24-inch steel pipe pile	100	100	15
Vibratory Installation	24-inch steel pipe pile	50	15	15
	24-inch AZ steel sheets	50	15	15
	12-inch steel H-piles	15	15	15
Vibratory Removal	24-inch steel pipe pile	15	15	15
	24-inch AZ steel sheets	50	15	15
	12-inch steel H-piles	15	15	15

- The Corps must delay or shutdown all pile driving activities should an animal approach or enter the appropriate shutdown zone. The Corps may resume activities after one of the following conditions have been met: (1) the animal is observed exiting the shutdown zone; (2) the animal is thought to have exited the shutdown

zone based on a determination of its course, speed, and movement relative to the pile driving location; or (3) the shutdown zone has been clear from any additional sightings for 15 minutes;

- The Corps will employ PSOs trained in marine mammal identification and behaviors to monitor marine mammal presence in the action area, and must establish the following monitoring locations: during vibratory driving, at least one PSO must be stationed on the shoreline near the Port of Garibaldi to monitor as much of the Level B harassment zone as possible, and another PSO must be stationed on the shoreline adjacent to the MOF site to monitor the shutdown zone; during impact pile driving, two PSOs must be stationed on the shoreline adjacent to the MOF site to monitor the shutdown zone. The Corps must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. For all pile driving and removal at least two PSOs must be used;
- The placement of the PSOs during all pile driving and removal activities will ensure that the entire Level A harassment and shutdown zones are visible during pile installation and removal;
- Monitoring must take place from 30 minutes prior to initiation of pile driving (*i.e.,* pre-clearance monitoring) through 30 minutes post-completion of pile driving;
- If in-water work ceases for more than 30 minutes, the Corps will conduct pre-clearance monitoring of both the Level B harassment zone and shutdown zone;
- Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones indicated in 9are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals;
- Marine mammals observed anywhere within visual range of the PSO will be tracked relative to construction activities. If a marine mammal is observed entering or within the shutdown zones indicated in Table 9, pile driving must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone (Table 9), or 15 minutes have passed without re-detection of the animal;
- Vibratory hammers are the preferred method for installing piles at the MOF. If impact hammers are required to install steel piles, a confined bubble curtain must be used to minimize noise levels. The bubble curtain must adhere by the following restrictions:

(1) The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column;

(2) The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact; and

(3) Air flow to the bubblers must be balanced around the circumference of the pile;

- The Corps must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer. Soft starts will not be used for vibratory pile installation and removal. PSOs shall begin observing for marine mammals 30 minutes before ''soft start'' or in-water pile installation or removal begins;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;

Based on our evaluation of the applicant's measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following:

- PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued IHA. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued IHA. PSOs must be approved by NMFS

prior to beginning any activity subject to these IHAs; and

- PSOs will be placed at two vantage points as aforementioned in the Mitigation section (see Figure 1–3 of the Corps' IHA Application) to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator;
- PSOs will use a hand-held GPS device or rangefinder to verify the required monitoring distance from the project site;
- PSOs will scan the waters within the Level A harassment and Level B harassment zones using binoculars (10x42 or similar) or spotting scopes (20–60 zoom or equivalent) and make visual observations of marine mammals present; and
- PSOs must record all observations of marine mammals, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;

Additionally, the Corps will have PSOs conduct one pinniped monitoring count a week prior to construction and report the number of marine mammals present within 500 m (1640 ft) of the Tillamook South Jetty or MOF. Upon completion of jetty repairs, PSOs will conduct two post-construction monitoring events, with one approximately 4 weeks after construction, and another at 8 weeks post construction. These post-construction marine mammal surveys will help to determine whether marine mammal detections post-construction were comparable to surveys conducted prior to construction.

Reporting

Draft marine mammal monitoring reports will be submitted to NMFS within 90 days after the completion of pile driving (Year 1 IHA) and removal activities (Year 2 IHA), or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes first. The reports will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the reports must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.,* impact or vibratory) and the total equipment duration for vibratory installation and removal for each pile or total number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, sex class, etc.); Animal's closest point of approach and estimated time spent within the harassment zone; Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones and shutdown zones, by species;
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any;
- Description of other human activity within each monitoring period;
- Description of any deviation from initial proposal in pile numbers, pile types, average driving times, etc.;
- Brief description of any impediments to obtaining reliable observations during construction period; and
- Description of any impediments to complying with these mitigation measures.

If no comments are received from NMFS within 30 days, the draft final reports will constitute the final reports. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to the West Coast Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, the Corps must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHAs. The Corps must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and

• General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in Table 2, other than harbor seals, given that the anticipated effects of this activity on these marine mammal stocks are expected to be similar. For harbor seals, there are meaningful differences in the amount of take; therefore, we provide a supplemental analysis for harbor seals, independent of the other species for which we authorize take.

Pile driving activities associated with the Corps' construction activities, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance), and for some species, Level A harassment incidental to underwater sounds generated from pile driving. Takes could occur if individuals are present in zones ensonified above the thresholds for Level B harassment and Level A harassment, identified above, while activities are underway. NMFS does not anticipate that serious injury or mortality will occur as a result of the Corps' planned activity given the nature of the activity, even in the absence of required mitigation. For all species and stocks, take will occur within a limited, confined area (adjacent to the project site) of the stock's range. Required mitigation is expected to minimize the duration and intensity of the authorized taking by Level A and Level B harassment. Further, the amount of take authorized is extremely small for 4 of the 5 species when compared to stock abundance.

The primary method of installation will be vibratory pile driving. Vibratory pile driving produces lower SPLs than impact pile driving. The rise time of the sound produced by vibratory pile driving is slower, reducing the probability and severity of injury. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact pile driving is used, implementation of soft start measures, a bubble curtain, and shutdown zones will significantly reduce any possibility of injury. Given sufficient notice through use of soft starts (for impact driving), marine mammals are expected to move away from a sound source prior to it becoming potentially injurious. The Corps will use two PSOs stationed strategically to increase detectability of marine mammals during pile installation and removal, enabling a high rate of success in implementation of shutdowns to avoid injury for most species.

Instances of Level A harassment take are not authorized for California sea lions and Steller sea lions in Year 1 or for any species in Year 2. Instances of Level A harassment takes are authorized for nine harbor porpoises, one northern elephant seal, and 653 harbor seals in Year 1. All of these Level A harassment takes are attributed to impact pile driving, which if implemented, will only occur intermittently on up to nine days with the required mitigation measures described above, minimizing potential for take by Level A harassment. In addition, the calculated Level A harassment likely overestimates PTS exposure because: (1) individuals are unlikely to remain in the Level A harassment zone long enough to accumulate sufficient exposure to noise resulting in PTS, and (2) the estimates assume new individuals are in the Level A harassment zone every day during impact pile driving. Further, should individuals be repeatedly exposed to accumulated sound energy, impact pile driving will only occur intermittently for up to nine days, minimizing any severe impacts to individual fitness, reproduction, or survival. Nonetheless, we have considered the potential impacts of these PTS takes occurring in this analysis. Due to the levels and durations of likely exposure, animals that experience PTS will likely only receive slight PTS, *i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the frequency range of the energy produced by pile driving (*i.e.,* the low-frequency region below 2 kilohertz (kHz)), not severe hearing impairment or impairment in the reigns of greatest hearing sensitivity. If hearing impairment does occur, it is most likely that the affected animal will lose a few dBs in its hearing sensitivity, which in most cases, is not likely to meaningfully affect its ability to forage and communicate with conspecifics.

Additionally, and as noted previously, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. Because of the small degree anticipated, though, any TTS incurred will not be expected to adversely impact individual fitness, let alone annual rates of recruitment or survival.

Behavioral responses of marine mammals to pile driving and removal in Tillamook Bay are expected to be mild, short term, and temporary. Marine mammals within the Level B harassment zones may not show any visual cues they are disturbed by activities or they could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns or increased haul out time (Thorson and Reyff, 2006). Given that pile driving and removal will occur intermittently for only a short duration (20–23 days in Year 1 and 13 days in Year 2), often on nonconsecutive days, any harassment occurring will be temporary. Additionally, many of the species present in the region will only be present temporarily based on seasonal patterns or during transit between other habitats. These temporarily present species will be exposed to even smaller periods of noise-generating activity, further decreasing the impacts. Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction

has been observed primarily only in association with impact pile driving, which will only be used if necessary. The pile driving activities analyzed here are similar to, or less impactful than, other construction activities conducted in Oregon, which have taken place with no known long-term adverse consequences from behavioral harassment. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

The Corps' activities are limited in scope spatially. While precise impacts will not be known until the MOF has been designed, based on a MOF built for a similar project (The Coos Bay North Jetty Maintenance project, *https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-army-corps-engineers-north-jetty-maintenance-and-repairs*), it is estimated that temporary impacts below the high tide line (HTL) will be limited to 0.14 acres or less. The full extent of the MOF and associated access dredging will be approximately 3.6 acres, with an additional 3.7 acres of upland disturbance associated with the MOF staging area. For all species, there are no known habitat areas of particular importance (*e.g.,* Biologically Important Areas (BIAs), critical habitat, primary foraging or calving habitat) in the project area that will be impacted by the Corps' activities. In general, cetaceans and pinnipeds are infrequent visitors near the site of the Corps' construction activities due to shallow waters in this region further reducing the likelihood that cetaceans and pinnipeds will approach and be present within the ensonified areas. Further, none of the harassment isopleths block the entrance out of Tillamook Bay (see Figures 6–1 and 6–2 in the Corps' application), thus marine mammals could leave the bay and engage in foraging, social behavior or other activities without being subject to Level A or Level B harassment.

The impact of harassment on harbor seals is difficult to assess given the most recent abundance estimate available for this stock is from 1999 (Table 2). We are aware that there is one haul-out site located approximately 1.5 km (0.9 mi) east of the Corps' construction site on an intertidal sand flat in the middle of the bay (see Figure 4–1 in the Corps' application) that has been historically noted in Tillamook Bay. Given the Level B harassment distances for vibratory installation and removal of 24-inch steel pipe piles and 24-inch AZ steel sheets are larger than 1.5 km (0.9 mi) (see Table 6), we can presume that some harbor seals will be repeatedly taken. In addition, while there are no known pinniped haul outs on Bayocean split, harbor seals and other pinnipeds may be resting or hauled out on land near the site of the MOF construction, jetty rocks, or nearby beaches. Repeated, sequential exposure to pile driving noise over a long duration could result in more severe impacts to individuals that could affect a population; however, the limited number of non-consecutive pile driving days for this project means that these types of impacts are not anticipated.

The project also is not expected to have significant adverse effects on affected marine mammal habitat. The project activities will not modify existing marine mammal habitat for a significant amount of time. Any impacts on marine mammal prey that will occur during the Corps' planned activity will have, at most, short-term effects on foraging of individual marine mammals, and likely no effect on the populations of marine mammals as a whole. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Indirect effects on marine mammal prey during the construction are expected to be minor, and these effects are unlikely to cause substantial effects on marine mammals at the individual level, with no expected effect on annual rates of recruitment or survival.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat will have any effect on the stocks' annual rates of recruitment or survival. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will, therefore, not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- For all species except harbor seals in Year 1, only a few individuals are expected to incur PTS in any year (nine harbor porpoises in Year 1, one elephant seal in Year 1, and zero individuals for all other species and years), and any single instance of exposure above the PTS threshold is expected to result in only a small degree of hearing loss, which is not expected to impact reproduction or survivorship of any individuals;
- Though the higher predicted numbers of harbor seal PTS in Year 1 suggest that there may be repeated exposures of some number of individuals above PTS thresholds, which could potentially result in a greater degree of PTS accrued to those individuals, given the intermittency (non-consecutive days) of the pile driving and the anticipated duration and levels of exposure, still only a relatively small degree of hearing loss is anticipated and not expected to impact reproduction or survival;
- The Corps will implement mitigation measures including soft-starts and shutdown zones to minimize the numbers of marine mammals exposed to injurious levels of sound, and to ensure that take by Level A harassment is, at most, a small degree of PTS;
- Take will not occur in places and/or times where take will be more likely to accrue to impacts on reproduction or survival, such as within BIAs, or other habitats critical to recruitment or survival (*e.g.,* rookery);
- Take will occur over a short timeframe (*i.e.,* intermittently over up to 23 and 13 non-consecutive days in Year 1 and Year 2, respectively). This short timeframe minimizes the probability of multiple exposures on individuals, and any repeated exposures that do occur (which are more likely for harbor seals) are not expected to occur on sequential days, decreasing the likelihood of physiological impacts caused by chronic stress or sustained energetic impacts that might affect survival or reproductive success;
- Any impacts to marine mammal habitat from pile driving (including to prey sources as well as acoustic habitat, *e.g.,* from masking) are expected to be temporary and minimal; and
- Take will only occur within a small portion of Tillamook Bay—a limited, confined area of any given stock's home range.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into

consideration the implementation of the monitoring and mitigation measures, NMFS finds, specific for both the Year 1 and Year 2 IHAs, that the total marine mammal take from the Corps' activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated stock abundance for all but one species (in fact, take of individuals is less than two percent of the abundance of four of the five affected stocks, see Tables 7 and 8). The estimated instances of take as percentages of stock abundance shown in the Tables 7 and 8 are if we assume all takes are of different individual animals, which is likely not the case. Some individuals may return multiple times in a day, but PSOs will count them as separate takes if they cannot be individually identified. More importantly, due to their behavior in the area, some individuals will likely be taken on multiple days, resulting in a lower number of individuals taken than the predicted number of instances in Tables 7 and 8.

There is no current estimate of abundance available for this harbor seals (Carretta *et al.,* 2021). In 1999, aerial surveys of harbor seals in Oregon and Washington were conducted by the National Marine Mammal Laboratory (NMLL) and the Oregon and Washington Departments of Fish and Wildlife (ODFW and WDFD) during the pupping season. After applying a correction factor to account for seals missed during aerial surveys (Huber *et al.,* 2001), they estimated that the population size of the Oregon/Washington Coast Stock of harbor seals was 24,732 (CV = 0.12) in 1999. Historical and current trends of harbor seal abundance in Oregon and Washington are unknown. Based on the analyses of Jeffries *et al.* (2003) and Brown *et al.* (2005), both the Washington and Oregon portions of this stock were reported as reaching carrying capacity. While the authorized instances of take for harbor seals equates to 37.57 percent of the 1999 abundance estimate in Year 1 and 21.24 percent of this abundance in Year 2, harbor seals are not known to make extensive migrations and are known to display strong fidelity to haul out sites (Pitcher and Calkins, 1979; Pitcher and McAllister, 1981). Therefore, we presume that some of the harbor seals present in the action area will be repeatedly taken and actual number of individuals exposed to Level A and Level B harassment will be much lower. Further, we calculated take estimates of harbor seals assuming the maximum seasonal abundance of individuals were present in Tillamook Bay during each action day; however, work may occur during other times of the year when harbor seal abundance is estimated to be lower, and thus the actual number of individuals exposed to Level A and Level B harassment will be lower. Lastly, take will occur in a small portion of Tillamook Bay and it is unlikely that a third of the stock will be in these waters during the short duration of the Corps' activities.

Based on the analysis contained herein of the Corps' activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds, for both the Year 1 and Year 2 IHAs, that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from the Corps' activities. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our action (*i.e.,* the issuance of two IHAs) and alternatives with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that this action qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued two IHAs to the Corps' for the potential harassment of small numbers of five marine mammal species incidental to conducting repairs of the Tillamook South Jetty in Tillamook Bay, Oregon, that includes the previously explained mentioned mitigation, monitoring and reporting requirements.

Dated: August 12, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–17775 Filed 8–17–22; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0085: Rule 50.50 End-User Notification of Non-Cleared Swap

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of a collection of

certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the renewal of the reporting requirement that is embedded in the final rule adopting the end-user exception to the Commission's swap clearing requirement.

DATES: Comments must be submitted on or before October 17, 2022.

ADDRESSES: You may submit comments, identified by ''Rule 50.50 End-User Notification of Non-Cleared Swap, OMB Control No. 3038–0085,'' by any of the following methods:

- The CFTC's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Megan Wallace, Senior Special Counsel, (202) 418–5150, *mwallace@cftc.gov;* Daniel O'Connell, Special Counsel, (202) 418–5583, *doconnell@cftc.gov;* each of the Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the 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 or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the currently approved collection of information listed below. 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.[1]

Title: Rule 50.50 End-User Notification of Non-Cleared Swap (OMB Control No. 3038–0085). This is a request for an extension of a currently approved information collection.

Abstract: CFTC Rule 50.50 specifies the requirements for eligible end-users who may elect the end-user exception from the Commission's swap clearing requirement, as provided under section 2(h)(7) of the Commodity Exchange Act (''CEA''). Rule 50.50 requires the counterparties to report certain information to a swap data repository registered with the Commission, or to the Commission directly, if one or more counterparties elects the end-user exception. The rule establishes a reporting requirement for end-users that is critical to ensuring compliance with the Commission's clearing requirement under section 2(h)(1) of the CEA and is necessary in order for Commission staff to prevent abuse of the end-user exception. In addition, this collection relates to information that the Commission needs to monitor elections of the end-user exception and to assess market risks.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[2]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection for eligible end-users electing the end-user exception under CFTC Rule 50.50. The Commission is decreasing the estimated number of respondents from 1,600 to 1,200 based on an observed decrease in the number of entities electing the exception. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 1,200.

Estimated Average Burden Hours per Respondent: 0.58 hours.

Estimated Total Annual Burden Hours: 696 hours.

Frequency of Collection: On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 15, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–17791 Filed 8–17–22; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0102: Clearing Exemption for Certain Swaps Entered Into by Cooperatives

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

[1] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

[2] 17 CFR 145.9.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the reporting requirements related to Commission regulation 50.51, which permits certain cooperatives to elect not to clear certain swaps that otherwise would be required to be cleared, provided that they meet certain conditions.

DATES: Comments must be submitted on or before October 17, 2022.

ADDRESSES: You may submit comments, identified by ''Clearing Exemption for Certain Swaps Entered into by Cooperatives, OMB Control No. 3038–0102,'' by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Megan Wallace, Senior Special Counsel, (202) 418–5150, *mwallace@cftc.gov;* Daniel O'Connell, Special Counsel, (202) 418–5583, *doconnell@cftc.gov;* each of the Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the 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 or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the currently approved collection of information listed below. 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.[1]

Title: Clearing Exemption for Certain Swaps Entered into by Cooperatives (OMB Control No. 3038–0102). This is a request for an extension of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act (''CEA'') requires certain entities to submit swaps for clearing if they are required to be cleared by the Commission. Commission regulation 50.51 permits certain cooperatives to elect not to clear certain swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule establishes a reporting requirement for cooperatives that is critical to ensuring compliance with the Commission's clearing requirement under section 2(h)(1) of the CEA and is necessary in order for Commission staff to prevent abuse of the cooperative exemption. In addition, this collection relates to information that the Commission needs to monitor elections of the cooperative exemption and to assess market risks.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[2]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission anticipates that there will continue to be approximately 25 eligible respondents and the hourly burden will remain the same as in the 2019 renewal. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 25.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25 hours.

Frequency of Collection: On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 15, 2022

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–17790 Filed 8–17–22; 8:45 am]

BILLING CODE 6351–01–P

[1] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

[2] 17 CFR 145.9.

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2022–0048]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is requesting to revise an existing information collection, titled ''Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements.''

DATES: Written comments are encouraged and must be received on or before October 17, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2022–0048 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, PRA Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements.

OMB Control Number: 3170–0001.

Type of Review: Revision of a previously approved information collection.

Affected Public: Business and other for-profit institutions.

Estimated Number of Respondents: 615.

Estimated Total Annual Burden Hours: 506.

Abstract: The Bureau intakes different forms of credit card data from credit card issuers, as required by the Truth in Lending Act (TILA), 15 U.S.C. 1601, *et seq.* and implementing regulations:

—The ''Terms of Credit Card Plans Survey'' collects data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The data enables the Bureau to present information to the public on terms of credit card plans;

—Sections 204 and 305 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), amending TILA, and 12 CFR 1026.57(d) and 1026.58, require card issuers to submit to the Bureau:

- Agreements between the issuer and a consumer under a credit card account for an open-end consumer credit plan; and
- Any college credit card agreements to which the issuer is a party and certain additional information regarding those agreements.

The data collections enable the Bureau to provide Congress and the public with a centralized and searchable repository for consumer and college credit card agreements and information regarding the arrangements between financial institutions and institutions of higher education.

Request for Comments: Comments are invited on: (a) Whether the mandatory collection of information, pursuant to statute, is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau'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 notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2022–17807 Filed 8–17–22; 8:45 am]

BILLING CODE 4810–AM–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Notice of Public Hearing

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Defense Nuclear Facilities Safety Board (DNFSB) will hold a Public Hearing regarding legacy cleanup activities, nuclear safety, and increased production activities at Los Alamos National Laboratory (LANL). The purpose of this Public Hearing is to gather information on activities and plans of the Department of Energy's Office of Environmental Management (EM) and the National Nuclear Security Administration (NNSA).

DATES: The Public Hearing will be held on November 16, 2022, from 12:00 p.m. to 9:45 p.m.

ADDRESSES: The Public Hearing will be held at the Santa Fe Community Convention Center, 201 West Mercy Street, Sante Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Tara Tadlock, Associate Director for Board Operations, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: This Public Hearing will be composed of two parts. The first portion of the hearing will take place on Wednesday, November 16, 2022, from 12:00 p.m. to 2:30 p.m., and will be focused on the activities performed by EM at the LANL Area G transuranic waste management facility. DNFSB's objective is to understand actions completed and planned to strengthen Area G's safety basis and plans to remove legacy transuranic waste while minimizing the amount above ground. Board Members will hear testimony from the Manager of the EM Los Alamos Field Office, the President of N3B Los Alamos, and the Program Manager for N3B Los Alamos.

During the second portion of the Public Hearing, from 4:00 p.m. to 8:30 p.m., Board Members will gather information on (1) the production activities to be conducted in the Plutonium Facility, (2) the nuclear safety risks NNSA has accepted, and (3) the state of planned safety improvements to safety system infrastructure and safety programs. The second portion of the hearing will first focus on the NNSA's national security missions and nuclear safety posture, followed by a focus on improving safety

systems, safety management programs, and oversight. Board Members will hear testimony from the NNSA Administrator, the Manager of the NNSA Los Alamos Field Office, the Director of Triad National Security, LLC, and the Deputy Laboratory Director, Weapons, for Triad National Security, LLC. Board Members will also hear remarks from DNFSB's Technical Director.

Following the portion focused on NNSA, the Board Members will hear comments from interested members of the public from 8:45 p.m. to 9:45 p.m. Persons interested in speaking during the public comment portion of the Public Hearing are encouraged to pre-register by submitting a request in writing to the Office of General Counsel at 625 Indiana Avenue NW, Suite 700, Washington, DC 20004, emailing *hearing@dnfsb.gov,* or calling (202) 694–7062 or (800) 788–4016 prior to close of business on November 11, 2022. DNFSB asks that commenters describe the nature and scope of their oral presentations. Those who pre-register will be scheduled to speak first. Individual oral comments may be limited by the time available, depending on the number of persons who register.

At the beginning of the hearing, a list of speakers will be posted at the entrance to the hearing room. Anyone who wishes to comment or provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. The Board Members may question presenters to the extent deemed appropriate. Written comments and documents will be accepted at the hearing or may be sent to DNFSB's Washington, DC office. DNFSB will hold the hearing record open until December 16, 2022, for the receipt of additional materials. Additional details, including the detailed agenda for the hearing, are available at *https://www.dnfsb.gov.*

The hearing will be presented live through internet video streaming. A link to the presentation will be available on DNFSB's website, and a recording will be posted soon after. A transcript of these sessions and the associated correspondence will be made available on the DNFSB's website. DNFSB specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, conduct further reviews, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Authority: 42 U.S.C. 2286b(a).

Dated: August 11, 2022.

Joyce Connery,

Chair.

[FR Doc. 2022–17792 Filed 8–17–22; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

2025 Resource Pool—Loveland Area Projects, Final Power Allocation

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final power allocation.

SUMMARY: Western Area Power Administration (WAPA), a Federal Power Marketing Administration of the Department of Energy (DOE), announces its Loveland Area Projects (LAP) 2025 Resource Pool final power allocation. WAPA developed the final power allocation under the requirements of subpart C-Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule and WAPA's LAP 2025 Power Marketing Initiative (2025 PMI), as published in the **Federal Register** on December 30, 2013. The final power allocations are established prior to the contractual phase of the 2025 Resource Pool process. Firm electric service contracts negotiated between WAPA and eligible allottees will permit delivery of hydroelectric power beginning October 1, 2024, through September 30, 2054.

DATES: The LAP 2025 Resource Pool final power allocation will become effective September 19, 2022, and will remain in effect through September 30, 2054.

ADDRESSES: Information about the LAP 2025 Resource Pool allocation procedures, including correspondence and supporting documents, is available for public inspection and copying at the Rocky Mountain Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO.

SUPPLEMENTARY INFORMATION: The 2025 PMI, as published in the **Federal Register** December 30, 2013 (78 FR 79444), provides the basis for marketing the LAP long-term firm hydroelectric resource beginning October 1, 2024, through September 30, 2054. The 2025 PMI established three resource pools available for reallocation to eligible new preference entities. Reallocations will occur at the beginning of the October 1, 2024, contract term and again every 10 years thereafter on October 1, 2034, and October 1, 2044. Each resource pool contains up to one percent of the marketable resource under contract at that time.

WAPA notified the public of the 2025 Resource Pool allocation procedures, including the General Eligibility Criteria, and called for applications in the **Federal Register** on September 20, 2021 (86 FR 52145). It then published its 2025 Resource Pool, Loveland Area Projects, Proposed Power Allocation and initiated a public comment period in the **Federal Register** (87 FR 24555, April 26, 2022). A public information and comment forum on the proposed power allocation was held at 1:30 p.m., MDT, on May 23, 2022. Public comments were due to WAPA by 4:00 p.m., MDT, on June 10, 2022. There were no comments received during the public comment period. WAPA is now finalizing the proposed power allocations with publication of this notice in the **Federal Register**.

2025 Resource Pool Resources

WAPA will allocate up to one percent of the LAP long-term firm hydroelectric resource available as of October 1, 2024. The amount of the resource that will become available on October 1, 2024, is approximately 6.9 megawatts (MW) for the summer season and 6.1 MW for the winter season. The 2025 Resource Pool will be created by reducing existing customers' firm electric service allocations by up to one percent.

Final Power Allocation

In response to WAPA's allocation procedures and call for applications (86 FR 52145), WAPA received 13 applications for the 2025 Resource Pool, by the due date of November 15, 2021. Of the applications received by the due date, WAPA determined that one applicant did not meet the 2025 Resource Pool General Eligibility Criteria and was therefore ineligible to receive an allocation. After the application due date, WAPA learned that the Town of Basin, Wyoming (Basin), faxed its Applicant Profile Data (APD) form application to WAPA on November 10, 2021. Basin's APD form was not successfully received by WAPA, and WAPA was unaware that Basin submitted an application. Basin resubmitted its APD form to WAPA on May 5, 2022. WAPA reviewed Basin's APD form but determined that Basin did not meet the 2025 Resource Pool General Eligibility Criteria and was therefore ineligible to receive an allocation.

The resource pool will be allocated proportionately by season to 12 qualified allottees based on average seasonal load for calendar year 2020. The final power allocations for the 12

qualified allottees, shown in the table below, are based on the LAP marketable resource currently available and are subject to the minimum allocation (100 kilowatts) and maximum allocation (5,000 kilowatts) criteria. If the LAP marketable resource is adjusted in the future, all allocations may be adjusted accordingly.

Allottees	Proposed LAP 2025 resource pool power allocation			
	Summer kilowatt-hours	Winter kilowatt-hours	Summer kilowatts	Winter kilowatts
City of Alma, KS	1,641,046	1,174,939	1,003	781
City of Blue Mound, KS	219,242	176,015	134	117
Buckley Space Force Base, CO	4,198,329	3,598,531	2,566	2,392
City of Elwood, KS	921,145	648,398	563	431
City of Luray, KS	214,334	156,458	131	104
City of Montezuma, KS	1,353,086	1,036,534	827	689
City of Morrill, KS	163,614	150,440	100	100
Village of Paxton, NE	595,554	570,169	364	379
City of Prescott, KS	163,614	150,440	100	100
City of Robinson, KS	163,614	150,440	100	100
Village of Trenton, NE	571,012	532,559	349	354
City of Wathena, KS	1,097,848	761,228	671	506
Total 2025 Resource Pool	11,302,438	9,106,151	6,908	6,053

All 12 qualified allottees reside beyond the boundary of WAPA's LAP transmission system. As a result, delivery of the allocation will require each allottee to obtain additional transmission arrangements, acceptable to WAPA, for delivery of the proposed power allocation to the allottee's point of delivery. By June 1, 2024, each allottee must have firm delivery arrangements in place to be effective October 1, 2024, unless otherwise agreed to in writing by WAPA. WAPA must receive a letter of commitment from each allottee's serving utility or transmission provider by June 1, 2024, confirming that the allottee has secured the necessary transmission arrangements. If WAPA does not receive a commitment letter by June 1, 2024, unless otherwise agreed in writing by WAPA, WAPA will withdraw its offer of a power allocation.

Any long-term LAP firm electric service contract offered by WAPA to an allottee shall be executed by the allottee by December 31, 2022, unless otherwise agreed to in writing by WAPA. Allottees which are a member of a member-based organization and elect to temporarily assign their allocation to the member-based organization, will be required to execute WAPA's assignment agreement, in lieu of a LAP long-term firm electric service contract, by December 31, 2022, unless otherwise agreed to in writing by WAPA.

Regulatory Procedure Requirements

Environmental Compliance

WAPA has determined this action fits within the following categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021.B4.1 (Contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.[1]

Specifically, WAPA has determined this rulemaking is consistent with activities identified in part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA–RMR's website at: *https://www.wapa.gov/regions/RM/environment/Pages/CX2021.aspx*. Look for the file entitled ''2021–091 LAP 2025 Resource Pool CX.''

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on August 5, 2022, by Tracey A. LeBeau, Administrator, Western Area Power Administration, 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 August 12, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–17722 Filed 8–17–22; 8:45 am]

BILLING CODE 6450–01–P

[1] The determination was done in compliance with NEPA (42 U.S.C. 4321–4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0223; FRL–8631–01–OCSPP]

Pesticide Registration Review; Dicamba Revised Human Health and Draft Ecological Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's revised human health and draft ecological risk assessments for the registration review of dicamba.

DATES: Comments must be received on or before October 17, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0223 for dicamba, 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 Confidential Business Information (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/.*

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: Cathryn Britton, Branch Chief, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2339; email address: *britton.cathryn@epa.gov.*

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the information under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low- income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed comprehensive the revised human health and draft ecological risk assessments for dicamba. After reviewing comments received during the public comment period, EPA may issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for dicamba. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of dicamba pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's revised human health and draft ecological risk assessments for the pesticide shown in the following table and opens a 60-day public comment period on the risk assessments.

TABLE—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and No.	Docket ID No.	Registration review contact information
Dicamba, Case 0065	EPA–HQ–OPP–2016–0223	Cathryn Britton, *britton.cathryn@epa.gov,* (202) 566–2339.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's revised human health and draft ecological risk assessments for dicamba. The Agency will consider all comments received during the public comment period and

make changes, as appropriate, to the revised human health and draft ecological risk assessment. EPA may then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments.

Information submission requirements. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audio-graphic or video-graphic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 11, 2022.

Mary Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2022–17754 Filed 8–17–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0154; FRL–10092–01–OCSPP]

Pesticide Registration Review; Revised Proposed Interim Decision for 1,3-Dichloropropene; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's revised proposed interim registration review decision and opens a 60-day public comment period on the revised proposed interim decision for 1,3-dichloropropene (1,3-D).

DATES: Comments must be received on or before October 17, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0154, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: Michelle Nolan, Chemical Review Manager, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; email address: *nolan.michelle@epa.gov.*

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the information under **FOR FORTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at: *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed the revised proposed interim decision for 1,3-D. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table 1 in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155,

subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's revised proposed interim registration review decision for 1,3-D and opens a 60-day public comment period on the revised proposed interim registration review decision (see Table 1 for more details).

TABLE 1—REVISED PROPOSED INTERIM DECISION BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and number	Docket ID No.	Chemical review manager and contact information
1,3-Dichloropropene Case Number 0328	EPA–HQ–OPP–2013–0154	Michelle Nolan, *nolan.michelle@epa.gov*, (202) 566–2237.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of 1,3-D, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. This revised proposed interim registration review decision is supported by the rationales included in those documents. Following public comment, the Agency will issue an interim or final registration review decision for 1,3-D.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the revised proposed interim decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for 1,3-D. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 12, 2022.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2022–17753 Filed 8–17–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0809; FR ID 101127]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 17, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0809.

Title: Communications Assistance for Law Enforcement Act (CALEA).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 250 respondents; 260 responses.

Estimated Time per Response: 7.5–80 hours.

Frequency of Response: On occasion reporting requirements, recordkeeping and third-party disclosure requirements.

Obligation to Respond: Mandatory and Voluntary. Statutory authority is contained in sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. 1004, 1006(c),

1008(b), and 229; Public Law 103–414, 108 Stat. 4279 (1994).

Total Annual Burden: 2,435 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: CALEA records submitted pursuant to this information collection are not made available routinely for public inspection.

Needs and Uses: The Communications Assistance for Law Enforcement Act (CALEA) requires the Commission to create rules that regulate the conduct and recordkeeping of lawful electronic surveillance. CALEA was enacted in October 1994 to respond to rapid advances in telecommunications technology and eliminates obstacles faced by law enforcement personnel in conducting electronic surveillance. Section 105 of CALEA requires telecommunications carriers to protect against the unlawful interception of communications passing through their systems. Law enforcement officials use the information maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

On May 12, 2006, the Commission released a *Second Report and Order and Memorandum Opinion and Order* in ET Docket No. 04–195, FCC 06–56, which became effective August 4, 2006, except for §§ 1.20004 and 1.2005 of the Commission's rules, which became effective on February 12, 2007. The Second Report and Order established new guidelines for filing section 107(c) petitions, section 109(b) petitions, and monitoring reports (FCC Form 445). CALEA section 107(c)(1) permits a petitioner to apply for an extension of time, up to two years from the date that the petition is filed, and to come into compliance with a particular CALEA section 103 capability requirement. CALEA section 109(b) permits a telecommunication carrier covered by CALEA to file a petition with the FCC and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier's CALEA compliance (cost-shifting relief) with respect to any equipment, facility or service installed or deployed after January 1, 1995. The Second Report and Order required several different collections of information:

(a) Within 90 days of the effective date of the Second Report and Order, facilities based broadband internet access and interconnected Voice over Interconnected Protocol (VOIP) providers newly identified in the First Report and Order in this proceeding were required to file system security statements under the Commission's rules. (Security systems are currently approved under the existing OMB 3060–0809 information collection).

(b) All telecommunications carriers, including broadband internet access and interconnected VoIP providers, must file updates to their systems security statements on file with the Commission as their information changes.

(c) Petitions filed under Section 107(c), request for additional time to comply with CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

(d) Section 109(b), request for reimbursement of CALEA; these provisions apply to all carriers subject to CALEA and are voluntary filings.

(e) Currently, the Commission is developing the CALEA Electronic Filing System (CEFS) that is expected to be fully operational by the end of 2022.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2022–17740 Filed 8–17–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2022–16]

Filing Dates for the Indiana Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Indiana has scheduled a special election on November 8, 2022, to fill the U.S. House of Representatives seat in the 2nd Congressional District held by the late Representative Jackie Walorski. Committees required to file reports in connection with the Special General Election on November 8, 2022, shall file a 12-day Pre-General and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Indiana Special General Election shall file a 12-day Pre-General Report on October 27, 2022, and a 30-day Post-General Report on December 8, 2022. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Indiana Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Indiana General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Indiana special election may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $20,200 during the special election reporting period. (See chart below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR INDIANA SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Political Committees Involved in the Special General (11/08/2022) Must File			
Pre-General	10/19/2022	10/24/2022	10/27/2022
Post-General	11/28/2022	12/08/2022	12/08/2022
Year-End	12/31/2022	01/31/2023	01/31/2023

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

Dated: August 12, 2022.

On behalf of the Commission.

Allen Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–17786 Filed 8–17–22; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2022–N–10]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is establishing FHFA–28, ''Government-Sponsored Enterprise Prospective Employee Directory'' (System) in order to collect information FHFA will use to evaluate prospective senior-level employees and executives for the Federal National Mortgage Association (Fannie Mae) and any affiliate thereof and the Federal Mortgage Corporation (Freddie Mac) and any affiliate thereof (collectively, the ''GSEs''), in carrying out the statutory authorities of the Director to oversee the prudential operations of each regulated entity.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on August 18, 2022, unless otherwise revised pursuant to comments received. New routine uses will go into effect on September 19, 2022. Comments must be received on or before September 19, 2022. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by ''No. 2022–N–10,'' using any one of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/No. 2022–N–10,'' in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2022–N–10, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2022–N–10, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.* See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Stacy Easter, Privacy Act Officer, *privacy@fhfa.gov* or (202) 649–3803; or Tasha Cooper, Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3091 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on a new system of records and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing ''Comments/No. 2022–N–10,'' please reference ''FHFA–28, Government-Sponsored Enterprise Prospective Employee Directory.''

FHFA will make all comments timely received available for examination by the public through the electronic comment docket for this notice, which is located on the FHFA website at *https://www.fhfa.gov.* All comments received will be posted without change and will include any personal information you provide, such as name, address (mailing and email), telephone numbers, and any other information you provide.

II. Introduction

This notice informs the public of FHFA's proposal to establish and maintain a new system of records. This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when establishing a new or making a significant change to an agency's system of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. Records and information in this system of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, ''*Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*'', prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. New System of Records

The information in this system of records will be used by FHFA to evaluate prospective senior-level employees and executives for the Federal National Mortgage Association and any affiliate thereof, and the Federal Mortgage Corporation and any affiliate thereof (collectively, the ''GSEs''), in carrying out the statutory authorities of the Director to oversee the prudential operations of each regulated entity. The new system of records is described in detail below.

SYSTEM NAME AND NUMBER:

Government-Sponsored Enterprise Prospective Employee Directory, FHFA–28.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized cloud service provider (Amazon Web Service, which is FedRAMP authorized).

SYSTEM MANAGER(S):

Division of Conservatorship Oversight and Readiness (DCOR), Supervisory Conservatorship Specialist, (202) 649–3408, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 CFR 1200.1 through 1200.2; and 12 U.S.C. 4513, 4514, 4518, 4526.

PURPOSE(S) OF THE SYSTEM:

The information in this system of records will be used by FHFA to evaluate prospective senior-level employees and executives for the Federal National Mortgage Association and any affiliate thereof, and the Federal Mortgage Corporation and any affiliate thereof (collectively, the ''GSEs''), in carrying out the statutory authorities of the Director to oversee the prudential operations of each regulated entity.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective senior-level employees and executives for the GSEs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain information such as the name, contact information (*e.g.,* business and home addresses, business and personal email addresses, business, home, cellular, personal telephone numbers), educational credentials and work history for prospective senior-level employees and executives for the GSEs. This information may also include independent contractor engagements, professional compensation history, investment holdings information, and also criminal background checks for prospective senior-level employees and executives along with their family members.

RECORD SOURCE CATEGORIES:

Information is provided by the GSEs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to (i) respond to a suspected or confirmed breach or (ii) prevent, minimize, or remedy harm caused by such breach.

(2) To a federal agency or federal entity, when FHFA determines information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or; (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (*e.g.,* federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and those matters appeared to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To members of advisory committees created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(7) To a Congressional office in response to an inquiry from the Congressional office made at the request of and on behalf of the Congressional Offices' constituents included in the system.

(8) To outside counsel contracted by FHFA, the U.S. Department of Justice (DOJ), (including United States Attorney Offices), or other federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

a. FHFA;

b. Any employee of FHFA in his/her official capacity;

c. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

d. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(9) To the National Archives and Records Administration or other federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(10) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as relevant and necessary to such audit or oversight functions.

(11) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic or paper format. Electronic records are stored on FHFA's secured network, FHFA-authorized cloud service providers and FHFA-authorized contractor networks located within the Continental United States. Paper records are stored in locked offices, locked file rooms, and locked file cabinets or safes.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records will be retrieved by an individual's name.

POLICIES AND PRACTICIES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with FHFA's Comprehensive Record Schedule, Item 3.2 (N1–543–11–1, approved on 01/11/2013), and reflects Transmittal No. 31 GRS Authorities, 04/2020.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in controlled access areas. Electronic records are protected by restricted access procedures, including user identifications and passwords. Only FHFA staff (and FHFA contractors assisting such staff) whose official duties require access are allowed to view, administer, and control these records.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' Below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' Below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system should address their inquiry to the Privacy Act Officer, via email to *privacy@fhfa.gov* or by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2022–17756 Filed 8–17–22; 8:45 am]

BILLING CODE 8070–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2022–06; Docket No. 2022–0002; Sequence No. 12]

Maximum Per Diem Reimbursement Rates for the Continental United States (CONUS)

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

ACTION: Notice of GSA Per Diem Bulletin FTR 23–01, Fiscal Year (FY) 2023 CONUS per diem reimbursement rates.

SUMMARY: The GSA FY 2023 per diem reimbursement rates review has resulted in lodging and meal allowance changes for certain locations within CONUS to provide for reimbursement of Federal employees' subsistence expenses while on official travel.

DATES: *Applicability Date:* This notice applies to travel performed on or after October 1, 2022 through September 30, 2023.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Sarah Selenich, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202–969–7798 or by email at *travelpolicy@gsa.gov.* Please cite Notice of GSA Per Diem Bulletin FTR 23–01.

SUPPLEMENTARY INFORMATION:

Background

The CONUS per diem reimbursement rates prescribed in Bulletin 23–01 may be found at *https://www.gsa.gov/perdiem.* GSA bases the maximum lodging allowance rates on average daily rate, a widely accepted lodging industry measure, less five percent. If a maximum lodging allowance rate and/or a meals and incidental expenses (M&IE) per diem reimbursement rate is insufficient to meet necessary expenses in any given CONUS location, Federal executive agencies can request that GSA review that location. Please review questions six and seven of GSA's per diem Frequently Asked Questions page at *https://www.gsa.gov/perdiem* for more information on the special review process. In addition, the Federal Travel Regulation (FTR) allows for actual expense reimbursement as provided in §§ 301–11.300 through 301–11.306.

For FY 2023, no new non-standard area locations were added. Maximum lodging allowance rates in some existing per diem localities will increase and the standard CONUS lodging rate will increase from $96 to $98. The M&IE per diem tiers for FY 2023 are unchanged at $59–$79, with the standard M&IE rate unchanged at $59.

Other than the changes posted on the GSA website, notices published periodically in the **Federal Register** now constitute the only notification of revisions in CONUS per diem reimbursement rates to agencies.

Krystal J. Brumfield,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2022–17785 Filed 8–17–22; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Matching Program

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

ACTION: Notice of new matching program.

SUMMARY: In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is providing notice of a new matching program between CMS and the Department of the Treasury (Treasury), Internal Revenue Service (IRS), ''Verification of Household Income and Family Size for Insurance Affordability Programs and Exemptions.''

DATES: The deadline for comments on this notice is September 19, 2022. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (from October 5, 2022 to April 4, 2024) and within 3 months of expiration may be renewed for one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit comments on the new matching program to the CMS Privacy Officer by mail at: Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services, Location: N1–14–56, 7500 Security Blvd., Baltimore, MD 21244–1850, or by email to *Barbara.Demopulos@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching program, you may contact Anne Pesto, Senior Advisor, Marketplace Eligibility and Enrollment Group, Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services, at 410–786–3492, by email at *anne.pesto@cms.hhs.gov,* or by mail at 7500 Security Blvd., Baltimore, MD 21244.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a) provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other federal or non-federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Barbara Demopulos,

Privacy Act Officer, Division of Security, Privacy Policy and Governance, Information Security and Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services.

Participating Agencies

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is the recipient agency, and the Department of the Treasury (Treasury), Internal Revenue Service (IRS) is the source agency.

Authority for Conducting the Matching Program

The statutory authority for the matching program is 42 U.S.C. 18001.

Purpose(s)

The purpose of the matching program is to provide CMS with IRS return information which CMS and state-based administering entities (AEs) will use to verify household income and family size for applicants and enrollees receiving eligibility determinations and redeterminations for benefits under the Patient Protection and Affordable Care Act (PPACA), including: enrollment in a Qualified Health Plan (QHP) or a state's Basic Health Plan (BHP) through the federally-facilitated Exchange (FFE) or a state-based Exchange (SBE); advance payments of the premium tax credit (APTC); a cost sharing reduction (CSR); enrollment in Medicaid and the Children's Health Insurance Program (CHIP); and certain certificates of exemption.

Categories of Individuals

The individuals whose information will be used in the matching program are consumers (applicants and enrollees) who receive the eligibility determinations and redeterminations described in the preceding Purpose(s) section (in particular, taxpayers whose return information is requested from IRS to verify an applicant's or enrollee's household income and family size).

Categories of Records

The categories of records used in the matching program are identity information and return information (specifically, household income and family size information). To request return information from IRS, CMS will provide IRS with the relevant taxpayer's name, social security number (SSN), and relationship to the applicant(s) or enrollee(s) (*i.e.,* primary, spouse, or dependent). When IRS is able to match the SSN and name provided by CMS and return information is available, IRS will disclose to CMS the following items of return information with respect to that taxpayer:

1. SSN;

2. family size;

3. tax filing status;

4. modified adjusted gross income (MAGI);

5. taxable Social Security benefits;

6. adjusted gross income (AGI) for adjusted tax returns;

7. taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available; and

8. any other specified item of return information authorized pursuant to 26 U.S.C. 6103(1)(21) and its implementing regulations.

System(s) of Records

The records used in this matching program will be disclosed from the following systems of records, as authorized by routine uses published in the System of Records Notices (SORNs) cited below:

A. System of Records Maintained by CMS

- CMS Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, last published in full at 78 FR 63211 (Oct. 23, 2013), as amended at 83 FR 6591 (Feb. 14, 2018).

B. System of Records Maintained by IRS

- Customer Account Data Engine (CADE) Individual Master File, Privacy Act SOR Treasury/IRS 24.030, published at 80 FR 54064 (Sept. 8, 2015).

[FR Doc. 2022–17788 Filed 8–17–22; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1745]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. This meeting will be held to discuss the Strain Selection for the Influenza Virus Vaccines for the 2023 Southern Hemisphere Influenza Season. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on October 6, 2022, from 8:30 a.m. to 12:40 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at the following link on the day of the meeting at: *https://youtu.be/qazitJMHZK4.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–1745. The docket will close on October 5, 2022. Either electronic or written comments on this public meeting must be submitted by September 29, 2022. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 5, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before September 28, 2022, will be provided to the committee. Comments received after September 28, 2022, and by October 5, 2022, will be taken into consideration by FDA. In the event that the meeting is canceled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–1745 for ''Vaccines and Related Biological Products Advisory Committee (VRBPAC); Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Eastern Time Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information, be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Sussan Paydar or Prabhakara Atreya, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 240–506–4946, *CBERVRBPAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the

advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On October 6, 2022, the committee will meet in open session to discuss the Strain Selection for the Influenza Virus Vaccines for the 2023 Southern Hemisphere Influenza Season.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: On October 6, 2022, from 8:30 a.m. to 12:40 p.m. EasternTime, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before September 28, 2022, will be provided to the committee. Comments received after September 28, 2022, and by October 5, 2022, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 10:40 a.m. and 11:40 a.m. EasternTime. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, along with their names, email addresses, and direct contact phone numbers of proposed participants, on or before 12 p.m. Eastern Time on September 21, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by 6 p.m. September 22, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Sussan Paydar or Prabhakara Atreya (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 15, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–17784 Filed 8–17–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Council of Councils, September 8, 2022, 10:30 a.m. to September 9, 2022, 03:00 p.m., virtual meeting which was published in the **Federal Register** on, August 8, 2022, FR Doc 2022–16892, 87 FR 48189.

The notice is being amended to change the start and end times of the open portion of the meeting on September 8, 2022 from 10:30 a.m. to 10:15 a.m. and end time 3:00 p.m. to 3:30 p.m. and change the end time of the open portion of the meeting on September 9, 2022 from 3:10 p.m. to 3:15 p.m.

Dated: August 12, 2022.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–17726 Filed 8–17–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.* Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION:

SARS–CoV–2 Infection of Human Lung Epithelial Cells Triggers a Cell-Mediated Acute Fibrin Fibrosis

Description of Technology

Scientists at National Institute of Allergy and Infectious Diseases (NIAID) have developed a method of treatment for virus-induced lung fibrosis using nebulized thrombin inhibitors. Since March 2020, the World Health Organization (WHO) estimates that 564 million people have been infected with SARS–CoV–2 world-wide. Lung fibrosis is a major factor associated with SARS–CoV–2 infections and can contribute to mortality. Additionally, severe SARS–CoV–2 cases can result in long-term pulmonary disease due to lung fibrosis. At present, attempts to treat lung fibrosis developed during a SARS–CoV–2 infection using intravenous heparin have been unsuccessful.

NIAID scientists have discovered a previously unknown acute fibrosis mechanism mediated by SARS–CoV–2 infected primary lung epithelium, and have developed an innovative method of treating lung fibrosis using nebulized thrombin inhibitors.

This technology is available for licensing for commercial development

in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications

- Innovative method of treatment for virus-induced lung fibrosis
- A multi-targeted approach could decrease lung-term symptoms associated with SARS–CoV–2

Competitive Advantages

- Addresses the pathology at the proper location instead of indiscriminately

Development Stage

- Pre-Clinical

Inventors: Peter Sun and Rachel Erickson, all of NIAID.

Intellectual Property: US Provisional Application 63/388,498 (HHS Reference No. E–157–2022–0–US–01) filed on 12 July 2022.

Licensing Contact: To license this technology, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov,* and reference E–157–2022.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.*

Dated: August 12, 2022.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2022–17730 Filed 8–17–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of meetings of the National Advisory Allergy and Infectious Diseases Council.

The meeting will be open to the public. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*). Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: September 12, 2022.

Open: 10:30 a.m. to 11:30 a.m.

Agenda: Report of Institute Director.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Closed: 11:45 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Acquired Immunodeficiency Syndrome Subcommittee.

Date: September 12, 2022.

Closed: 8:30 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Open: 1:00 p.m. to 4:00 p.m.

Agenda: Report of Division Director and Division Staff.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Microbiology and Infectious Diseases Subcommittee.

Date: September 12, 2022.

Closed: 8:30 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Open: 1:00 p.m. to 4:00 p.m.

Agenda: Report of Division Director and Division staff.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Acquired Immune Deficiency Syndrome Subcommittee.

Date: September 12, 2022.

Closed: 8:30 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Open: 1:00 p.m. to 4:00 p.m.

Agenda: Report of Division Director and Division Staff.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Any interested person may file written comments within 15 days of the meeting with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.niaid.nih.gov/about/advisory-council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 12, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–17728 Filed 8–17–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Pancreatic Cancer Detection Consortium (U01).

Date: September 29, 2022.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850, 240–276–5122, *hasan.siddiqui@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SEP: Research Projects in Physical Sciences-Oncology (U01).

Date: September 30, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Saejeong J. Kim, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850, 240–276–7684, *saejeong.kim@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–5: NCI Clinical and Translational Cancer Research.

Date: October 6–7, 2022.

Time: 9:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850, 240–276–5122, *hasan.siddiqui@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2: NCI Clinical and Translational Cancer Research.

Date: October 11–12, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850, 240–276–7286, *salvucco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) SEP–B.

Date: October 13–14, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–5415, *paul.cairns@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–A: NCI Program Project (P01).

Date: October 13–14, 2022.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–672–6175, *singhshr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Control Research in Persistent Poverty Areas.

Date: October 19–20, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850 (Telephone Conference Call)

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850, 240–276–6343, *schweinfestcw@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Transition to Independence Study Section (I).

Date: October 19–20, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–11: NCI Clinical and Translational Cancer Research.

Date: October 21, 2022.

Time: 9:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–672–6175, *singhshr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI R50 Research Specialist (Clinical Scientist) Award.

Date: October 21, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–276–5085, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Institutional Training and Education Study Section (F).

Date: October 25–26, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive,

Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP 8: NCI Clinical and Translational Cancer Research.

Date: November 3, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–7755, *byeong-chel.lee@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–3: NCI Clinical and Translational Cancer Research.

Date: November 3–4, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W242, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Zhiqiang Zou, M.D., Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Rockville, Maryland, 20850 240–276–6372, *zouzhiq@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Integrating Biospecimen Science Approaches into Clinical Assay Development (U01).

Date: November 10, 2022.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–7755, *byeong-chel.lee@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–17727 Filed 8–17–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Institutional Research Training Grant Review Meeting (T32).

Date: September 12–13, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Evon S. Ereifej, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Rockville, MD 20852, *ereifejes@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Suicide Prevention.

Date: September 30, 2022.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 12, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–17729 Filed 8–17–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0573]

National Towing Safety Advisory Committee; September 2022 Meeting

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The National Towing Safety Advisory Committee (Committee) will meet to review and discuss matters relating to shallow-draft inland navigation, coastal waterway navigation, and towing safety. The meeting will be open to the public.

DATES: *Meeting:* The Committee will meet on Wednesday, September 21, 2022, from 8 a.m. until 5:00 p.m. Central Daylight Time (CDT). Please note the meeting may close early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the meeting, submit your written comments no later than September 16, 2022.

ADDRESSES: The meeting will be held at the San Jacinto College Maritime Technology and Training Center located at 3700 Old Highway 146, La Porte, Texas 77571 (*https://www.sanjac.edu/programs-courses/maritime.*)

Attendees at the meeting will be required to follow COVID–19 safety guidelines promulgated by Centers for Disease Control and Prevention (CDC), which may include the need to wear masks. CDC guidance on COVID protocols can be found here: *https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance.html.*

The National Towing Safety Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Mr. Matthew D. Layman at *Matthew.D.Layman@uscg.mil* or call at 202–372–1421 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meeting as time permits, but if you want Committee members to review your comment before the meeting, please submit your comments no later than September 16, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through Federal eRulemaking

Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2022–0573]. Comments received will be posted without alteration at *https://www.regulations.gov* including any personal information provided. You may wish to review the Privacy and Security notice available on the homepage of *https://www.regulations.gov,* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew D. Layman, Designated Federal Officer of the National Towing Safety Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1421, or *Matthew.D.Layman@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* (5, U.S.C., Appendix). The National Towing Safety Advisory Committee is authorized by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* (Pub. L. 115–282, 132 Stat. 4190), and is codified in 46 U.S.C. 15108. The Committee operates under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. Appendix), and 46 U.S.C. 15109. The National Towing Safety Advisory Committee provides advice and recommendations to the Secretary of Homeland Security through the Commandant of the U. S. Coast Guard, on matters related to shallow-draft inland navigation, coastal waterway navigation, and towing safety.

Agenda

The agenda for the National Towing Safety Advisory Committee is as follows:

I. Opening
- a. Call to Order/DFO Remarks
- b. Committee Chairperson Remarks
- c. Roll Call and Determination of Quorum
- d. U.S. Coast Guard Leadership Remarks

II. Administration
- a. Adoption of Meeting Agenda
- b. Approval of Meeting Minutes for June 14th, 2022 Committee Meeting

III. Old Business
- a. Update from Subcommittees:
  - Task #21–03, Report On the Anticipated Challenges Expected to Impact the Towing Vessel Industry
  - Task #21–04, Report on the Challenges Faced by the Towing Vessel Industry as a Result of the Covid-19 Pandemic
- b. Vetting Subcommittee Update

IV. New Business

a. Committee Planning

V. Information Session
- a. USCG Sector Houston-Galveston Overview
- b. San Jacinto Maritime Technology and Training Center
- c. Towing Vessel National Center of Expertise
- d. Houston Pilots Association
- e. Loan Star Harbor Safety Committee

VI. Committee Discussion

VII. Public Comment Period

VIII. Closing Remarks/Plans for Next Meeting

IX. Adjournment of Meeting

A copy of all pre-meeting documentation will be available at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Office-of-Operating-and-Environmental-Standards/vfos/TSAC/* no later than September 16, 2022. Alternatively, you may contact Mr. Matthew Layman as noted above in the **FOR FURTHER INFORMATION CONTACT** section above.

There will be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT SECTION** to register as a speaker.

Dated: August 12, 2022.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2022–17773 Filed 8–17–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0209]

National Merchant Marine Personnel Advisory Committee; September 2022 Meeting

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The National Merchant Marine Personnel Advisory Committee (Committee) will conduct a series of meetings over three days in Dania Beach, FL to discuss issues relating to personnel in the United States Merchant Marine including the training, qualifications, certification, documentation, and fitness of mariners.

DATES:

Meetings: The National Merchant Marine Personnel Advisory Committee is scheduled to meet on Wednesday, September 7, 2022, from 9:00 a.m. until 4:30 p.m. Eastern Daylight Time (EDT), Thursday, September 8, 2022, from 9:00 a.m. until 4:30 p.m. (EDT), and Friday, September 9, 2022, from 9:00 a.m. until 3:00 p.m. (EDT). Committee meetings on Wednesday, September 7, and Thursday, September 8, will include periods during which the Committee will break into subcommittees. These meetings may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the meeting, submit your written comments no later than August 24, 2022.

ADDRESSES: The meeting will be held at the STAR Center, 2 West Dixie Highway, Dania Beach, FL 33004, additional information about the facility can be found at: *www.star-center.com.*

Pre-registration Information: Pre-registration is required for in-person access to the meeting. If you are not a member of the Committee and do not represent the Coast Guard, you must request in-person attendance by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Attendees at the meeting will be required to follow COVID–19 safety guidelines promulgated by the Centers for Disease Control and Prevention (CDC), which may include the need to wear masks and the completion of STAR Center's pre-arrival questionnaire for visitors, which can be accessed at

(*www.star-center.com*). You may be asked to show this form when entering the facility. Masks will be provided for attendees upon request. CDC guidance on COVID protocols can be found here: *https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance.html.*

The National Merchant Marine Personnel Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Mrs. Megan Johns Henry at *megan.c.johns@uscg.mil* or call at (202) 372–1255 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings as time permits, but if you want Committee members to review your comment before the meeting, please submit your comments no later than August 24, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2022–0209. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mrs. Megan Johns Henry, Alternate Designated Federal Officer of the National Merchant Marine Personnel Advisory Committee, telephone (202) 372–1255, or email *megan.c.johns@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is in compliance with the *Federal Advisory Committee Act* (5 U.S.C. appendix). The National Merchant Marine Personnel Advisory Committee is authorized by section 601 of the *Frank LoBiondo Act of 2018,* and is codified in 46 U.S.C. 15103. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. appendix), and 46 U.S.C. 15109. The National Merchant Marine Personnel Advisory Committee provides advice and recommendations to the Secretary of Homeland Security through the Commandant of the United States Guard on matters relating to personnel in the United States Merchant Marine including the training, qualifications, certification, documentation, and fitness of mariners.

Agenda

The National Merchant Marine Personnel Advisory Committee will meet on Wednesday, September 7, 2022, Thursday, September 8, 2022, and Friday, September 9, 2022 to review, discuss, deliberate and formulate recommendations, as appropriate on the following topics:

Day 1

The agenda for the September 7, 2022 meeting is as follows:

(1) The full Committee will meet briefly to discuss the subcommittees' business/task statements, which are listed under paragraph (9) under Day 3 below.

(2) During the morning session of the meeting, the full Committee will meet to discuss Workforce Issues and the Mariner Shortage.

(3) During the afternoon session of the meeting, subcommittees will then separately address and work on the following task statements, which are available for viewing at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee- (nmerpac);*

(a) Task Statement 21–4, STCW Convention and STCW Code Review;

(b) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses, including amendment Task Statement 21–5A, JTA to Mass Mapping; and

(c) Task Statement 21–9, Sexual Harassment and Sexual Assault-Prevention and Culture Change in the Merchant Marine.

(4) Report of subcommittees. At end of the day, the Chair or Co-Chairs of the subcommittees will report to the full Committee on what was accomplished. The full Committee will not take action on this date and the Chair or Co-Chairs of the subcommittees will present a full report to the Committee on Day 3 of the meeting.

(5) Adjournment of meeting.

Day 2

The agenda for the September 8, 2022 meeting is as follows:

(1) The full Committee will meet briefly to discuss the subcommittees' business/task statements, which are listed under paragraph (9) under Day 3 below.

(2) During the morning session of the meeting, subcommittees will then separately address and work on the following task statements, which are available for viewing at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee- (nmerpac);*

(a) Task Statement 21–4, STCW Convention and STCW Code Review;

(b) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses, including amendment Task Statement 21–5A, JTA to Mass Mapping; and

(c) Task Statement 21–9, Sexual Harassment and Sexual Assault. Prevention and Culture Change in the Merchant Marine.

(3) During the afternoon session of the meeting, subcommittees will then separately address and work on the following task statements, which are available for viewing at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee- (nmerpac);*

(a) Task Statement 21–4, STCW Convention and STCW Code Review;

(b) Task Statement 21–2, Communications Between External Stakeholders and the Mariner Credentialing Program; and

(c) Task Statement 21–9, Sexual Harassment and Sexual Assault, Prevention and Culture Change in the Merchant Marine.

(4) Report of subcommittees. At end of the day, the Chair or Co-Chairs of the subcommittees will report to the full Committee on what was accomplished. The full Committee will not take action on this date and the Chair or Co-Chairs of the subcommittees will present a full report to the Committee on Day 3 of the meeting.

(5) Adjournment of meeting.

Day 3

The agenda for the September 9, 2022 meeting is as follows:

(1) Introduction.

(2) Designated Federal Officer remarks.

(3) Roll call of Committee members and determination of a quorum.

(4) Adoption of the agenda.
(5) Acceptance of Minutes from Committee Meeting Two (May 3, 2022).
(6) Remarks from U.S. Coast Guard Leadership.
(7) Introduction of new task.
(8) Introduction of task addendum.
(9) U.S. Coast Guard presentations.
(10) Reports from the subcommittee Chair or Co-Chairs. The Committee will review the information presented on the following Task Statements and deliberate on any recommendations presented by the subcommittees, recommendations may be approved and completed tasks may be closed. Official action on these topics may be taken:
(a) Task Statement 21–1, Review of IMO Model Courses Being Validated by the IMO HTW Subcommittee
(b) Task Statement 21–2, Communication Between External Stakeholders and the Mariner Credentialing Program, including amendment Task Statement 21–2A, Reviewing Assessments in NVICS for STCW;
(c) Task Statement 21–3, Military Education, Training, and Assessment for STCW and National Mariner Endorsements;
(d) Task Statement 21–04, STCW Convention and STCW Code Review;
(e) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses, including amendment Task Statement 21–5A, JTA to Mass Mapping;
(f) Task Statement 21–6, Sea Service for Merchant Mariner Credential Endorsements;
(g) Task Statement 21–8, Remote Operators of Maritime Autonomous Surface Ships;
(h) Task Statement 21–9, Sexual Harassment and Sexual Assault-Prevention and Culture Change in the Merchant Marine;
(i) Task Statement 22–1, Propulsion Power Limits; and
(j) Task Statement 22–2, Alternative Methods for Meeting STCW Training Requirements at the Operational Level.
(11) Public comment period.
(12) Closing remarks.
(13) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-(nmerpac)* by August 24, 2022. Alternatively, you may contact the individual noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meetings as the Committee discusses the issues, and prior to deliberations and voting. There will also be a public comment period at the end of the meeting on September 9, 2022 at approximately 2:30 p.m. (EDT). Public comments will be limited to 3 minutes per speaker. Please note that the public comments period will end following the last call for comments.

Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Dated: August 15, 2022.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2022–17794 Filed 8–17–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/A0A501010.999900]

National Tribal Broadband Grant; Solicitation of Proposals

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior (Secretary), through the Office of Indian Economic Development (OIED), Division of Economic Development (DED), solicits proposals from eligible federally recognized Tribes for the National Tribal Broadband Grant (NTBG) to support feasibility studies for installation or expansion of high-speed internet (broadband).

DATES: Grant application packages must be submitted to *Grants.gov* no later than 5 p.m. ET, on October 17, 2022. OIED will not consider proposals received after this time and date.

ADDRESSES: The required method of submitting proposals is through *Grants.gov.* For information on how to apply for grants in *Grants.gov*, see the instructions available at *https://www.grants.gov/help/html/help/Applicants/HowToApplyForGrants.htm.* Proposals must be submitted to *Grants.gov* by the deadline established in the **DATES** section.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Wilson, Grant Management Specialist, Office of Indian Economic Development, telephone: (505) 917–3235; email: *dennis.wilson@bia.gov.* If you have questions regarding the application process, please contact Ms. Jo Ann Metcalfe, Grant Officer, telephone (410) 703–3390; email *jo.metcalfe@bia.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. Additional Program information can be found at: *https://www.bia.gov/service/grants/ntbg.*

SUPPLEMENTARY INFORMATION:

I. General Information

Award Ceiling: $175,000.
Award Floor: $100,000.
CFDA Numbers: 15.032.
Cost Sharing or Matching Requirement: No.
Number of Awards: 15–27.
Category: Business Development or Communications.
Length of Project Period: Twenty-four (24) month project period.

II. Number of Projects Funded

OIED anticipates award of approximately 15 to 27 grants under this announcement ranging in value from approximately $100,000 to $175,000. NTBG awards will remain active for a two-year period of performance. OIED will use a competitive evaluation process for awarding based on criteria described in the Review and Selection Process (Criteria) section of this notice. Only one application will be accepted from an eligible Tribe.

III. Background

The Secretary, through OIED, is soliciting proposals from federally recognized Indian Tribes listed as Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs at 87 FR 4636 (January 28, 2022) for NTBG grants. Indian Tribes are referred to using the term ''Tribe'' throughout this notice. The grant funding is to hire consultants to perform feasibility studies for deployment or expansion of high-speed internet (broadband) transmitted, variously, through DSL,

cable modem, fiber, wireless, satellite and BPL.

NTBG grants may be used to fund an assessment of the current broadband services, if any, that are available to an applicant's community; an engineering assessment of new or expanded broadband services; an estimate of the cost of building or expanding a broadband network; a determination of the transmission medium(s) that will be employed; identification of potential funding and/or financing for the network; and consideration of financial and practical risks associated with developing a broadband network.

The purpose of the NTBG is to improve the quality of life, spur economic development and commercial activity, create opportunities for self-employment, enhance educational resources and remote learning opportunities, and meet emergency and law enforcement needs by bringing broadband services to Native American communities that lack them. Feasibility studies funded through NTBG will assist Tribes to make informed decisions regarding deployment or expansion of broadband in their communities.

The funding periods and amounts referenced in this solicitation are subject to the availability of funds at the time of award, as well as the Department of the Interior (DOI) and Indian Affairs priorities at the time of the award. Neither DOI nor Indian Affairs will be held responsible for proposal or application preparation costs. Publication of this solicitation does not obligate DOI or Indian Affairs to award any specific grant or to obligate all or any part of available funds. Future funding is subject to the availability of Congressional appropriations and cannot be guaranteed. DOI or Indian Affairs may cancel or withdraw this solicitation at any time.

IV. Eligibility for Funding

The Office of the Assistant Secretary—Indian Affairs, through OIED, is soliciting proposals from federally recognized Tribes listed as *Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs* at 87 FR 4636 (January 28, 2022).

V. Who May Perform Broadband Feasibility Studies Funded by NTBG Grants

The applicant determines who will conduct its broadband feasibility study. An applicant has several choices, including but not limited to:

a. Universities and colleges;

b. Private consulting firms; or

c. Non-academic, non-profit entities.

VI. Applicant Procurement Procedures

The applicant is subject to the procurement standards under 2 CFR 200.318 through 200.326. In accordance with 2 CFR 200.318, an applicant must use its own documented procurement procedures which reflect Tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in Part 2 of the Code of Federal Regulations.

VII. Limitations

NTBG grant funding must be expended in accordance with applicable Federal statutory and regulatory requirements, including 2 CFR part 200. As part of the grant application review process, OIED may conduct a review of an applicant's prior OIED grant(s). Applicants currently under BIA sanction Level 2 or higher resulting from noncompliance with the Single Audit Act are ineligible for a NTBG grants. Applicants at Sanction Level 1 will be considered for funding.

Only one application will be accepted from an eligible Tribe. Applications should address one project and any submissions that contain multiple project proposals will not be considered. OIED will apply the same objective ranking criteria to each proposal.

NTBG funding may allocated to personnel to provide project oversight and management. This individual(s) may be a full-time person (FTE) brought on specifically for the 2-year duration of the project, or be portion of an FTE allocation. The utilization of a project manager(s) must be demonstrated as necessary and reasonable with compensation that is commensurate to similar industry standards.

The purpose of NTBG grants is to fund broadband feasibility studies only. NTBG awards may not be used for:

- Establishing or operating a Tribal office;
- Indirect costs or administrative costs as defined by the Federal Acquisition Regulation (FAR);
- Purchase of equipment used to develop the feasibility studies, such as computers, vehicles, field gear, etc. (however, leasing of this type of equipment for the purpose of developing feasibility studies is allowed);
- Supplementing employment or income for current positions not significantly and directly involved in the proposed project (*e.g.,* positions like Executive Directors with little to no described involvement in the proposed work);
- International travel;
- Legal fees;
- Application fees associated with permitting;
- Training;
- Contract negotiation fees;
- Feasibility studies of energy, mineral, energy legal infrastructure, or broadband related projects, businesses, or technologies that are addressed by OIED's Energy and Mineral Development Program (EMDP), Tribal Energy Development Capacity (TEDC); and
- Any other activities not authorized by the grant award letter.

VIII. TTGP Application Guidance

All applications are required to be submitted in digital form to *grants.gov*. For instructions, see *https://www.grants.gov/help/html/help/Applicants/HowToApplyForGrants.htm.*

IX. Mandatory Components

The mandatory components, and forms identified below, must be included in the proposal package. Links to the mandatory forms can be found under the ''package'' tab on the NTBG FY2022 grant opportunity page at *www.grants.gov*. Any information in the possession of the BIA or submitted to the BIA throughout the process, including final work product, constitutes government records and may be subject to disclosure to third parties under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department of the Interior's FOIA regulations at 43 CFR part 2, unless a FOIA exemption or exception applies, or other provisions of law protect the information. Following are the names of the required forms:

- Cover Page
- Application for Federal Assistance (SF–424) [V4.0]
- Cover Letter
- Project Abstract Summary [V2.0]
- Project Narrative Attachment Form [V1.2]
- Budget Information for Non-Construction Programs (SF–424A) [V1.0]
- Attachments [V1.2]
- Key Contacts [V2.0]

Cover Page

A Cover Page must be included in the application and contain the following:

- Category of Funding for the NTBG application.
- Proposal Title.
- Total Amount of funding requested from the Program.
- Full and Proper Name of the applicant organization.

- Statement confirming the proposed work will have the potential to reach the intended goals and objectives.
- Confirm active registration in SAM, attaching print-out from *sam.gov* to the cover page. See instructions and registration instructions in Appendix.
- Provide active enrollment in ASAP and your Recipient ID with the BIA. Allow 3–4 weeks to complete all steps of enrollment prior to submission deadline. The organization must be enrolled in ASAP with BIA, current enrollment with other Federal agencies is not sufficient. See instructions and registration instructions in Appendix.
- Confirmation of other completed Mandatory Components identified in this section (SF–424, Project Abstract Summary, etc).
- Identification of any personnel that will provide project oversight and management.
- Identification of partnerships such as Tribes, other Tribal Organizations or Entities.

Application for Federal Assistance SF–424 [V4.0]

Applicants are required to complete the Application for Federal Assistance SF–424, version 4. Please use a descriptive file name that includes tribal name and project description. For example: NTBGSF424.Tribalname.Project. The SF–424 [V4.0] form requires the Congressional District number of the applicant, which can be found at *https://www.house.gov/representatives/find-your-representative.*

Cover Letter

A cover letter is not to exceed one (1) page that summarizes the interest and intent, complete with authorized signature(s) of organization leadership.

Project Abstract Summary and Project Narrative Attachment

Project Narratives are not judged based on their length. Please do not submit any unnecessary attachments or documents beyond what is listed above, *e.g.,* Tribal history, unrelated photos and maps.

The first paragraph of the project narrative must include the title and basic description of the proposed broadband feasibility study. The Project Narrative must not exceed 15 pages. Supplemental information such as letters of support, graphs, charts, maps, photographs and other graphic and/or other relevant information may be included in an appendix and not counted against the 15-page Project Narrative Limit. At a minimum, it should include:

- A technical description of the project that includes identifying any existing broadband feasibility information and, if applicable, an explanation of how the proposed new study and/or business plan would benefit the applicant and does not duplicate previous work;
- A description of the project objectives and goals, including a description of the areas in which broadband will be deployed or expanded, short and long term benefits of broadband deployment or expansion, and how the feasibility study will meet the goals of the NTBG;
- Deliverable products that the consultant is expected to generate, including interim deliverables (such as status reports and technical data to be obtained) and final deliverables (the feasibility study);
- Resume and Qualifications of any identified personnel who would be providing project oversight and management. This individual(s) may be a full-time person (FTE) brought on specifically for the 2-year duration of the project, or be a portion of an FTE allocation. The utilization of a project manager(s) must be demonstrated as necessary and reasonable with compensation that is commensurate to similar industry standards. The responsibilities of the project personnel, with sufficient qualifications to fulfill those responsibilities, must be demonstrated by the Applicant. If new staff members are to be hired, applicants should describe the recruitment and hiring process. Common challenges include, but not limited to, identification and retention of qualified staff, policies and procedures that delay hiring, etc. Applicants must describe accessibility of potential candidates and include contingency plans to describe how the project will progress until vacant positions are filled.
- Applicants must also demonstrate qualifications for key partnerships and consultants, as well as project management oversight, towards the implementation of project activities. Applicants must describe the role of the partner organization and staff, including relevant expertise and experience, as well as clear roles and responsibilities for project implementation. If formal agreements have not been established at the time of application, the applicant must describe plans to finalize any partnership agreements, including firm commitments and contingency plans for these partners. The resumes of key consultants and personnel to be retained, if available, and the names of subcontractors, if applicable, may be included as an attachment to the application and will not be counted towards the 15-page limitation.
- Please use a descriptive file name that includes Tribal name and project description. For example: NTBGNarrative.Tribalname.Project

Budget Information for Non-Construction Programs (SF–424A) [V1.0] and Budget Narrative Attachment Form [V1.2]

Applicants are required to utilize the SF–424A for the budget submission. Please use a descriptive file name that includes tribal name and project description. For example: NTBGBudget.Tribalname.Project. The budget must identify the amount of grant funding requested and a comprehensive breakdown of all projected and anticipated expenditures, including contracted personnel fees, consulting fees (hourly or fixed), travel costs, data collection and analysis costs, computer rentals, report generation, drafting, advertising costs for a proposed project and other relevant project expenses, and their subcomponents.

- Travel costs should be itemized by airfare, vehicle rental, lodging, and per diem, based on the current Federal government per diem schedule.
- Data collection and analysis costs should be itemized in sufficient detail for the OIED review committee to evaluate the charges.
- Personnel oversight management. Compensation and associated costs of personnel who will be providing management oversight will not be indirectly charged. Do not include the personnel costs of consultants or contractors under this category. For any position, provide: the name of the individual (if known), their title; time commitment to the project in months; time commitment to the project as a percentage or full-time equivalent; annual salary; grant salary; wage rates; etc. Identify the project director or principal investigator, if known at the time of application. Costs of employee fringe benefits are allowances and services provided by employers to their employees in addition to regular salaries and wages. Typically, fringe benefit amounts are determined by applying a calculated rate for a particular class of employee (full-time or part-time) to the salary and wages requested. Fringe benefits, like salary, will also be as direct cost (Health insurance, Federal Insurance Contributions Act (FICA) taxes, retirement, taxes, etc.)
- Other expenses may include computer rental, report generation, drafting, and advertising costs for a proposed project.

Attachments [V1.2]

Utilize the ''attachments form'' to include the Tribal resolution issued in the fiscal year of the grant application, authorizing the submission of a NTBG 2022 grant application. It must be signed by authorized Tribal representative(s). The Tribal resolution must also include a description of the feasibility study to be developed. An application submitted without a Tribal Resolution will be considered incomplete. The attachments form can also be used to include any other attachments related to the proposal.

Required Grantee Travel and Attendance at a Broadband Annual Grantee Meeting

Grantees will be required to have two individuals who work directly on the project attend an in-person annual DOI/OIED-sponsored grantee 3-day meeting in Washington, DC, during the year of the grant award. Applicants must include costs in the budget to cover this requirement. Travel costs must not exceed $6,000 per person. Applicants should follow their own travel policies to budget for this 3-day meeting. Additional funds for these expenses will not be available once grant is awarded. In the event the meeting is converted to a virtual meeting due to timing or COVID related issues, those funds may be repurposed in the grant.

Special Note

Please make sure that the System for Award Management (SAM) number used to apply is active, not expired, with a current Unique Entity Identifier (UEI) number on the SF–424. Please make sure an active Automated Standard Application for Payment (ASAP) number is provided. Applicants must have an ASAP number and be enrolled with the BIA to be eligible. Please list counties where the project is located and congressional district number where the project will be located.

Key Contacts [V2.0]

Please list the county(ies) where the project is located and congressional district number(s) where the project is located. Applicants must include the Key Contacts information page that includes:

- Please use a descriptive file name that includes tribal name and identifies it as the critical information page (CIP). For example: NTBGCIP.Tribalname.Project;
- Project Manager's contact information including address, email, desk, and cell phone number;
- Please make sure the System for Award Management (SAM) number used to apply is active, not expired, with a current UEI number on the SF–424;
- Please make sure an active Automated Standard Application for Payment (ASAP) number is provided. Applicants must have an ASAP number for the BIA to be eligible.

X. Incomplete Applications

Incomplete applications will not be accepted. Please ensure that all forms listed in the announcement are completed and submitted in *grants.gov.*

XI. Review and Selection Process

Upon receiving a NTBG application, OIED will determine whether the application is complete and that the proposed project does not duplicate or overlap previous or currently funded OIED technical assistance projects. Any proposal that is received after the date and time in the **DATES** section of this notice will not be reviewed.

The OIED Review Committee (Committee), comprised of OIED staff, staff from other Federal agencies, and subject matter experts, will evaluate the proposals against the ranking criteria. Proposals will be evaluated using the four criteria listed below, with a maximum achievable total of 100 points.

Final award selections will be approved by the Assistant Secretary—Indian Affairs and the Associate Deputy Secretary, U.S. Department of the Interior. Applicants not selected for award will be notified in writing.

XII. Evaluation Criteria

Proposals will be formally evaluated by an OIED review committee using the four criteria listed below. Each criterion provides a percentage of the total maximum rating of 100 points. NTBG applications will be ranked using only these criteria:

- *Community Impact Potential:* 55 points.
- *Need:* 20 points.
- *Project Location in an Opportunity Zone:* 15 points.
- *Authenticity:* 10 points.

Community Impact Potential

This criterion focuses on how deployment or expansion of broadband services will improve the quality of life in the applicant's community, create educational and self-employment opportunities, and benefit the applicant's residents, businesses, commercial activities, schools, libraries, and law enforcement and emergency operations.

Need

This criterion focuses on an applicant's lack of capacity to obtain a broadband feasibility study absent grant funding.

Project Location in an Opportunity Zone

Points will be awarded for projects located in an Opportunity Zone. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. See 26 U.S.C. 14002–1 and 14002–2. A map and list of Opportunity Zones can be found at: *https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx.*

Authenticity

The OIED review committee understands that applicants may intend that the consultant(s) they retain to prepare the broadband proposal will also conduct the feasibility study if the grant is awarded. This does not prejudice an applicant's chances of being selected as a grantee. However, the OIED review committee will view unfavorably proposals that show little evidence of communication between the consultant(s) and the applicant or scant regard for the applicant community's unique circumstances. Facsimile applications prepared by the same consultant(s) and submitted by multiple applicants will receive scrutiny in this regard.

XIII. Transfer of Funds

OIED's obligation under this solicitation is contingent on receipt of Congressionally appropriated funds. No liability on the part of the U.S. Government for any payment may arise until funds are made available to the awarding officer for this grant and until the recipient receives notice of such availability, to be confirmed in writing by the grant officer.

All payments under this agreement will be made by electronic funds transfer through the ASAP system. All award recipients are required to have a current and accurate UEI number to receive funds. All payments will be deposited to the banking information designated by the applicant in the SAM.

XIV. Reporting Requirements for Award Recipients

The applicant must deliver all products and data required by the signed Grant Agreement for the proposed NTBG feasibility study project to OIED within 30 days of the end of each quarter and 120 days after completion of the project. The reporting

periods will be established in the terms and conditions of the final award.

OIED requires that deliverable products be provided in both digital format and submitted in the GrantSolutions system. Reports can be provided in either Microsoft Word or Adobe Acrobat PDF format. Spreadsheet data can be provided in Microsoft Excel, Microsoft Access, or Adobe PDF formats. All vector figures should be converted to PDF format. Raster images can be provided in PDF, JPEG, TIFF, or any of the Windows metafile formats. The contract between the grantee and the consultant conducting the NTBG funded feasibility study must include deliverable products and require that the products be prepared in the format described above.

The contract should include budget amounts for all printed and digital copies to be delivered in accordance with the grant agreement. In addition, the contract must specify that all products generated by a consultant belong to the grantee and cannot be released to the public without the grantee's written approval. Products include, but are not limited to, all reports and technical data obtained, maps, status reports, and the final report.

In addition, this funding opportunity and financial assistance award must adhere to the following provisions:

XV. Conflicts of Interest

Applicability

- This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflict-of-interest in their responsibilities under or with respect to Federal financial assistance agreements.
- In the procurement of supplies, equipment, construction, and services by recipients and by sub-recipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

Requirements

- Non-Federal entities must avoid prohibited conflicts-of-interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- In addition to any other prohibitions that may apply with respect to conflict-of-interest, no key official of an actual or proposed recipient or sub-recipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, awarding, or administration of a grant with respect to that recipient or sub-recipient or in development of the requirement leading to the funding announcement.
- No actual or prospective recipient or sub-recipient may solicit, obtain, or use non-public information regarding the evaluation, grant, administration of a grant to that recipient or sub-recipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or sub-recipient.

Notification

- Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.
- Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the grant, including those that have been reported by sub-recipients.
- *Restrictions on Lobbying.* Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.
- *Review Procedures.* The Financial Assistance Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- *Enforcement.* Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make the required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

Data Availability

- *Applicability.* The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.
- *Use of Data.* The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- *Availability of Data.* The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third-party evaluation and reproduction of the following the scientific data relied upon; analysis relied upon; and methodology, including models, used to gather and analyze data.

XVI. Questions and Requests for IED Assistance

Technical consultation from OIED may include clarifying application requirements, confirming whether an applicant previously submitted the same or similar proposal, and registration information for SAM or ASAP. Technical assistance will be provided by the OIED contractor, Tribal Tech. The applicant is solely responsible for the preparation of its grant proposal. All eligible applicants will have access to scheduled training and can request assistance from the pre-application phase through the post-award close-out. It is strongly recommended that any assistance be a consolidation of items based off reasonably completed working drafts. Please complete an in-take form with Tribal Tech to request assistance: Please complete an in-take form at *https://app.smartsheet.com/b/publish?EQBCT=98a8ecfd0f3d452693e589c6a0a678d8* to request assistance with Tribal Tech.

XVII. Paperwork Reduction Act

The information collection requirements contained in this notice have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3504(h). The OMB control number is 4040–0004. The authorization expires on December 31, 2022. An agency may not conduct or sponsor, and you are not required to respond to, any information collection that does not display a currently valid OMB Control Number.

XVIII. Authority

This is a discretionary grant program authorized under the Snyder Act (25 U.S.C. 13), the Consolidated Appropriations Act, 2022 (HR 2471–312), and the American Rescue Plan Act of 2021 (Pub. L. 117–2). The Snyder Act authorizes the BIA to expend such moneys as Congress may appropriate for the benefit, care, and assistance of Indians for the purposes listed in the Act. Broadband deployment or expansion facilitates two of the purposes listed in the Snyder Act: ''General support and civilization, including education'' and ''industrial assistance and advancement.'' The Consolidated Appropriations Act authorizes the BIA to ''carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants, either directly or in cooperation with States and other organizations.''

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–17783 Filed 8–17–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK941000.L14100000.ET0000.223]

Notice of Intent To Prepare an Environmental Impact Statement To Consider the Impacts of Opening Lands Subject to ANCSA 17(d)(1) Withdrawals, Including Lands Within the Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire Planning Areas; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended; the Federal Land Policy and Management Act of 1976 (FLPMA), as amended; the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), as amended; and the Alaska Native Claims Settlement Act (ANCSA), as amended, the Bureau of Land Management (BLM) intends to prepare an Environmental Impact Statement (EIS) to consider the effects of opening lands subject to withdrawals established pursuant to section 17(d)(1) of ANCSA on lands within the Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire planning areas, and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. The BLM requests comments concerning the scope of the analysis, potential alternatives, and identification of relevant information by October 17, 2022. To afford the BLM the opportunity to consider comments in the Draft EIS, please ensure your comments are received prior to the close of the 60-day scoping period or 15 days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments on issues related to this process by any of the following methods:

- *ePlanning website: https://eplanning.blm.gov/eplanning-ui/project/2018002/510*
- *Mail:* 222 W 7th Avenue, Stop #13, Anchorage, Alaska 99513
- More details and instructions for submitting public comment can be found on the BLM ePlanning website at *https://eplanning.blm.gov/eplanning-ui/project/2018002/510*

Documents pertinent to this proposal may be examined at the ePlanning website.

FOR FURTHER INFORMATION CONTACT: Racheal Jones at (907) 290–0307, or by email at *rajones@blm.gov,* on questions specific to NEPA or to have your name added to our mailing list; and Bettie Shelby at (907) 271–5596, or by email at *bshelby@blm.gov,* on questions specific to the actions at issue in this EIS.

Individuals in the United States who are deaf, blind, 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: Public Land Order (PLO) No. 7899, which would revoke withdrawals established under ANCSA Section 17(d)(1) on lands in the Kobuk-Seward Peninsula planning area, was signed on January 11, 2021, and published in the **Federal Register** on January 19, 2021 (86 FR 5236). PLO Nos. 7900, 7901, 7902, and 7903, which would revoke withdrawals established under ANCSA Section 17(d)(1) on lands in the Ring of Fire, Bay, Bering Sea-Western Interior, and East Alaska planning areas, respectively, were signed on January 15 and 16, 2021, but were never published in the **Federal Register**. The Department deferred the opening of the lands described in PLO No. 7899 by 60 days on February 18, 2021, to provide an opportunity to review the decisions and ensure the orderly management of the public lands (86 FR 10131). Subsequently, the Department identified certain procedural and legal defects in the decision-making process for PLO Nos. 7899, 7900, 7901, 7902, and 7903, including insufficient analysis under NEPA, failure to follow section 106 of the National Historic Preservation Act (NHPA), possible failure to adequately evaluate impacts under section 7 of the Endangered Species Act (ESA), failure to secure consent from the Department of Defense (DOD) with regard to lands under DOD administration as required by Section 204(i) of FLPMA (43 U.S.C. 1714(i)), failure to adequately analyze potential impacts on subsistence hunting and fishing, and reliance on potentially outdated data in EISs prepared in 2006 and 2007. Due to these identified deficiencies, on April 16, 2021, the Department—relying on its inherent authority to revisit decisions based on identified legal errors—deferred the opening of lands under PLO No. 7899 and the publication of PLO Nos. 7900, 7901, 7902, and 7903 in order to address the deficiencies in the decision-making process that led to the PLOs (86 FR 20193).

As a result, the BLM completed an environmental assessment on April 21, 2022, to ensure legal compliance for opening lands within the areas affected by PLO Nos. 7899, 7900, 7901, 7902, and 7903 to selection by Alaska Native Vietnam-era Veterans under Section 1119 of the Dingell Act due to the five-year statutory limit on the application period for allotment selections. The Secretary issued a public land order to open the land to allotment selection on January 19, 2021. The BLM is now undertaking this process to address the remaining legal defects in the decision-making processes for PLO Nos. 7899, 7900, 7901, 7902, and 7903 and to ensure compliance with the requirements of NEPA, Section 204(i) of FLPMA, Section 106 of the NHPA, Section 7 of the ESA, and Section 810 of ANILCA.

The BLM will consider a range of alternatives in the EIS, which may include full or partial revocation of the ANCSA 17(d)(1) withdrawals, making one or more withdrawals under FLPMA, or retention of some or all of the ANCSA 17(d)(1) withdrawals.

Full or partial revocation of the ANCSA 17(d)(1) withdrawals may result in changes to land use that could affect local residents, wildlife, vegetation, cultural resources, subsistence use, air

resources, and water resources across up to 28 million acres of BLM-administered land in Alaska.

While BLM currently intends to prepare a single EIS, we request public input during the scoping period on whether the analysis should be completed through one or multiple EISs. The BLM is also seeking input on specific areas within these planning areas that may experience unique or otherwise significant impacts as a result of opening the lands, which would need to be considered in the analysis.

During this 60-day scoping period, the BLM does not intend to hold any public meetings, in-person or virtual. Should the BLM later determine to hold public meetings, the specific date(s) and location(s) of any meeting will be announced at least 15 days in advance. The BLM is seeking public comments on issues, concerns, potential impacts, alternatives, and mitigation measures that should be considered in the analysis. Additional opportunities for public participation, including at least a 60-day public comment period, will be provided upon publication of the Draft EIS. The NEPA process will be completed consistent with 40 CFR 1501.10(b)(2), following which the Secretary will make a decision regarding the ANCSA 17(d)(1) withdrawals

The input of Alaska Native Tribes and Corporations is of critical importance to this EIS. Therefore, during the planning process, the BLM will continue to consult with potentially affected Federally recognized Tribes on a government-to-government basis, and with affected Alaska Native Corporations in accordance with Public Law 108–199, Div. H, sec. 161, 118 Stat. 452, as amended by Public Law 108–447, Div. H, sec. 518, 118 Stat. 3267, as well as Executive Order 13175, and other Department and Bureau policies. We respectfully request participation in consultation by Alaska Native Tribes and Alaska Native Corporations to provide their views and recommendations on the alternatives outlined above, including specific lands to be opened or to remain subject to withdrawals. The BLM will hold individual consultation meetings upon request.

The BLM will also use and coordinate the NEPA process to help fulfill its obligations under the NHPA, including as provided in 36 CFR 800.2(d)(3). Information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources. Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the proposed opening of lands withdrawn under the authority of Section 17(d)(1) of ANCSA, are invited to participate in the scoping process and, if eligible, may request or be asked by the BLM to participate in the development of the EIS as cooperating agencies.

It is important that commenters provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the commenter's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered.

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.

Steven Cohn,

State Director, BLM Alaska.

[FR Doc. 2022–17806 Filed 8–17–22; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS05000.L71220000.PN000. LVTFC2009000.20X]

Notice of Realty Action: Direct Sale of Public Land in Delta County, CO

AGENCY: Bureau of Land Management.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing the noncompetitive (direct) sale of a parcel of public land in Colorado to resolve inadvertent and unauthorized use of public lands. The 6.62-acre parcel is located in Delta County and will be sold to Bud Hawkins and Cindy Hawkins at the appraised fair market value of $3,500. The sale will be subject to the applicable provisions of sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) and BLM land sale regulations.

DATES: Interested parties may submit written comments regarding this direct sale by October 3, 2022.

ADDRESSES: Mail written comments to Jana Moe, Realty Specialist, BLM Uncompahgre Field Office, 2465 S Townsend Road, Montrose, CO 81401 or by email to *jpmoe@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Jana Moe, Realty Specialist, BLM, Uncompahgre Field Office, telephone: (970) 240–5324; email: *jpmoe@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The BLM will consider the direct sale, in accordance with Sections 203 and 209 of FLPMA, of the following public lands:

New Mexico Principal Meridian, Colorado

T. 51 N., R. 9 W.,

Sec. 17, lots 1 and 4.

The area described contains 6.62 acres, according to the official plat of survey on file with the BLM.

There is no known mineral value in the parcel so the mineral estate would also be conveyed in accordance with Section 209 of FLPMA. This sale is in conformance with the BLM Gunnison Gorge National Conservation Area (GGNCA) Record of Decision and Approved Resource Management Plan decision LAND C–5, (pages 2–9) approved in November 2004. The parcel is located within the GGNCA planning area but is not located within the GGNCA boundary. A parcel-specific environmental assessment (EA), document number DOI–BLM–CO–S054–2020–0006 EA, was prepared in connection with this realty action. It can be viewed online at *https://eplanning.blm.gov/eplanning-ui/project/2000347/510.*

The land is suitable for direct sale under FLPMA, without competition, consistent with 43 CFR 2711.3–3(a)(5), because there is a need to resolve an inadvertent and unauthorized use of public lands, which are encumbered by privately owned improvements.

Pursuant to the requirements of 43 CFR 2711.1–2(d), publication of this notice in the **Federal Register** will segregate the land from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Until

completion of the sale, the BLM will no longer accept land use applications affecting the public land. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** or on a termination of the segregation, or on August 18, 2024 unless extended by the BLM Colorado State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

The patents, if issued, will include the following terms, covenants, conditions, and reservations:

1. A reservation to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890;

2. Valid existing rights issued prior to conveyance;

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands;

4. Additional terms and conditions that the authorized officer deems appropriate.

The EA, appraisal, maps, and environmental site assessment are available for review at the location listed in the **ADDRESSES** section earlier. Interested parties may submit, in writing, any comments concerning the sale, including notifications of any encumbrances or other claims relating to the parcel (see **ADDRESSES**).

The BLM Colorado State Director will review adverse comments regarding the parcel and may sustain, vacate, or modify this realty action, in-whole or in-part. In the absence of timely objections, this realty action will become the final determination of the Department of the Interior.

In addition to publication in the **FEDERAL REGISTER**, the BLM will also publish this notice in the *Delta County Independent* newspaper, once a week, for 3 consecutive weeks.

Before including your address, phone number, email address, or other personal identifying information in your comments, the BLM will make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2711.1–2)

Stephanie Connolly,

Acting BLM Colorado State Director.

[FR Doc. 2022–17757 Filed 8–17–22; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034369; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Valentine Museum, Richmond, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Valentine Museum has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were likely removed from unknown locations in Virginia and/or North Carolina.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after September 19, 2022.

ADDRESSES: Alicia Starliper, Collection Project Manager/Registrar, The Valentine Museum, 1015 E Clay Street, Richmond, VA 23219, telephone (804) 649–0711 Ext. 329, email *astarliper@thevalentine.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Valentine Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Valentine Museum.

Description

Human remains representing, at minimum, three individuals were removed from unknown locations reasonably believed to be in Virginia. One individual, whose sex and age are indeterminate, is represented by four teeth, one distal phalanx, and one unidentified bone. A second individual, whose sex and age are indeterminate, is represented by a cranial fragment. The third individual is a male, 21–30 years old. No known individuals were identified. No associated funerary objects are present.

As part of his interest in prehistoric culture, museum founder Mann S. Valentine II (1824–1892), together with his sons Benjamin B. Valentine (1862–1919) and Edward P. Valentine (1864–1908), initiated multiple amateur excavations of Native American burial sites predominantly located in Virginia and North Carolina. The Valentine family disturbed these burial sites and removed ancestral human remains and funerary objects to add to their private collection, which became the foundation of the Valentine Museum.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: Executive Order.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Valentine Museum has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal lands of the Catawba Indian Nation (*previously* listed as Catawba Tribe of South Carolina); Cherokee Nation; Chickahominy Indian Tribe; Chickahominy Indian Tribe—Eastern Division; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Monacan Indian Nation; Nansemond Indian Nation (*previously* listed as Nansemond Indian Tribe); Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; The Muscogee (Creek) Nation; Tuscarora Nation; and the Upper Mattaponi Indian Tribe.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice and, if joined to a request from one or more of the Indian Tribes, any one or more of the following non-federally recognized Indian groups: the Cheroenhaka (Nottoway) Indian Tribe; Mattaponi Indian Tribe; Nottoway Indian Tribe of Virginia; and the Patawomeck Indian Tribe of Virginia.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 19, 2022. If competing requests for disposition are received, the Valentine Museum must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The Valentine Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and § 10.11.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17767 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034365; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University at Albany, State University of New York, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University at Albany, State University of New York (SUNY Albany) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to SUNY Albany. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to SUNY Albany at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher B. Wolff, Department of Anthropology, University at Albany, 1400 Washington Avenue, AS105, Albany, NY 12222, telephone (518) 442–3982, email *cwolff@albany.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University at Albany, State University of New York, Albany, NY. The human remains and associated funerary objects were removed from Duchess County, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by SUNY Albany professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as ''The Tribes'').

History and Description of the Remains

On an unknown date, human remains representing, at minimum, two individuals were removed from Duchess County, NY. Exact provenience is unknown, but the various elements have ''Duchess County'' written on them in black ink. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, 28 individuals were removed from unknown locations, most likely from New York. No known individuals were identified. The two associated funerary objects are one chert flake and one amorphous clay fragment.

Determinations Made by the University at Albany, State University of New York

Officials of the University at Albany, State University of New York have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 30 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Christopher B. Wolff, Department of Anthropology, University at Albany, 1400 Washington Avenue, AS105, Albany, NY 12222, telephone (518) 442–3982, email *cwolff@albany.edu,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The University at Albany, State University of New York is responsible for notifying The Tribes that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17762 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034367; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Eastern Washington University, Cheney, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Eastern Washington University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Eastern Washington University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Eastern Washington University at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Kate Valdez, NAGPRA Coordinator, Eastern Washington University, 214 Showalter Hall, Cheney, WA 99004, telephone (509) 359–3116, email *vvaldez6@ewu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Eastern Washington University, Cheney, WA. The human remains and associated funerary objects were removed from Klickitat County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Eastern Washington University professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (*previously* listed as Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (*previously* listed as Nez Perce Tribe of Idaho); and the Wanapum Band, a non-federally recognized Indian group. Hereafter, all the Indian entities listed in this section are referred to as ''The Consulted Tribes and Group.''

History and Description of the Remains

In 1953, human remains representing, at minimum, seven individuals were removed from Wakemap Mound (45–KL–26) in Klickitat County, WA, by a University of Washington Field Party led by Mr. Warren Caldwell. In 1966, all the human remains and associated funerary objects removed by Mr. Caldwell were transferred by him to the Burke Museum and formally accessioned (Accn. #1966–86). In 1974, the Burke Museum legally transferred portions of the human remains and funerary objects to Seattle University. In 1992, the human remains of these seven individuals and three associated funerary objects were transferred to Eastern Washington University. No known individuals were identified. The three associated funerary objects are one polished bird bone, one fish vertebra, and one mid-sized mammal long bone.

Between 1955 and 1957, human remains representing, at minimum, 62 individuals were removed from the Congdon Site (45–KL–41) in Klickitat County, WA, by a University of Washington Field Party led by Mr. Robert B. Butler. The Congdon Site was first discovered in the 1930s. In 1955, amateur archeologists continued to disturb the site and find burials. Mr. Butler also began working at the site at this time. The site was simultaneously further disturbed by bulldozing in preparation for the relocation of the railroad. The Congdon Site was considered a mass burial. With human remains commingled and scattered throughout the site, identification of individual burials was impossible. Butler's excavations focused on salvaging human remains; however, no provenience was recorded for the human remains and the excavations have limited field documentation. All the human remains removed by Butler were transferred to the Burke Museum and formally accessioned in 1966 (Accn. #1966–100). In 1974, the Burke Museum legally transferred portions of the human remains from the Congdon Site to Seattle University. In 1992, the human remains of these 62 individuals were transferred to Eastern Washington University. No known individuals were identified. No associated funerary objects are present.

In 1957, human remains representing, at minimum, one individual were removed from the Congdon Site (45–KL–41) in Klickitat County, WA, by Leon Fredrich, who, at the time, was collecting mammals in the area. Mr. Fredrich later sold approximately 200 mammal specimens, along with all the human remains he removed from the Congdon Site to the Burke Museum, where they were formally accessioned in 1963 (Accn. #1963–177). In 1974, the Burke Museum legally transferred portions of the human remains from the Congdon Site to Seattle University. In 1992, the human remains of this one individual were transferred to Eastern Washington University. No known individual was identified. No associated funerary objects are present.

NAGPRA experts representing the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation and the Wanapum Band identified this site as part of the traditional territory of the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon and the Nez Perce Tribe. Wakemap Mound borders the Columbia River in Klickitat County, WA. Early and late published ethnographic documentation indicates that this was the aboriginal territory of the Western Columbia River Sahaptins, Wasco, Wishram, Yakima, Walla Walla, Umatilla, Tenino, and Skin (Daugherty 1973, Hale 1841, Hunn and French 1998, Stern 1998, French and French 1998, Mooney 1896, Murdock 1938, Ray 1936 and 1974, Spier 1936), whose descendants are represented today by the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Umatilla Indian Reservation (*previously* listed as Confederated

Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; and the Nez Perce Tribe (*previously* listed as Nez Perce Tribe of Idaho).

Determinations Made by the Eastern Washington University

Officials of the Eastern Washington University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 70 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the three objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Umatilla Indian Reservation (*previously* listed as Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; and the Nez Perce Tribe (*previously* listed as Nez Perce Tribe of Idaho) (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Kate Valdez, NAGPRA Coordinator, Eastern Washington University, 214 Showalter Hall, Cheney, WA 99004, telephone (509) 359–3116, email *vvaldez6@ewu.edu,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

Eastern Washington University is responsible for notifying The Consulted Tribes and Group that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17766 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034366; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Eastern Washington University, Cheney, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Eastern Washington University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Eastern Washington University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Eastern Washington University at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Kate Valdez, NAGPRA Coordinator, Eastern Washington University, 214 Showalter Hall, Cheney, WA 99004, telephone (509) 359–3116, email *vvaldez6@ewu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Eastern Washington University, Cheney, WA. The human remains and associated funerary objects were removed from Grant and Kittitas Counties, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Eastern Washington University professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Colville Reservation; and the Wanapum Band, a non-federally recognized Indian group. Hereafter, the Indian entities listed in this section are referred to as ''The Consulted Tribes and Group.''

History and Description of the Remains

In 1920, human remains representing, at minimum, nine individuals were removed by Dr. F. S. Hall of the Washington State Museum from Graves 3, 7, 9, 14, 17, 29, 46, and an unnumbered grave at the Pot Holes Site (45GR131) in Grant County, WA. The Pot Holes Site, or Hall Site #7 (later assigned 45GR131), was located on the east bank of the Columbia River, south of Trinidad, in Grant County, Washington. ''Hall Site #7'' appears to have been a large and important site prior to being largely destroyed by local collectors before any systematic recovery could be attempted. The Washington State Museum accessioned all the human remains and associated funerary objects removed by Hall in November of 1920 (Accn. # 1860). In 1974, its successor, the Burke Museum, legally transferred portions of the human remains and associated funerary objects to Seattle University. In 1992, the human remains of these nine individuals and four associated funerary objects were transferred to Eastern Washington University. No known individuals were identified. The four associated funerary objects are one lot of charred wood, one mammal bone, one lot of rocks, and one lot of charcoal mixed with unidentified bone fragments.

In 1920–1921, human remains representing, at minimum, one individual were removed by F.S. Hall of the Washington State Museum from an area near Vantage Ferry in Kittitas County, WA. All the human remains removed by Hall from this site were accessioned by the Burke Museum in 1920 (Burke Accn. #1860). In 1974, the Burke Museum legally transferred

portions of the human remains to Seattle University. In 1992, the human remains of this one individual were transferred to Eastern Washington University. No known individual was identified. No associated funerary objects are present.

In 1920–1921, human remains representing, at minimum, one individual were removed by F.S. Hall or his expedition team from the Washington State Museum from a cave near Pot Holes in Grant County, WA. The human remains were wrapped in a bundle of horsetails along with stone tools, harness fragments and fire-cracked rock and stored in a box. This bundle was determined to be part of Hall's expedition based on the writing on the box label, which matches other boxes from this expedition; the location, which is within the vicinity of the project area; the condition of the human remains being similar to other human remains recovered from this expedition; and the date and region of the newspaper found in the box. The expedition collection was accessioned by the Burke Museum in 1920 (Accn. #1860). In 1974, the Burke Museum legally transferred portions of the human remains to Seattle University. In 1992, the human remains of this one individual and 10 associated funerary objects were transferred to Eastern Washington University. No known individual was identified. The 10 associated funerary objects are three fragments of harness leather with rivets, one lot of newspaper fragments (dated 1920, local ads from Walla Walla, WA and Moscow, ID), one lot of horsetail bundles, four basalt flakes, and one fire-cracked rock.

NAGPRA experts representing the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Wanapum Band identified this site as part of their traditional territory. Early and late published ethnographic documentation indicates that this was the aboriginal territory of the Moses-Columbia or Sinkiuse, and the Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936), whose descendants are represented today by the Confederated Tribes of the Colville Reservation, Confederated Tribes and Bands of the Yakama Nation, and the Wanapum Band, a non-federally recognized Indian group. Museum documentation indicates that the cultural items were found in connection with the human remains. The cultural items are consistent with cultural items typically found with burials in Eastern Washington.

Determinations Made by the Eastern Washington University

Officials of the Eastern Washington University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 14 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Kate Valdez, NAGPRA Coordinator, Eastern Washington University, 214 Showalter Hall, Cheney, WA 99004, telephone (509) 359–3116, email *vvaldez6@ewu.edu,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed. If joined to a request from one or more of The Tribes, the Wanapum Band, a non-federally recognized Indian group may receive transfer of control of the human remains and associated funerary objects.

The Eastern Washington University is responsible for notifying The Consulted Tribes and Group that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17763 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034370; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Bryn Mawr College, Bryn Mawr, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Bryn Mawr College has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Bryn Mawr College. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Bryn Mawr College at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Marianne Weldon, Bryn Mawr College, 101 N Merion Avenue, Bryn Mawr, PA 19010, telephone (610) 526–5022, email *mweldon@brynmawr.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Bryn Mawr College, Bryn Mawr, PA. The human remains and associated funerary objects were removed from a mound in the City of Natchez, Adams County, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of

the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Bryn Mawr College professional staff in consultation with representatives of the Chitimacha Tribe of Louisiana and The Muscogee (Creek) Nation. The Alabama-Quassarte Tribal Town; Caddo Nation of Oklahoma; Catawba Indian Nation (*previously* listed as Catawba Tribe of South Carolina); Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miami Tribe of Oklahoma; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians (*previously* listed as Poarch Band of Creeks); Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians); Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Osage Nation (*previously* listed as Osage Tribe); The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; Tunica-Biloxi Indian Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma were invited to consult but did not participate. Hereafter, all the Indian Tribes listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

Sometime in the nineteenth century, human remains representing, at minimum, three individuals were removed from a burial at a mound site in the City of Natchez, Adams County, MS. Upon his death in 1882, William Sansom Vaux bequeathed a collection to the Academy of Natural Sciences in Philadelphia (ANS) that included the human remains and associated funerary objects listed in this notice. The ANS accessioned them on June 27, 1912. In 1961, the ANS loaned approximately 3,000 items, including these human remains and associated funerary objects, to Bryn Mawr College. In 1997, the ANS transferred control of the human remains and associated funerary objects to Bryn Mawr College. No known individuals were identified. The 10 associated funerary objects are one lot of iron rings or beads, three copper bracelets, three copper beads, one bone bead, one shell bead, and one shell ring.

Mound sites in the region are associated with the Plaquemine Mississippian period (circa 1200–1730 CE) and the Natchez people. Based on the presence of iron cultural items, the burial occurred after contact with European material culture.

Determinations Made by Bryn Mawr College

Officials of Bryn Mawr College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of, at minimum, three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 10 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Chitimacha Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; The Chickasaw Nation; The Choctaw Nation of Oklahoma; and The Muscogee (Creek) Nation (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Marianne Weldon, Bryn Mawr College, 101 N Merion Avenue, Bryn Mawr, PA 19010, telephone (610) 526–5022, email *mweldon@brynmawr.edu,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

Bryn Mawr College is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17768 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034372; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Grand Rapids Public Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Grand Rapids Public Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Grand Rapids Public Museum at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Alex Forist, Chief Curator, Grand Rapids Public Museum, 272 Pearl Street NW, Grand Rapids, MI 49504, telephone (616) 929–1809, email *aforist@grpm.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Grand Rapids Public Museum, Grand Rapids, MI. The human remains and associated funerary objects were removed from Norton Mounds (20KT01) in Kent County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are

the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Grand Rapids Public Museum professional staff in consultation with representatives of representatives of the Bay Mills Indian Community, Michigan; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Potawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation, Oklahoma; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan and the following non-federally recognized Indian groups: the Burt Lake Band of Ottawa & Chippewa and the Grand River Bands of Ottawa Indians (hereafter referred to as ''The Consulted Indian Tribes and Groups'').

History and Description of the Remains

During 1962–1964, human remains representing, at minimum, eight individuals were removed from Norton Mounds (20KT01) in Kent County, MI. This site was excavated by staff from the University of Michigan in cooperation with the Grand Rapids Public Museum (GRPM). The human remains consist of eight fragments of human bone that include: two rib end fragments, three fragments of shaft (these were not accompanied with any context), one fragment of a distal end of the sacrum, and one inferior border fragment. One human manubrium fragment was found in a mix of mammal bones and fill. No known individuals were identified. The 35 lots of associated funerary objects include one lot of ceramic sherds with seed, one lot of lithic debitage, one lot of turtle shell and bone, one lot of wood fragments, one lot of ash sample, one lot of faunal bone, one lot of fish bones, one lot of mammal bones, one lot of sturgeon bone, one lot of woodchuck bones, one lot of deer bones, one lot of turkey bone, one lot of catfish bones, one lot of silt sample, one lot of soil sample, one lot of mussel shells, one lot of snail shell, one lot of walleye bone, one lot of skunk bones, one lot of charcoal, one lot of pebbles, one lot of rocks, one lot of chipmunk mandibles, one lot of weasel bones, one lot of raccoon bones, one lot of blade, one lot of shell, one lot of flake, one lot of bird bones, one lot of copper beads, one lot of textile, one lot of shell, one lot of celt, one lot of bark fragments in ash and soil, and one lot of lithic flake.

Norton Mounds is a Middle Woodland burial location that, based on radiocarbon dates, diagnostic ceramics, and lithics, dates between 100 B.C. and A.D. 200. The collection from this site is extensively documented in a report by Griffin, Flanders and Titterington (1970).

Determinations Made by the Grand Rapids Public Museum

Officials of the Grand Rapids Public Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the Middle Woodland culture at Norton Mounds.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 35 lots of objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Bay Mills Indian Community, Michigan; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Potawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation, Oklahoma; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan (hereafter referred to as ''The Tribes'').
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Alex Forist, Chief Curator, Grand Rapids Public Museum, 272 Pearl Street NW, Grand Rapids, MI 49504, telephone (616) 929–1809, email *aforist@grpm.org,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed. If joined to a request from one or more of The Tribes, the following two non-federally recognized Indian groups may receive transfer of control of the human remains and associated funerary objects: the Burt Lake Band of Ottawa & Chippewa and the Grand River Bands of Ottawa Indians.

The Grand Rapids Public Museum is responsible for notifying The Consulted Indian Tribes and Groups that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17769 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034374; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine, Silver Spring, MD

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the National Museum of Health and Medicine. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the National Museum of Health and Medicine at the address in this notice by September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Brian F. Spatola, Curator of Anatomical Division, National Museum of Health and Medicine, U.S. Army Garrison Forest Glen, 2500 Linden Lane, Silver Spring, MD 20910, telephone (301) 319–3353, email *brian.f.spatola.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine, Silver Spring, MD. The human remains were removed from San Nicolas Island, Ventura County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the National Museum of Health and Medicine professional staff in consultation with representatives of the La Jolla Band of Luiseno Indians, California (*previously* listed as La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); Pala Band of Mission Indians (*previously* listed as Pala Band of Luiseno Mission Indians of the Pala Reservation, California); Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California); Rincon Band of Luiseno Mission Indians of Rincon Reservation, California; Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; and the Soboba Band of Luiseno Indians, California (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1889, human remains representing, at minimum, one individual were removed from San Nicolas Island in Ventura County, CA. The human remains were removed by amateur archeologist Reverend Stephen Bowers and donated to the Army Medical Museum (today the National Museum of Health and Medicine) by Reverend Bowers on March 10, 1890, through Lieutenant Colonel J. R. Smith, U.S. Army, Medical Department. The human remains consist of the mandible belonging to an adult of indeterminate age with antemortem tooth loss. No known individual was identified. No associated funerary objects are present.

The human remains are Native American based on archeological, biological, and geographical evidence. Descendants of the original inhabitants of San Nicolas Island are found today among the Bands of the Payómkawichum (''Luiseño'') Tribe and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Determinations Made by the U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine

Officials of the U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Mr. Brian F. Spatola, Curator of Anatomical Division, National Museum of Health and Medicine, U.S. Army Garrison Forest Glen, 2500 Linden Lane, Silver Spring, MD 20910, telephone (301) 319–3353, email *brian.f.spatola.civ@mail.mil,* by September 19, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The U.S. Department of Defense, Defense Health Agency, National Museum of Health and Medicine is responsible for notifying The Tribes that this notice has been published.

Dated: August 10, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–17770 Filed 8–17–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 223R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been

proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; *mkelly@usbr.gov;* telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
XM Extraordinary maintenance
EXM Emergency extraordinary maintenance
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and industrial
O&M Operation and maintenance
OM&R Operation, maintenance, and replacement
P–SMBP Pick-Sloan Missouri Basin Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District
WIIN Act Water Infrastructure Improvements for the Nation Act

Missouri Basin—Interior Region 5: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

New contract actions:

38. Water user entities responsible for payment of reimbursable costs for Reclamation projects in Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Contracts to be executed pursuant to Title IX of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58), and/or contracts for XM pursuant to Title IX, Subtitle G of Omnibus Public Land Management Act of March 30, 2009 (Pub. L. 111–11). For more information, please see the Reclamation press release at *https://www.usbr.gov/newsroom/#/news-release/4205.*

39. Arkansas Valley Conduit, Fryingpan-Arkansas Project, Colorado: Consideration of a repayment contract for the Arkansas Valley Conduit.

Modified contract action:

36. Greenfields ID, Sun River Project, Montana: Consideration for a Lease of Power Privilege.

Discontinued contract action:

37. Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Potential repayment contracts pursuant to Section 40901 of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58).

Completed contract actions:

20. Dana Ranch; Canyon Ferry Unit, P–SMBP; Montana: Consideration of a new long-term contract for an irrigation water supply. Contract executed on June 23, 2022.

21. Oxbow Ranch; Canyon Ferry Unit, P–SMBP; Montana: Consideration of a new long-term contract for an irrigation

water supply. Contract executed on February 22, 2022.

23. Tom Jacobson; Canyon Ferry Unit, P–SMBP; Montana: Consideration of a new long-term contract for an irrigation water supply. Contract executed on April 27, 2022.

Upper Colorado Basin—Interior Region 7: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract actions:

35. Jicarilla Apache Nation, Navajo Project, New Mexico: Water service agreement between the Jicarilla Apache Nation and SIMCOE for delivery of 1,500 acre-feet of M&I water from the Jicarilla's Settlement Water from the Navajo Reservoir Supply. This agreement will have a term through December 31, 2026.

36. San Juan Water Commission and LOGOS Resources II, LLC; Animas-La Plata Project; New Mexico: Contract for the delivery of 1,500 acre-feet of M&I water from the Navajo Reservoir supply as supplemented via exchange of Animas-La Plata Project water at the confluence of the San Juan and Animas Rivers. This agreement will have a term through December 31, 2031.

37. San Juan Water Commission, Public Service Company of New Mexico, and the La Plata Conservancy District; Animas-La Plata Project; New Mexico: Contract for the delivery of 500 acre-feet of M&I water from the Navajo Reservoir supply as supplemented via exchange of Animas-La Plata Project water at the confluence of the San Juan and Animas Rivers. This agreement will have a term through December 31, 2032.

38. Grand Valley Water Users Association, Grand Valley Project, Colorado: Development of an XM contract pursuant to Title IX, Subtitle G of Public Law 111–11, to provide funds to the Association for the XM required for the Project.

39. Orchard City ID, Fruitgrowers Project, Colorado: Development of a Contributed Funds Agreement for work at Fruitgrowers Reservoir.

40. The Wyoming Water Development Commission; Seedskadee Project, Wyoming: The Commission has requested to acquire additional water in Fontenelle Reservoir. Reclamation is engaging in technical meetings with the Commission to explore the potential terms of a repayment contract, including the quantity of water available.

41. Water user entities responsible for payment of reimbursable costs for Reclamation projects in Colorado and Utah: Contracts to be executed pursuant to Title IX of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58), and/or contracts for XM pursuant to Title IX, Subtitle G of Omnibus Public Land Management Act of March 30, 2009 (Pub. L. 111–11). For more information, please see the Reclamation press release at *https://www.usbr.gov/newsroom/#/news-release/4205.*

Completed contract actions:

6. Dolores Water Conservancy District, Dolores Project, Colorado: The District has requested a water service contract for 1,402 acre-feet of newly identified project water for irrigation. The proposed water service contract will provide 417 acre-feet of project water for irrigation of the Ute Enterprise and 985 acre-feet for use by the District's full-service irrigators. Contract executed on June 8, 2022.

18. Albuquerque Bernalillo County Water Utility Authority, San Juan-Chama Project, New Mexico: Reclamation is in negotiations to lease Abiquiu Reservoir Storage Space from the Authority. This agreement will be for a period of 2 years and may be extended for one additional 2-year term. This agreement may go through October 31, 2025, with the extension. The Authority and the USACE are currently reviewing the final draft contract. Contract executed on May 12, 2022.

Lower Colorado Basin—Interior Region 8: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

New contract action:

24. Western Water, LLC and Cibola Valley IDD, BCP, Arizona: Approve an amendment of Western's contract service area under Western's contract No. 16–XX–30–W0619, as amended (Western Contract), to include the previously excluded parcels of land; namely, the eastern halves of Assessor Parcel Nos. 301–08–003C and 301–08–003D. The inclusion of these lands within the Western Contract service area will make these lands eligible to receive Arizona fourth-priority Colorado River water from Western. Western has an Arizona fourth-priority Colorado River water entitlement under the Western Contract for an annual diversion of 536.48 acre-feet of Colorado River water for irrigation use within the Western Contract service area. Additionally, Reclamation will amend the District's contract service area under their contract to exclude Western lands. The exclusion of the Western lands from the District's contract service area will make the Western lands ineligible to receive Arizona fourth-, fifth-, and/or sixth-priority water from the District. The District's boundary will remain the same.

25. Water user entities responsible for payment of reimbursable costs for Reclamation projects in Arizona and California: Contracts to be executed pursuant to Title IX of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58), and/or contracts for XM pursuant to Title IX, Subtitle G of Omnibus Public Land Management Act of March 30, 2009 (Pub. L. 111–11). For more information, please see the Reclamation press release at *https://www.usbr.gov/newsroom/#/news-release/4205.*

Columbia–Pacific Northwest—Interior Region 9: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract actions:

22. J.R. Simplot Company and Micron Technology, Inc.; Boise Project, Arrowrock Division; Idaho: Request to renew M&I water service contract pursuant to Section 9(c)(2) of the Reclamation Project Act of 1939.

23. Water user entities responsible for payment of reimbursable costs for Reclamation projects in Idaho, Washington, and parts of Montana, Oregon, and Wyoming: Contracts to be executed pursuant to Title IX of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58), and/or contracts for XM pursuant to Title IX, Subtitle G of Omnibus Public Land Management Act of March 30, 2009 (Pub. L. 111–11). For more information, please see the Reclamation press release at *https://www.usbr.gov/newsroom/#/news-release/4205.*

California-Great Basin—Interior Region 10: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract actions:

45. CVP, California: Operational agreements, exchange agreements, contract amendments, and other agreements with Non-Federal Project Entities as required for Federal participation in non-Federal storage projects pursuant to the WIIN Act.

46. Sacramento River Settlement Contractors, CVP, California: Temporary agreements for the purchase of conserved water for fish and wildlife purposes.

47. Solano County Water Agency, Solano Project, California: Renewal of water service and OM&R contracts.

48. Water user entities responsible for payment of reimbursable costs for Reclamation projects in California, Nevada, and Oregon: Contracts to be executed pursuant to Title IX of the Infrastructure Investment and Jobs Act of November 15, 2021 (Pub. L. 117–58), and/or contracts for XM pursuant to

Title IX, Subtitle G of Omnibus Public Land Management Act of March 30, 2009 (Pub. L. 111–11). For more information, please see the Reclamation press release at *https://www.usbr.gov/newsroom/#/news-release/4205.*

Modified contract actions:

10. Pershing County Water Conservation District, Pershing County, State of Nevada, and Lander County; Humboldt Project; Nevada: Title transfer of lands and features of the Humboldt Project.

15. City of Santa Barbara, Cachuma Project, California: Execution of a long-term Warren Act contract with the City for conveyance of non-project water in Cachuma Project facilities.

16. Non-federal Operating Entities and Contractors with O&M responsibilities for transferred works; California, Nevada, and Oregon: Contracts for XM and replacement funded pursuant to Title IX, Subtitle G of Pub. L. 111–11.

Discontinued contract action:

12. Placer County Water Agency, CVP, California: Proposed exchange agreement under section 14 of the Reclamation Project Act of 1939 to exchange up to 71,000 acre-feet annually of the Agency's American River Middle Fork Project water for use by Reclamation, for a like amount of CVP water from the Sacramento River for use by the Agency.

Completed contract actions:

25. California Department of Fish and Game, CVP, California: To extend the term of and amend the existing water service contract for the Department's San Joaquin Fish Hatchery to allow an increase from 35 to 60 cubic feet per second of continuous flow to pass through the Hatchery prior to it returning to the San Joaquin River. Contract executed on May 24, 2022.

31. Gray Lodge Wildlife Area, CVP, California: Reimbursement agreement between the California Department of Fish and Wildlife and Reclamation for groundwater pumping costs. Groundwater will provide a portion of Gray Lodge Wildlife Area's Central Valley Improvement Act Level 4 water supplies. This action is taken pursuant to Public Law 102–575, Title 34, Section 3406(d)(1, 2 and 5), to meet full Level 4 water needs of the Gray Lodge Wildlife Area. Contract executed in September 2016.

32. State of Nevada, Newlands Project, Nevada: Title transfer of lands and features of Carson Lake and Pasture. Contract executed in March 2021.

33. Washoe County Water Conservation District, Truckee Storage Project, Nevada: Repayment contract for costs associated with SOD work on Boca Dam. Contract executed on May 17, 2018.

Christopher Beardsley,

Director, Policy and Programs.

[FR Doc. 2022–17771 Filed 8–17–22; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1232 (Remand)]

Certain Chocolate Milk Powder and Packaging 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 August 3, 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: Sid Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal 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).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a general exclusion order directed to certain chocolate milk powder and packaging thereof imported, sold for importation, and/or sold after importation. 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 August 3, 2022. Comments should address whether issuance of the recommended remedial order 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 order are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended order;

(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 order within a commercially reasonable time; and

(v) explain how the recommended order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on September 2, 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–1232'') 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: August 15, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–17778 Filed 8–17–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before September 19, 2022.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2022–0038 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2022–0038.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. 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, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–012–C.

Petitioner: UC Mining, LLC, 835 State Route 1179, Waverly, Kentucky 42462.

Mine: UC Mining, LLC Mine, MSHA ID No. 15–02709, located in Union County, Kentucky.

Regulation Affected: 30 CFR 75.1700, Oil and gas wells.

Modification Request: The petitioner requests a modification of 30 CFR 75.1700 to permit an alternate method as it pertains to leaving barrier pillars around coal and gas wells in order to mine through oil and gas wells in all mineable coalbeds.

The petitioner states that:

(a) The area consists of approximately 10,000 acres located in Henderson and Union Counties, Kentucky. The area is situated east of the town of Corydon.

(b) The coal mining method will be continuous mining machine, room and pillar. No secondary mining or pillar extraction will be conducted.

(c) The mineable coal seams in the reserve area are #11 with an average thickness of 4.5 feet and an average depth of 280 feet and #9 with an average thickness of 5 feet and an average depth of 400 feet.

(d) A worked-out #9 seam mine was previously mined directly adjacent (west) to the current area. These old works are assumed to be flooded; however, the inundation potential is zero as sufficient barrier pillars will be utilized. The worked-out #9 seam mine was mined around and mined through plugged wells under Petition for Modification (PFM) Docket No. M–1992–101–C, granted on February 2, 1993. The PFM was revoked on March 2, 2016, because the mine workings had been abandoned and the surface opening(s) to the mine sealed.

(e) There are approximately 300 documented wells within the proposed mining area. The wells date from the early 1940's through the present. The average depth of the wells is 2,540 feet.

(f) There are six main oil producing fields in the mining area, with principal

production coming from the following four formations: Waltersburg Sandstone—1,760 feet deep; Cypress Sandstone—2,240 feet deep; Renault Limestone—2,580 feet deep; and McClosky Lime—2,620 feet deep.

The petitioner proposes the following alternative method:

(a) District Manager approval required:

(1) A safety barrier of 300 feet in diameter (150 feet between any mined area and a well) shall be maintained around all oil and gas wells until approval to proceed with mining has been obtained from the District Manager.

(2) The minimum safety barrier between any mined area and a well, based on the geological nature of the strata and the functionality of the well as found in the mining area, shall be 70 feet in diameter for an abandoned well and 100 feet in diameter for an operational well.

(b) Procedures for cleaning out and preparing oil and gas wells prior to plugging or re-plugging:

(1) A diligent effort shall be made to completely clean out the well from the surface to at least 100 feet below the base of the lowest mineable coal seam. A diligent effort shall be made to remove all material from the entire diameter of the well, wall to wall, except for clearly defined surface casing.

(2) A diligent effort shall be made to prepare down-hole logs for each well. They shall consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams. A down-hole camera survey may be used in lieu of down-hole logs.

(3) If it is not possible to remove all the casing as provided in section (b)(1), appropriate steps shall be taken to ensure the annulus between the casing and well walls is filled with expanding cement and contains no voids. If the casing cannot be removed, it shall be cut or milled at all mineable coal seams. Perforations or rips shall be made 50 feet above and below the coal seams to be mined. However, if it is determined by the use of a casing bond log that the annulus at the coal seams to be mined is already adequately sealed with cement, then perforating or ripping shall not be required.

(4) If the cleaned-out well produces gas, or the uppermost hydrocarbon-producing stratum is within 500 feet of the lowest mineable coal seam, either a mechanical bridge plug or a cal seal plug shall be placed in competent stratum 100 feet below the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum.

(c) Procedures for plugging or re-plugging oil or gas wells to the surface:

(1) Expanding slurry cement or Class A cement shall be pumped down the well to form a plug which runs from at least 100 feet below the base of the lowest minable coal seam to the surface. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam to the surface. Steel turnings or other magnetic particles shall be embedded in the top of the cement near the surface; alternatively if the surface casing is present, it can serve as a permanent magnetic monument of the well. Where the hole cannot be marked with a physical monument (*i.e.,* prime farmland), high resolution GPS coordinates shall be utilized.

(d) Procedures after approval has been granted by the District Manager to mine within the safety barrier or to mine through a plugged well:

(1) A representative of the operator, a representative of the Kentucky Division of Mine Safety (DMS), or the MSHA District Manager may request that a conference be conducted prior to mining through a plugged well. Upon receipt of any such request, the District Manager shall schedule such a conference. It shall be the responsibility of the party requesting the conference to notify other parties listed above within a reasonable time prior to the conference to provide opportunity for participation. The purpose of the conference shall be to review, evaluate, and accommodate any abnormal or unusual circumstance(s) related to the condition of the well or surrounding strata when such conditions are encountered.

(2) The District Manager shall be notified at least a week prior to mining through a well to provide an opportunity to have a representative present.

(3) When using continuous mining methods, drivage sights shall be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights shall not be more than 80 feet from the well.

(4) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area, shall be available when either the conventional or continuous mining method is used. The fire hose shall be located near the working face.

(5) Sufficient supplies of roof support and ventilation materials shall be available and located near the working face. In addition, an emergency plug and/or plugs, shall be available within the immediate area of the mine-through.

(6) Equipment involved in mining-through the well shall be checked for permissibility and serviced on the maintenance shift prior to mining-through the well. The methane monitor on the continuous mining machine involved in mining-through the well shall be calibrated on the maintenance shift prior to mining-through the well.

(7) When mining is in progress, tests for methane shall be made with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining-through. During the actual cutting through process, no individual shall be allowed on the return side until mining-through has been completed and the area has been examined and declared safe.

(8) When the wellbore is intersected, all equipment shall be deenergized and the working place thoroughly examined and determined safe before mining is resumed. Any well casing shall be removed and no open flame shall be permitted in the area until adequate ventilation has been established around the wellbore.

(9) When using a continuous mining machine, the working place shall be free from accumulations of coal dust and coal spillages, and rock dust shall be placed on the roof, rib, and floor to within 20 feet of the face when mining-through the well.

(10) After a well has been intersected and the working place determined safe, mining shall continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(11) No person shall be permitted in the area of the mining-through operation except those actually engaged in the operation, company personnel, representatives of the miners, MSHA personnel, and Kentucky DMS personnel.

(12) The mining-through operation shall be under the direct supervision of a certified individual. Instructions concerning the mining-through operation shall be issued only by the certified individual in charge.

(13) MSHA personnel may interrupt or halt the mining-through operation when it is necessary for the safety of the miners.

(14) A copy of the decision and order approving this petition will be maintained at the mine and be available to the Secretary's representatives, miners' representatives, and miners.

(15) The operator shall file a plugging affidavit setting forth the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged as described.

(16) Within 30 days after the decision and order becomes final, the operator shall submit proposed revisions for its approved mine emergency evacuation and firefighting plan required by 30 CFR 75.1501. The operator shall revise the plans to include the hazards and evacuation procedures to be used for well intersections.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2022–17802 Filed 8–17–22; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 19, 2022. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2023–008

1. *Applicant:* Jay J. Rotella, Ecology Department, Montana State University, Bozeman, Montana 59717

Activity for Which Permit is Requested: Take, Harmful Interference, Enter Antarctic Specially Protected Area, Import Into USA. The permit applicant plans to continue long-term studies of Weddell seal (*Leptonychotes weddellii*) populations in Erebus Bay and the McMurdo Sound region to evaluate the demographic importance and geographic origins of immigration of this long-lived mammal. These studies may require the applicant and agents to enter into ASPAs in the area including ASPA 121, 137, 155, 157, 158, 161, and 173. Proposed research activities involve tag and release, weighing, tissue sample collection, and harassment by approach to read tags. The proposed research involves capture and release of up to 930 Weddell seal pups at one to four days after birth for flipper tagging per year. Up to 150 of the pups would also receive external instrumentation, be weighed, and have a skin biopsy taken. The applicant proposes to capture up to 515 adult Weddell seals per year using a head-bagging technique to place or replace flipper tags. Skin biopsies would be taken from up to 150 adult female Weddell seals. Up to 1800 adult Weddell seals would be harassed for observation, tag resighting, photography, and unintentional harassment per year. Additionally, up to 900 Weddell seal pups would be harassed through incidental disturbance as a part of the research per year. The applicant requests four Weddell seal unintentional mortalities, two pups and two adults, per year. The applicant also plans to collect tissues from adult Weddell seals found dead from natural causes. All samples collected during the course of this research would be imported into the United States. During the course of the study, the applicant anticipates incidental disturbance of a limited number of crabeater seals (*Lobodon carcinophagus*) and leopard seals (*Hydrurga leptonyx*). The permit applicant has received a Marine Mammal Protection Act permit for the proposed activities.

Location: Erebus Bay, McMurdo Sound; ASPA 121—Cape Royds, Ross Island; ASPA 137—North-West White Island, McMurdo Sound; ASPA 155—Cape Evans, Ross Island; ASPA 157—Backdoor Bay, Cape Royds, Ross Island; ASPA 158—Hut Point, Ross Island; ASPA 161—Terra Nova Bay, Ross Sea; ASPA 173—Cape Washington and Silverfish Bay, Terra Nova Bay, Ross Sea.

Dates of Permitted Activities: Dates. October 1, 2022–September 30, 2027.

Suzanne H. Plimpton,

Management Analyst, National Science Foundation.

[FR Doc. 2022–17755 Filed 8–17–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting

The U.S. Nuclear Waste Technical Review Board will hold a hybrid (in-person/virtual) public meeting on September 13–14, 2022.

Board meeting: September 13–14, 2022—The U.S. Nuclear Waste Technical Review Board will hold a hybrid (in-person/virtual) public meeting in Arlington, Virginia, to review information on the U.S. Department of Energy's (DOE) research and development (R&D) activities related to the geologic disposal of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) in clay-bearing host rocks and R&D on clay-based engineered barriers.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the U.S. Nuclear Waste Technical Review Board will hold a hybrid (in-person/virtual) public meeting in Arlington, Virginia, on Tuesday, September 13, 2022, and Wednesday, September 14, 2022, to review information on the U.S. Department of Energy's (DOE) research and development (R&D) activities related to the geologic disposal of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) in clay-bearing host rocks and R&D on clay-based engineered barriers.

The Board meeting will be held at the Holiday Inn National Airport/Crystal City, 2650 Richmond Highway, Arlington, VA 22202. The hotel telephone number is (703) 684–7200.

The meeting will begin on both days at 12:00 p.m. Eastern Daylight Time (EDT) and is scheduled to adjourn at 5:00 p.m. EDT. Speakers from the DOE Office of Nuclear Energy, and the national laboratories conducting the work for DOE, will present work on a range of studies, including modeling the long-term integrity of the host rock, design of the engineered barrier system (EBS), high-temperature experiments involving the EBS, coupled processes in the EBS, and integration of computer models of the EBS and host rock into the Geologic Disposal Safety Assessment Framework. Speakers from Spain and Switzerland will present information on efforts to understand coupled processes in clay-based barriers and clay-bearing host rocks and efforts to develop a safety case for disposal in a clay-bearing host rock. A detailed meeting agenda will be available on the Board's website at *www.nwtrb.gov* approximately one week before the meeting.

The meeting will be open to the public and there will be an opportunity for public comment at the end of each day. Those attending the meeting in person and wanting to provide oral comments are encouraged to sign the Public Comment Register at the check-in table near the entrance to the meeting room. Oral commenters will be taken in the order in which they signed in. Public comments can also be submitted during the meeting via the online meeting viewing platform, using the ''Comment for the Record'' form. Comments submitted online during each day of the meeting will be read into the record by Board staff during the public comment period just prior to adjournment. Depending on the number of speakers and online comments, a time limit on individual remarks may be set. However, written comments of any length may be submitted to the Board staff by mail or electronic mail. All comments received in writing will be included in the meeting record, which will be posted on the Board's website after the meeting. An archived recording of the meeting will be available on the Board's website following the meeting, and a transcript of the meeting will be available on the website by November 14, 2022.

The in-person public meeting will follow the COVID–19 precautions mandated by Arlington County, Virginia. Meeting attendees should observe community guidelines in place at the time of the meeting. The Board will post an update on its website if the meeting changes to a virtual-only meeting. Attendees also are encouraged to pre-register to reduce their time signing in. If the meeting changes to a virtual-only format, those who pre-registered will be notified of the change.

The Board was established in the Nuclear Waste Policy Amendments Act of 1987 as an independent federal agency in the Executive Branch to evaluate the technical and scientific validity of DOE activities related to the management and disposal of SNF and HLW, and to provide objective expert advice to Congress and the Secretary of Energy on these issues. Board members are experts in their fields and are appointed to the Board by the President from a list of candidates submitted by the National Academy of Sciences. The Board reports its findings, conclusions, and recommendations to Congress and the Secretary of Energy. All Board reports, correspondence, congressional testimony, and meeting transcripts and related materials are posted on the Board's website.

For information on the meeting agenda, contact Bret Leslie at *leslie@nwtrb.gov* or Chandrika Manepally at *manepally@nwtrb.gov*. For information on logistics, to pre-register for the in-person meeting, or to request copies of the meeting agenda or transcript, contact Davonya Barnes at *barnes@nwtrb.gov*. All three may be reached by mail at 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201–3367; by telephone at 703–235–4473; or by fax at 703–235–4495.

Dated: August 15, 2022.

Daniel G. Ogg,

Acting Executive Director, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2022–17772 Filed 8–17–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95488; File No. PCAOB–2022–001]

Public Company Accounting Oversight Board; Order Granting Approval of Amendments to Auditing Standards Governing the Planning and Supervision of Audits Involving Other Auditors and Dividing Responsibility for the Audit With Another Accounting Firm

August 12, 2022.

I. Introduction

On June 24, 2022, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 107(b)[1] of the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'') and Section 19(b)[2] of the Securities Exchange Act of 1934 (the ''Exchange Act''), a proposal to adopt Auditing Standard (''AS'') 1206, *Dividing Responsibility for the Audit with Another Accounting Firm* (AS 1206); rescind AS 1205, *Part of the Audit Performed by Other Independent Auditors* (AS 1205), and AI 10, *Part of the Audit Performed by Other Independent Auditors: Auditing Interpretations of AS 1205* (AI 10); and amend several other existing auditing standards, interpretations, rules, and forms (collectively, the ''Amendments''). The Amendments were published for comment in the **Federal Register** on July 1, 2022.[3] We received three comment letters in response to the notice.[4] This order approves the Amendments, which we find to be consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Amendments

On June 21, 2022, the Board adopted the Amendments.[5] The Amendments would (i) strengthen requirements for audits involving accounting firms and individual accountants other than the accounting firm that issues the auditor's report (''other auditors'' and the ''lead auditor,'' respectively), and (ii) update requirements to address relatively uncommon situations in which the lead auditor divides responsibility for the audit with another accounting firm (the ''referred-to auditor''). The Amendments are intended to increase and improve the lead auditor's involvement in,

[1] 15 U.S.C. 7217(b).

[2] 15 U.S.C. 78s(b).

[3] *See Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Planning and Supervision of Audits Involving Other Auditors and Dividing Responsibility for the Audit with Another Accounting Firm,* Release No. 34–95159 (June 24, 2022) [87 FR 39680 (July 1, 2022)] (the ''Notice of Filing of Proposed Rules''), *available at https://www.sec.gov/rules/pcaob/2022/34-95159.pdf.*

[4] We received comment letters from Deloitte & Touche LLP (July 21, 2022); PricewaterhouseCoopers LLP (July 22, 2022); and KPMG LLP (July 22, 2022). Copies of the comment letters received on the Commission order noticing the Proposed Rules are available on the Commission's website at *https://www.sec.gov/comments/pcaob-2022-01/pcaob202201.htm.*

[5] *See Planning and Supervision of Audits Involving Other Auditors and Dividing Responsibility for the Audit with Another Accounting Firm,* PCAOB Release No. 2022–002 (June 21, 2022) (''PCAOB Adopting Release''), *available at https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket042/pcaob-other-auditors-adopting-release-6-21-2022.pdf?sfvrsn=c3712668_4.*

supervision of, and evaluation of the other auditors' work, which will improve communication among auditors and the lead auditor's ability to prevent or detect deficiencies in that work. This should promote investor protection by enhancing the quality of audits involving other auditors. The requirements contained within the Amendments are discussed further below.

A. Changes to PCAOB Standards

The Amendments are intended to improve the PCAOB's standards principally by (i) applying a risk-based supervisory approach to the lead auditor's oversight of other auditors whose work the lead auditor assumes responsibility for, and (ii) requiring that the lead auditor perform certain procedures when planning and supervising an audit that involves other auditors. The Amendments take into account recent professional practice developments in the lead auditor's oversight of other auditors' work, including the greater use of communication technology. The Amendments build on existing communication requirements and increase those communication requirements between the lead auditor and other auditor. Whether or not the lead auditor is leveraging technology for those communications, audit documentation supporting the lead auditor's conclusions will need to contain a record that the lead auditor fulfilled its responsibilities under PCAOB standards, including regarding matters such as determinations related to other auditors' work [6] and audit documentation.[7]

In summary, the Amendments:

- Require that the engagement partner [8] determine whether their firm's participation in the audit is sufficient for the firm to carry out the responsibilities of a lead auditor and report as such.[9] The Amendments include considerations for the engagement partner to use in making this determination [10] and require that the audit's engagement quality reviewer review the determination.[11]
- Require that the lead auditor, when determining the engagement's compliance with independence and ethics requirements, understand the other auditor's knowledge of those requirements and experience in applying them.[12] The lead auditor is required to obtain and review written affirmations regarding the other auditor's policies and procedures related to those requirements and regarding its compliance with the requirements, and a description of certain auditor-client relationships related to independence.[13] In addition, the Amendments require the sharing of information about changes in circumstances and the updating of affirmations and descriptions in light of those changes.[14]
- Require that the lead auditor understand the knowledge, skill, and ability of other auditors' engagement team members who assist the lead auditor with planning and supervision,[15] and obtain a written affirmation from the other auditor that its engagement team members possess the knowledge, skill, and ability to perform assigned tasks.[16]
- Require that the lead auditor supervise other auditors under the Board's standard on audit supervision and inform other auditors about the scope of their work, identified risks of material misstatement, and certain other key matters.[17] The Amendments also require that the lead auditor and other auditors communicate about the audit procedures to be performed, and any changes needed to the procedures.[18] In addition, the lead auditor is required to obtain and review a written affirmation from the other auditor about its performance of work in accordance with the lead auditor's instructions, and to direct other auditors to provide certain documentation about their work.[19]
- Provide that, in multi-tiered audits, a first other auditor may assist the lead auditor in performing certain required procedures with respect to second other auditors.[20]

In addition, this rulemaking rescinds AS 1205 and AI 10 but carries forward and strengthens certain existing requirements in new AS 1206 that apply to infrequent situations where the lead auditor divides responsibility for a portion of the audit with the referred-to auditor and therefore does not supervise the work performed by that firm. In those situations, the lead auditor refers to the work of that auditor in the audit report.[21]

AS 1206 requires that in these situations the lead auditor determine that audit procedures were performed regarding the consolidation or combination of financial statements of the business units audited by the referred-to auditor into the company's financial statements. The standard also requires that the lead auditor obtain the referred-to auditor's written representation that it is independent and duly licensed to practice, and that the lead auditor disclose in the audit report the magnitude of the portion of the financial statements, and, if applicable, of internal controls audited by the referred-to auditor.

B. Applicability and Effective Date

The Amendments would be effective for audits of financial statements for fiscal years ending on or after December 15, 2024. The PCAOB has proposed application of the Amendments to include audits of emerging growth companies (''EGCs''),[22] as discussed in Section IV below, and audits of brokers and dealers under Exchange Act Rule 17a–5.

III. Comment Letters

The comment period on the Amendments ended on July 22, 2022. We received three comment letters from accounting firms.[23] The commenters generally supported the Amendments and encouraged us to support the PCAOB's plans to monitor implementation, conduct post-implementation review, and monitor advancements in technology that may affect application of the Amendments.[24]

[6] *See, e.g.,* AS 1201, *Supervision of the Audit Engagement,* paragraph .13 (requiring the lead auditor to make certain determinations based on a review of the documentation provided by the other auditor, discussions with the other auditor, and other information obtained by the lead auditor).

[7] *See, e.g.,* AS 1215, *Audit Documentation,* paragraphs .06 and .18, as amended.

[8] The term ''engagement partner'' means the member of the engagement team with primary responsibility for the audit. *See* AS 1201, Appendix A, as amended.

[9] *See* AS 2101, *Audit Planning,* paragraph .06A, as amended.

[10] *See id.*

[11] *See* AS 1220, *Engagement Quality Review,* paragraph .10a, as amended.

[12] *See* AS 2101.06Da, as amended.

[13] *See* AS 2101.06Db, as amended.

[14] *See* AS 2101.06Dc(1) and .06Dc(2), as amended.

[15] *See* AS 2101.06Ha, as amended.

[16] *See* AS 2101.06Hb, as amended.

[17] *See* AS 1201.08, as amended.

[18] *See* AS 1201.09 and .10, as amended.

[19] *See* AS 1201.11 and .12, as amended.

[20] *See* AS 1201.14, and AS 2101.06E and .06I, as amended.

[21] Rule 2–05 of Regulation S–X, 17 CFR 210.2–05, requires that the auditor's report of the referred-to auditor be filed with the SEC. *See also* AS 1206.08.

[22] The term ''emerging growth company'' is defined in Section 3(a)(80) of the Exchange Act (15 U.S.C. 78c(a)(80)). *See also Inflation Adjustments and Other Technical Amendments Under Titles I and III of the JOBS Act,* Release No. 33–10332 (Mar. 31, 2017) [82 FR 17545 (Apr. 12, 2017)], *available at https://www.sec.gov/rules/final/2017/33-10332.pdf.*

[23] We received comment letters from Deloitte & Touche LLP (July 21, 2022); PricewaterhouseCoopers LLP (July 22, 2022) (''PWC Letter''); and KPMG LLP (July 22, 2022). Copies of the comment letters are available on the Commission's website at *https://www.sec.gov/comments/pcaob-2022-01/pcaob202201.htm.*

[24] *See id.*

Additionally, one commenter encouraged the PCAOB to consider the intersection of a firm's system of quality control with the requirements in the PCAOB standards and that questions may arise about compliance with the principles-based requirements, to actively engage with stakeholders to promote an understanding of the Amendments, and to be available for consultation.[25] We agree with the Board that the Amendments are sufficiently principles-based to accommodate a variety of scenarios in practice and to allow the lead auditor to adjust its procedures according to the circumstances of the audit.[26] We acknowledge the importance of monitoring the implementation of the Amendments and the Commission staff works closely with the PCAOB as part of our general oversight mandate.[27] As part of that oversight, Commission staff will keep itself apprised of the PCAOB's activities for monitoring the implementation of the Amendments and update the Commission, as necessary.

The Sarbanes-Oxley Act requires us to determine whether the Amendments are consistent with the requirements of the Sarbanes-Oxley Act and the securities laws or are necessary or appropriate in the public interest or for the protection of investors.[28] In making this determination, we have considered the comments we received, as well as the feedback received and modifications made by the PCAOB throughout its rulemaking process.

IV. Effect on Emerging Growth Companies

In the notice of filing of the Amendments, the Board recommended that the Commission determine that the Amendments apply to audits of EGCs.[29] Section 103(a)(3)(C) of the Sarbanes-Oxley Act, as amended by Section 104 of the Jumpstart Our Business Startups Act of 2012, requires that any rules of the Board requiring mandatory audit firm rotation or a supplement to the auditor's report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer (auditor discussion and analysis) shall not apply to an audit of an EGC. The provisions of the Amendments do not fall into these categories.[30]

Section 103(a)(3)(C) further provides that ''[a]ny additional rules'' adopted by the PCAOB after April 5, 2012 do not apply to audits of EGCs ''unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.'' The Amendments fall within this category. Having considered those statutory factors, we find that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

With respect to the Commission's determination of whether the Amendments will apply to audits of EGCs, the PCAOB provided data and analysis of EGCs identified by the Board's staff from public sources that sets forth its views as to why the Amendments should apply to audits of EGCs. Analysis of Form AP filings in 2021 suggests that, when compared to issuer audits overall, audits of EGCs are less likely to involve the use of other firms and, even when they do, they typically involve fewer other firms and those other firms account for a smaller share of total audit hours.[31] Thus, because the use of other firms is less prevalent in audits of EGCs than in audits of non-EGCs, audits of EGCs generally are less likely than those of non-EGCs to be affected by the amendments.[32] EGCs are also likely to be newer companies, which may increase the importance to investors of the external audit to enhance the credibility of management disclosures.[33] Investors in newer companies may require a larger risk premium that increases the cost of capital for those companies. Therefore, the improved audit quality resulting from applying the Amendments to EGC audits could reduce the cost of capital to those EGCs.[34] When considering these and other factors addressed in the PCAOB's analysis, the benefits of the higher audit quality resulting from the amendment may be greater for EGCs than for non-EGCs.

In addition, the Board sought public input on the application of the Amendments to the audits of EGCs. Commenters on the Board's proposal generally supported applying the Amendments to audits of EGCs, citing benefits to the users of EGC financial statements and the importance of consistent audit requirements for all audits. In the Board's filing of the Amendments, the Board expressed the view that the benefits of the higher audit quality resulting from the amendments may be larger for EGCs than for non-EGCs and that, overall, the Amendments are expected to enhance audit quality and contribute to an increase in the credibility of financial reporting by EGCs.

We agree with the Board's analysis and note that the potential increase in audit quality from the Amendments would strengthen investor protection and increase informational efficiency of the capital markets, thus enhancing capital formation. Additionally, improvements in the quality of the audit may also increase price efficiency by providing investors with more accurate information. Price efficiency helps investors make more informed investment decisions facilitative issuers', including EGCs', access to capital thus enhancing capital formation. With respect to competition, we note that due to the additional supervisory requirements, smaller firms may be less able to compete with larger firms in the audit market for audit involving other auditors. However, Form AP data shows that smaller firms perform relatively fewer audits that involve other accounting firms, and, as noted above, that audits of EGCs are less likely to involve the use of other firms. Therefore, any impact on competition in

[25] *See* PWC Letter *available at https://www.sec.gov/comments/pcaob-2022-01/pcaob202201-20134692-305861.pdf.*

[26] *See, e.g.,* PCAOB Adopting Release, at A4–22, A4–28.

[27] *See* Section 107 of the Sarbanes-Oxley Act.

[28] *See* Section 107(b)(3) of the Sarbanes-Oxley Act. The Sarbanes-Oxley Act also specifies that the provisions of Section 19(b) of the Exchange Act shall govern the proposed rules of the Board. *See* Section 107(b)(4) of the Sarbanes-Oxley Act. Section 19 of the Exchange Act covers the registration, responsibilities, and oversight of self-regulatory organizations. Under the procedures prescribed by the Sarbanes-Oxley Act and Section 19(b)(2) of the Exchange Act, the Commission must either approve or disapprove, or institute proceedings to determine whether the proposed rules of the Board should be disapproved; and these procedures do not expressly permit the Commission to amend or supplement the proposed rules of the Board.

[29] *See* the Notice of Filing of Proposed Rules, *supra* note 3, at 191.

[30] While the precise scope of this category of rules under Section 103(a)(3)(C) is not entirely clear, we do not interpret this statutory language as precluding the application of Board rules requiring inclusion of additional factual information about referred-to auditors and the scope of their work in connection with the audits of EGCs. In our view, this approach reflects an appropriate interpretation of the statutory language and is consistent with our understanding of the Congressional purpose underlying this provision.

[31] For example, only 14 percent of audits of EGCs involved other firms compared to 27 percent of issuer audit overall; in audits involving other firms, EGC audits involve two or more other firms in about 35 percent of audits compared to about 61 percent in audits of issuers overall; and other accounting firms perform 10 percent or more of the audit hours in about 40 percent of audits of EGCs compared to about 52 percent of audits of issues overall. *See* PCAOB Adopting Release, at 54, Figure 6.

[32] *See* PCAOB Adopting Release, at 54.

[33] *See* PCAOB Adopting Release, at 55, footnote 115.

[34] *See* PCAOB Adopting Release, at 55.

the overall audit market and for audits of EGCs is likely to be relatively small. As such, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, we believe there is a sufficient basis to determine that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

V. Conclusion

The Commission has carefully reviewed and considered the Amendments, the information submitted therewith by the PCAOB, and the comment letters received. In connection with the PCAOB's filing and the Commission's review,

A. The Commission finds that the Amendments are consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and are necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Amendments to the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 107 of the Sarbanes-Oxley Act and Section 19(b)(2) of the Exchange Act, that the Amendments (File No. PCAOB–2022–002) be and hereby are approved.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17723 Filed 8–17–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95499; File No. SR–NYSEAMER–2022–35]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Current Rule 7.39E

August 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete current Rule 7.39E governing Off-Hours Trading. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes delete current Rule 7.39E governing Off-Hours Trading.

In 2017, in connection with the transition to the Pillar trading platform, the Exchange adopted Rule 7.39E in order to maintain certain functionality in its Off-Hours Trading Facility.[3] Currently, the Exchange offers an Off-Hours Trading Facility pursuant to Rule 7.39E that only accepts aggregate-price coupled orders.

NYSE American recently determined to cease offering an after-hours crossing session and decommission the Off-Hours Trading Facility. In connection with the decommissioning of the Off-Hours Trading Facility, the Exchange proposes to delete Rule 7.39E in its entirety. The Exchange notes that its affiliate New York Stock Exchange LLC (''NYSE'') has filed to adopt a new Rule 7.39 governing its off-hours trading facility based on Rule 7.39E that would permit NYSE member organizations to enter aggregate-price coupled orders for securities, including UTP securities, listed and traded on NYSE.[4]

The Exchange will announce the implementation date by Trader Update. The Exchange anticipates that the proposed change will be implemented on September 1, 2022.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that deleting Rule 7.39E concomitantly with the decommissioning of the Off-Hours Trading Facility would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system by deleting obsolete rules, thereby adding clarity, transparency and consistency to the Exchange's rulebook. By making the proposed change, the Exchange would ensure that its rules are consistent with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80590 (May 4, 2017), 82 FR 21843, 21847 (May 10, 2017) (SR–NYSEMKT–2017–01) (Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt New Equity Trading Rules To Transition Trading on the Exchange From a Floor-Based Market With a Parity Allocation Model to a Fully Automated Market With a Price-Time Priority Model on the Exchange's New Trading Technology Platform, Pillar). Prior to that time, Rules 900—Equities through 907—Equities governed off-hours trading activity on the Exchange. Rules 900—Equities through 907—Equities were designated as inapplicable to trading on the Pillar trading platform and later deleted. *See* Securities Exchange Act Release No. 82212 (December 4, 2017), 82 FR 58036 (December 8, 2017) (SR–NYSEAMER–2017–34) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules To Delete Obsolete Cash Equities Rules That Are Not Applicable to Trading on the Pillar Trading Platform and To Delete Other Obsolete Rules).

[4] *See* SR–NYSE–2022–37. The NYSE's proposed rule filing would permit NYSE member organizations to enter aggregate-price coupled orders, defined as orders to buy or sell a group of securities that have a total market value of $1 million or more and that are comprised of 15 or more securities listed or traded on the NYSE, which would include UTP securities.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

the existing functionality offered by the Exchange, thereby promoting clarity and transparency in its rules. The Exchange believes that the change would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the increased clarity and transparency that the change would introduce, thereby reducing potential confusion.

The Exchange further believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, because it would remove any potential confusion among market participants that may result if the Exchange retained rules governing its Off-Hours Trading Facility after the Exchange decommissioned it.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that decommissioning its Off-Hours Trading Facility would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Pursuant to the NYSE's recent filing to adopt a new rule based on NYSE American Rule 7.39E, all ETP Holders that are also NYSE member organizations would be able to utilize the NYSE's off-hours trading facility to enter aggregate-price coupled orders for securities, including UTP securities, listed and traded on the NYSE.[7] The Exchange further believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate because the proposed change is designed to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[7] *See* SR–NYSE–2022–37.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on September 1, 2022.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the Exchange plans to decommission the Off-Hours Trading Facility as of September 1, 2022. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on September 1, 2022.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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 accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(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–NYSEAMER–2022–35 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAMER–2022–35. 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

[15] 15 U.S.C. 78s(b)(2)(B).

to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2022–35 and should be submitted on or before September 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17750 Filed 8–17–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95494; File No. SR–FINRA–2022–025]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 11880 (Settlement of Syndicate Accounts) To Revise the Syndicate Account Settlement Timeframe for Corporate Debt Offerings

August 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 August 5, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 11880 (Settlement of Syndicate Accounts) to revise the syndicate account settlement timeframe for corporate debt offerings.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Underwriting groups ordinarily form syndicate accounts [3] to process the income and expenses of the syndicate. The syndicate manager [4] is responsible for maintaining syndicate account records and must provide to each selling syndicate member an itemized statement of syndicate expenses no later than the date of the final settlement of the syndicate account. Syndicate members record the expected payments from the syndicate manager as ''receivables'' on their books and records but generally do not receive the payments for up to 90 days after the syndicate settlement date,[5] as currently permitted under FINRA rules.[6]

To help avoid lengthy settlement delays, FINRA Rule 11880 provides that the syndicate manager in a public offering of corporate securities must effect the final settlement of syndicate accounts within 90 days following the settlement date. When FINRA (then NASD) initially adopted a settlement rule in 1985, it required that final settlement of syndicate accounts be effected within 120 days after the syndicate settlement date.[7] The syndicate settlement timeframe was reduced from 120 days to 90 days in 1987, and it has remained the same since then.[8]

In consideration of the technological advances since 1987, FINRA is proposing to amend the timeframe to settle syndicate accounts set forth in FINRA Rule 11880(b). Specifically, FINRA is proposing to establish a two-stage syndicate account settlement approach whereby the syndicate manager would be required to remit to each syndicate member at least 70 percent of the gross amount due to such syndicate member within 30 days following the syndicate settlement date, with any final balance due remitted within 90 days following the syndicate settlement date.

The proposed two-stage approach would be limited to public offerings of corporate debt securities.[9] FINRA is not proposing at this time to change the current 90-day period for the final settlement of syndicate accounts for public offerings of equity securities, which often involve complexities that may necessitate a longer settlement timeframe than corporate debt offerings (*e.g.,* an overallotment option that may have an exercise term of 30 days).

FINRA also notes that, with respect to municipal debt offerings, Municipal Securities Rulemaking Board (''MSRB'') Rule G–11 (Primary Offering Practices) currently provides that final settlement of a syndicate or similar account must be made within 30 calendar days of the syndicate settlement date. The MSRB shortened the settlement timeframe from 60 days to 30 days in 2009 to reduce the exposure of syndicate account members to the credit risk of potential deterioration in the credit of the syndicate manager during the pendency of account settlements.[10] The MSRB believed that this change would not be unduly burdensome on firms given the more efficient billing and accounting systems firms had implemented since the rules were first adopted in the 1970s.[11]

FINRA similarly believes that the proposed rule change will benefit syndicate members by reducing the exposure of syndicate members to the credit risk of the syndicate manager during the pendency of account

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A syndicate account is the account formed by members of the selling syndicate for the purpose of purchasing and distributing the corporate securities of a public offering. *See* FINRA Rule 11880(a)(2).

[4] A syndicate manager is the member of the selling syndicate that is responsible for the maintenance of syndicate account records. *See* FINRA Rule 11880(a)(3).

[5] The syndicate settlement date is the date that the issuer delivers corporate securities to or for the account of the syndicate members. *See* FINRA Rule 11880(a)(4).

[6] During this time, a syndicate member may not treat the ''receivables'' as allowable assets for purposes of Exchange Act Rule 15c3–1 (''Net Capital Rule'') and therefore must deduct them from its net worth in computing its net capital.

[7] *See* Securities Exchange Act Release No. 22238 (July 15, 1985), 50 FR 29503 (July 19, 1985) (Order Approving File No. SR–NASD–85–14).

[8] *See* Securities Exchange Act Release No. 24290 (April 1, 1987), 52 FR 11148 (April 7, 1987) (Order Approving File No. SR–NASD–87–7).

[9] A ''corporate debt security'' would be defined as a debt security that is United States (''U.S.'') dollar-denominated and issued by a U.S. or foreign private issuer, including a Securitized Product as defined in FINRA Rule 6710(m). ''Corporate debt security'' would not include a Money Market Instrument as defined in FINRA Rule 6710(o). *See* proposed Rule 11880(a)(1).

[10] *See* Securities Exchange Act Release No. 60487 (August 12, 2009), 74 FR 41771 (August 18, 2009) (Notice of Filing of File No. SR–MSRB–2009–12) and Securities Exchange Act Release No. 60725 (September 28, 2009), 74 FR 50855 (October 1, 2009) (Order Approving File No. SR–MSRB–2009–12).

[11] *See supra* note 10.

settlements. FINRA also believes that the proposed rule change will benefit syndicate members, including capital-constrained small firms, by allowing them to obtain earlier access to the funds earned from an offering without significantly increasing the risks of resettlements. In addition, FINRA believes that the proposed staged approach will provide these benefits to syndicate members while easing compliance for syndicate managers by permitting them to retain 30 percent of the gross amount earned by syndicate members to cover expenses and remit any balance due to the syndicate members within the current 90-day period following the syndicate settlement date.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice*. The effective date will be January 1, 2023.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change promotes just and equitable principles of trade and is in the public interest as it will reduce the exposure of syndicate members to the potential deterioration of the credit of syndicate managers during the pendency of account settlement without negatively impacting the ability of syndicate managers to run the syndicate settlement account process. FINRA also believes that the proposed rule change promotes just and equitable principles of trade because it will result in syndicate managers more quickly remitting the majority of the gross amount earned by syndicate members and will not be unduly burdensome on syndicate managers given the technological advances that have been made since the 90-day syndicate account settlement timeframe was adopted in 1987.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[12] 15 U.S.C. 78*o*–3(b)(6).

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts of the proposed rule change, including potential costs, benefits, and distributional and competitive effects, relative to the current baseline.

Regulatory Need

FINRA Rule 11880 requires final settlement of syndicate accounts within 90 days following the syndicate settlement date. As discussed further below, FINRA understands that syndicate managers currently could conduct partial settlements of syndicate accounts much more quickly, at limited additional expense, to the benefit of syndicate members. Longstanding industry practices, the number of parties in selling syndicates and possibly greater efficiency in syndicate settlement by syndicate managers that conduct more settlements may limit the impact of competition and negotiation on final settlement practices and timelines. FINRA also believes that modifying the current syndicate settlement timeframe will benefit syndicate members, including capital-constrained small firms, by allowing them to obtain earlier access to the funds earned from an offering without significantly increasing the risks of resettlements. FINRA is therefore proposing a two-staged syndicate settlement framework to enable quicker remittance of a significant portion of syndicate revenue to syndicate members.

Economic Baseline

The economic baseline for the proposed rule change is current FINRA Rule 11880, which allows 90 days for the final settlement of syndicate accounts, industry practices for compliance and implementation of the rule, and the competitive landscape.

FINRA conducted an analysis of the primary corporate debt market to study the extent and scope of participation in corporate debt syndicates by member firms using data from the Trade Reporting and Compliance Engine (''TRACE''). From 2019 to 2021, FINRA estimates that approximately 377 member firms, on average per year, participated in syndicates for corporate debt offerings and could be affected by the proposed rule change.[13] Of these firms, 57 percent, 18 percent, and 25 percent are small, mid-size and large firms, respectively.[14]

The 90-day period following the syndicate settlement date allows the syndicate manager to record income and expenses incurred in connection with the offering and then to distribute the net underwriting revenue due to each syndicate member. Syndicate managers tend to be large, well-capitalized firms.[15] The syndicate manager collects the underwriting revenue for the syndicate and pays expenses. The other syndicate members, which often include smaller firms, are paid their respective portion of the underwriting revenue, net of expenses, from the syndicate managers by the final syndicate account settlement date.

To assess the magnitude of the gross revenue from underwriting public offerings of corporate debt, FINRA calculated that, on average each year between 2019 and 2021, there were 41,756 U.S. dollar-denominated corporate debt offerings (excluding 144A offerings) with an average amount of $3.5 trillion raised (see Table 1). Investment grade corporate debt offerings account for 49 percent of the total issued amount, and high yield and non-rated corporate debt offerings account for the remainder (see Table 1).[16] A recent study estimates that the average gross underwriting spread is 0.65 percent for investment grade debt securities and 1.42 percent for high yield debt securities.[17] Using these

[13] The extent of firm participation in the primary corporate debt market was approximated using TRACE data. Issuers sell new stocks and bonds in the primary market to the public, such as through an initial public offering. The data is limited to the primary market sellers for corporate debt, excluding offerings made in compliance with Rule 144A of the Securities Act of 1933 (''144A offerings'').

[14] *See* 2022 FINRA Industry Snapshot, *https://www.finra.org/sites/default/files/2022-03/2022-industry-snapshot.pdf.* Small, mid-size and large firms are defined as having 1–150, 151–499, and at least 500 registered representatives, respectively. *See* Article I of the FINRA By-Laws.

[15] *See, e.g.,* Hendrik Bessembinder, Stacey E. Jacobsen, William F. Maxwell & Kumar Venkataraman, Overallocation and Secondary Market Outcomes in Corporate Bond Offerings (April 29, 2022), SMU Cox School of Business Research Paper No. 20–04, available at *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3611056.* The authors developed a sample of 5,573 bond offerings that were issued between 2010 and 2018, based upon primary allocation data collected through TRACE. They found that only 10 firms were syndicate managers and that the most frequent bookrunners (manager and co-managers) were large firms. This finding is consistent with FINRA's findings from its outreach efforts.

[16] While members are required to report revenue from underwriting on Financial and Operational Combined Uniform Single (''FOCUS'') and Supplemental Statement of Income (''SSOI'') reports, the data is in aggregate form and thus we are unable to determine underwriting revenue for public offerings of corporate debt securities.

[17] The gross revenue from an underwriting is the difference between the price the syndicate pays the issuer for the securities and the initial price at which the syndicate sells the securities to the

Continued

estimates, FINRA estimates that the gross revenue from underwriting public offerings of corporate debt (excluding 144A offerings) would be at least $36 billion per year.[18] Underwriting revenue, net of expenses, is distributed to syndicate members.

TABLE 1—TRACE-ELIGIBLE CORPORATE BONDS (EXCLUDING 144A) ISSUED BY GRADE AND YEAR

	Number of offerings	Total issued amount (trillion $)	% of annual total issued amounts
2019	26,769	3.10	100.00%
Investment Grade	3,275	1.50	48.39
High Yield	468	0.26	8.45
Non-rated	23,026	1.34	43.15
2020	43,334	4.22	100.00
Investment Grade	3,828	2.14	50.81
High Yield	374	0.24	5.58
Non-rated	39,132	1.84	43.61
2021	55,164	3.12	100.00
Investment Grade	3,615	1.48	47.31
High Yield	275	0.15	4.71
Non-rated	51,274	1.50	47.98
Average 2019–2021	41,756	3.48	100.00
Investment Grade	3,573	1.71	48.84
High Yield	372	0.21	6.25
Non-rated	37,811	1.56	44.92

Source: Bloomberg for TRACE-eligible Corporate Bonds.

Through its outreach efforts, FINRA has heard that the settlement of syndicate accounts for corporate debt offerings is typically conducted at the end of the 90-day window, rather than earlier in the window, as permitted under the current rule. FINRA also has heard, however, that syndicate income is often known much earlier, even by the closing date of the offering. This information is consistent with recent research findings that, in more than 95 percent of the debt offerings from 2016 to 2018, the debt security is priced, allocated to investors, and starts trading in the secondary market all within the same day.[19] Thus, a large part of syndicate income can be accounted for within days after the date of issuance.[20]

Through its outreach efforts, FINRA understands that syndicate expenses are also generally known within 90 days following the syndicate settlement date. However, syndicate managers sometimes receive invoices after 90 days. Certain expenses, such as legal fees and covering overallotment short transactions, take time to realize and are difficult to estimate as they might depend on another party or market movements. Invoices received after the final settlement of syndicate accounts result in resettlements. FINRA understands that syndicate managers prefer to avoid this scenario as much as possible. Data on the prevalence of resettlements after 90 days is unavailable, but some public comments submitted in response to the *Notice* suggest that they are infrequent.

Economic Impacts

Under the proposed rule change, syndicate members would receive 70 percent of the gross receivables due to them within 30 days following the syndicate settlement date and any final balance due within 90 days. The proposed rule change could impact firms of different sizes that participate in corporate debt offerings in different ways, as explained further below. The aggregate impact is less clear, as it depends upon the extent of long-term competitive benefits and short-term cost increases. If competition increases in the market for corporate debt offerings in the long term, investors may also benefit from improved pricing.

Anticipated Benefits

FINRA expects that the proposed rule change could reduce a number of risks associated with syndicate debt issuance, including counterparty and liquidity risk. Remitting revenues earned from the offering to syndicate members more quickly would reduce counterparty risk to syndicate members. The reduction in

public, also called the ''gross underwriting spread.'' The spread generally accounts for management fees paid to lead underwriters, underwriting fees and the sales credits paid to syndicate members for selling the securities. As a rule, gross revenue from a public offering is directly related to the size of the offering.

[18] Research using a sample of municipal bond offerings between 1997 and 2001 found that the absence of a rating increases underwriting gross spreads by about 40 basis points after controlling for bond rating and other characteristics. *See* Alexander W. Butler, Distance Still Matters: Evidence from Municipal Bond Underwriting, 21(2) Rev. Fin. Stud. 763–784 (March 2008), available at *https://www.jstor.org/stable/40056834?seq=1.* Information on gross spreads for unrated corporate bonds is harder to find. One study found the default rate among unrated institutional loans issued by U.S. publicly owned companies was comparable to that of rated high yield loans. *See* Edward I. Altman, Sreedhar T. Bharath & Anthony Saunders, Credit Ratings and the BIS Capital Adequacy Reform Agenda, 26(5) J. Bank. Fin. 909–921 (May 2002), available at *https://www.sciencedirect.com/science/article/abs/pii/S0378426601002692.* These findings indicate that the gross spread for unrated corporate bonds is likely somewhat greater than that for high yield corporate bonds. Based on these assumptions, the gross underwriting revenue from public offerings of corporate debt would be at least $36B (= 0.0065 * 1.71*10^12 + 0.0142 *(0.21 + 1.56)*10^12).

[19] *See* Liying Wang, Lifting the Veil: The Price Formation of Corporate Bond Offerings, 142(3) J. Fin. Econ. 1340–1358 (December 2021), available at *https://www.sciencedirect.com/science/article/abs/pii/S0304405X2100307X.*

[20] FINRA understands that, in the absence of an overallotment option, syndicate managers may over-allocate an offering to stabilize secondary market prices—effectively creating a syndicate short position. Profits or losses from these transactions are considered part of a syndicate's revenues or expenses and depend on secondary market price movements, which cannot be estimated before the public offering. Research has found, however, that average profit/loss from covering overallocations relative to corporate debt underwriting revenue is very small, and most of the overallocations are offset within a few days of the date of issuance. Bessembinder et al. (2022) found that over 70 percent of the issues with overallocations in their sample are offset within two days after issuance and by day 15 about 80 percent of the issues have the overallocation fully offset. *See supra* note 15. According to the authors, the mean net position for covering overallotment short-transactions and round-trip trades in the secondary market ranges from a $240,967 loss per high-yield issue with a large overallocation to a $161,578 gain per high-yield issue with a smaller overallocation.

counterparty risk would depend on the financial capacity of the syndicate manager—where the syndicate manager is smaller or more financially constrained, the reduction in counterparty risk will likely be greater. In addition, a shorter syndicate settlement timeframe would result in providing syndicate members with earlier access to capital and improve the member's liquidity position where their own net capital is limited. Members may therefore be exposed to lower liquidity risk. The extent of this benefit would depend on the relative magnitude of syndicate receivables to the firm's liquidity position and the strength of the liquidity position itself.

FINRA expects that these potential benefits would be more pronounced for firms with lower capital levels. For instance, firms that do not have sufficient capital to engage in other business activities due to the length of the current settlement period may reap greater benefits from the proposed rule change. Syndicate members exposed to higher counterparty default risk may also disproportionately bear the risks associated with longer final settlement times. To the extent that smaller firms tend to have lower capital levels, the proposed rule change will benefit smaller firms by providing additional capital to engage in other business activities and manage default risk.

The proposed rule change is expected to have positive effects on competition and efficiency in the corporate debt underwriting market to the extent that the anticipated syndicate receivables constrain a firm's liquidity position. Alleviation of liquidity constraints would create opportunities for the syndicate members to participate in new offerings and enhance their ability to compete with other firms, maintain business operations or use the funds for other purposes. This may reduce barriers to entering the corporate debt underwriting market and could ultimately result in an increase in the supply of underwriters and lower costs for corporate debt issuers and investors. Lowering costs to issuers and investors may increase the size and frequency of new corporate debt offerings, benefiting all member firms engaged in the underwriting process. However, the extent of this potential gain in market competitiveness cannot be fully and accurately estimated.

As the syndicate manager would be required to remit a large part of the revenue to the syndicate members sooner, the proposed rule change could lead to a transfer of some of the interest earned on the syndicate's underwriting revenue—*i.e.,* from the syndicate manager to other syndicate members. The magnitude of such benefit is positively correlated with the interest rate environment. Under the proposed rule change, if part of the underwriting revenue is paid earlier, the syndicate manager would forego the earned interest on the amount to be distributed to syndicate members over the 60-day period—the difference between the 90-day baseline and proposed 30-day timeframe for the first payment of the underwriting revenue. Other syndicate members would have the opportunity to earn that interest where they do not have a better economic use for the capital.

Finally, FINRA does not expect the proposed rule change to increase the frequency of resettlements. The maximum time to final syndicate settlement under the proposed rule change, 90 days, is the same as under the baseline, and nothing in the proposed rule change would make it more difficult for parties to provide timely invoices of expenses relative to the baseline.

Anticipated Costs

FINRA believes the proposed rule change may result in additional one-time and ongoing direct costs to member firms that serve as syndicate managers in public offerings of corporate debt. These firms will need to adapt their internal policies and procedures as well as their accounting, compliance, and supervision and management systems to accommodate a two-stage syndicate account settlement cycle. Firms may also adopt better technology and greater automation of accounting and recordkeeping processes. Firms may also need to hire additional staff depending on how settlement cycles on multiple offerings overlap. The magnitude of such associated costs, specifically staff and related human and technology resources, could increase as the volume and frequency of offerings in which firms participate as syndicate managers increases. Syndicate managers could absorb such costs or pass them on to the syndicate members or the issuers.

FINRA believes that the adoption of MSRB Rule G–11 provides a useful case study for understanding the potential costs of the proposed rule change. Both commenters that supported and those more critical of the FINRA rule proposal set forth in *Regulatory Notice* 21–40 discussed comparisons between the offering process for municipal bonds versus corporate bonds. Opponents argued that, because the process for corporate bond offerings is more complex than that for municipal bonds, experience with the 30-day settlement period for municipal bond offerings is not directly relevant to corporate bond offerings. However, when the MSRB Rule G–11 amendment was proposed to shorten the deadline for municipal bond syndicate account settlement from 60 days to 30 days, similar opposing arguments were raised. Specifically, commenters noted uncertain expenses in complex issuances, the inability to obtain counsel bills and invoices within 30 days, and the fact that some bonds might take longer than 30 days to sell.[21] The amendment to MSRB Rule G–11 became effective in 2009 and market participants were able to implement necessary changes to adapt to the new timeline. While a transition in syndicate settlement timeframes involves costs, FINRA believes that the long-term benefits of shortening the settlement timeframe would outweigh the costs.

Alternatives Considered

In developing the proposed rule change, FINRA considered alternatives to the two-stage syndicate settlement approach. Specifically, FINRA considered requiring syndicate accounts to be fully settled within 30 days. FINRA also considered a 45-day settlement period instead of 30 days. These alternatives could deliver some benefits as well as carry some costs in comparison with the current proposed rule change. FINRA believes that the proposed approach is appropriate at this time because it balances the goals of reducing exposure of syndicate members to the credit risk of the syndicate manager during the pendency of account settlements and providing syndicate members with earlier access to the funds earned from an offering, with preserving the ability of syndicate managers to effectively run the settlement process and thereby limit resettlements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Regulatory Notice* 21–40 (''*Notice*''). FINRA received 12 comment letters in response to the *Notice*.[22] A copy of the *Notice* is attached as Exhibit 2a. A list of the comment letters received in response to the *Notice* is attached as Exhibit 2b. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c. Of the 12 comment letters received, eight were in favor of the

[21] *See* 74 FR 41771, *supra* note 10.

[22] All references to commenters are to the comment letters as listed in Exhibit 2b.

proposal set forth in the *Notice* and four were opposed. In the *Notice,* FINRA proposed to reduce the timeframe for the final settlement of syndicate accounts in a public offering of corporate debt securities from 90 days to 30 days following the syndicate settlement date. FINRA has considered the comment letters received and engaged in further discussions with a wide variety of industry members. As a result, FINRA has revised the proposal to instead provide for a two-stage syndicate account settlement process, as described above. The comments received in response to the approach described in the *Notice* are summarized below.

1. Reduction of Syndicate Settlement Timeframe to 30 Days

BDA supported the proposal to reduce the timeframe for the final settlement of syndicate accounts in a public offering of corporate debt securities from 90 days to 30 days, stating it would provide the following economic benefits: (1) lessen the risk that a syndicate manager could become insolvent before syndicate members receive payment; (2) provide quicker access to the revenues earned from an offering (and thereby lower barriers for broker-dealers to enter the corporate debt underwriting market); and (3) reduce the amount of interest lost by syndicate members while the funds are held in the syndicate account.

BDA also expressed support by noting that various technological advances that have emerged since 1987, such as electronic order entry and accounting systems, facilitate faster syndicate settlements. BDA further noted support for the proposal by stating that there are not substantial differences between syndicate management and accounting for municipal versus corporate debt offerings that would justify the 90-day timeframe for corporates, including in the areas of multiple lead managers, cross-border offerings, the complexity of the legal issues involved, investor carve-out letters, and asset-backed securities. In addition, BDA stated that overallotments (which effectively do not exist in corporate bond transactions), travel expensing, and vendor billing also present no impediments to a 30-day settlement timeframe.

Castle Oak, InspereX, Loop Capital, SWS, and R. Seelaus supported the proposal, stating it would provide the following economic benefits: (1) lessen the risk that a syndicate manager could become insolvent before the payment of deal revenue to syndicate members; (2) provide quicker access to the revenues earned from an offering, which would allow syndicate members to conduct more business, including additional new-issue underwritings and secondary market trading; and (3) reduce the amount of interest lost by syndicate members while the funds are held in the syndicate account. ASA also supported the proposal, stating that it would provide syndicate members quicker access to the revenues earned from an offering. These commenters, except for Loop Capital, also supported the proposal by noting that there have been significant technological and logistical improvements in the past 35 years that have made the process of settling syndicate accounts cheaper and faster. Loop Capital noted support for the proposal by stating that, based on its experience, shortening the settlement period to 30 days would not present substantive challenges to firms that serve as syndicate managers.

On the other hand, Mizuho opposed the proposal described in the *Notice,* expressing concern regarding the feasibility of a syndicate manager receiving, reviewing, and approving all expenses within a 30-day window. Mizuho also stated that a 30-day account settlement timeframe would take firms some time to implement and would result in a loss of revenue for firms if done too soon.

Cleary also opposed the proposal, stating that the reduction of the syndicate account settlement period to 30 days would require syndicate managers to hire and train a significant number of additional employees to complete the settlement process within this shortened timeframe.[23] Cleary noted that these additional costs would be passed on to the syndicate, which would reduce the net earnings of syndicate members. Cleary also opposed the proposal because a reduction of the settlement period would result in more frequent resettlements, which is a burdensome process. In addition, Cleary argued that the technological advances that have enabled a 30-day settlement process for municipal debt offerings cannot be expected to expedite, to the same degree, the settlement process for corporate debt offerings. In this regard, Cleary stated that the syndicate settlement process for corporate debt offerings is more complex and involves more manual inputs, many of which are beyond the control of syndicate managers, than the settlement process for municipal debt offerings.

Cleary also opposed the proposal by asserting that there are a number of important differences between the settlement mechanics of corporate versus municipal debt offerings that make corporate debt offerings not amenable to a 30-day settlement period. According to Cleary, these differences include: (1) corporate bond offerings generally involve multiple lead managers; (2) syndicates in corporate debt offerings routinely engage in aftermarket support; (3) expenses in corporate debt offerings are not known up front; (4) corporate bonds are offered outside the United States; (5) corporate bond offerings do not have fixed legal fees; and (6) delivery of investor carve-out letters occurs after closing in corporate bond offerings.

2. Alternatives to a 30-Day Syndicate Account Settlement Requirement

Commenters discussed several potential alternatives to reducing the syndicate account settlement timeframe to 30 days.[24] As discussed above, one potential alternative was a two-stage approach, whereby the syndicate manager would be required to remit a specified percentage of the syndicate proceeds to syndicate members within 30 days and would be permitted to retain a portion to cover expenses for an additional period of time. Mizuho expressed support for revising the syndicate account settlement timeframe by either implementing a two-stage—50/50—syndicate account settlement approach or by shortening the syndicate settlement timeframe in incremental steps rather than a sudden reduction to 30 days. Cleary also supported implementing a two-stage—50/50—syndicate account settlement approach, stating that it would more quickly provide to syndicate members the revenues earned from an offering and also allow syndicate managers to retain a sufficient amount of syndicate funds to effect timely and accurate settlements.

SIFMA supported a two-stage—70/30—syndicate account settlement approach for corporate debt offerings because it provides for payment within 30 days of a very large percentage of the net compensation ultimately payable to syndicate members and preserves the ability of syndicate managers to effectively manage the settlement process. SIFMA stated that it had received input on this alternative from broker-dealers that frequently act as syndicate managers as well as other

[23] Cleary submitted its comment letter on behalf of BofA Securities, Inc., Barclays Capital Inc., Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, Deutsche Bank Securities Inc., Goldman Sachs & Co. LLC, Jefferies LLC, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, RBC Capital Markets, LLC, UBS Securities LLC, and Wells Fargo Securities, LLC.

[24] BDA, Cleary, Mizuho, SIFMA.

broker-dealers that routinely act as syndicate members, and that all of these constituencies fully support this alternative.

While BDA initially opposed a two-stage syndicate account settlement approach as an alternative to the proposal, BDA subsequently expressed support for a two-stage—70/30—syndicate account settlement approach, stating that it was a more practical way to shorten the time to provide compensation to syndicate members.[25] According to BDA, the 70/30 approach would strike an appropriate balance between ensuring that syndicate members have ready access to their funds and minimizing the number of resettlements. In addition, BDA asserted that this approach would benefit investors by encouraging broader syndicate membership and making new-issue corporate bonds available to customers of a wider group of broker-dealers.

FINRA has modified the approach that was described in the *Notice* to instead adopt a two-stage—70/30—syndicate account settlement approach. FINRA believes that the proposed two-stage—70/30—approach is preferable to a two-stage 50/50 approach because it provides for a larger up-front payment with a smaller reserve amount and should not significantly increase the number of resettlements.

In response to a question posed in the *Notice* regarding the use of sole recourse loans as an alternative means of addressing concerns regarding the length of the syndicate account settlement timeframe, BDA stated that such loans are not a feasible alternative to shortening the syndicate account settlement timeframe because such a borrowing option does not exist generally, the lender would charge interest and thereby require a syndicate member to incur a liability for access to its own capital, and this alternative does not address the interest lost by syndicate members while their funds are held in the syndicate account. Cleary also opposed sole recourse loans as an alternative to address the length of the syndicate account settlement period. In this regard, Cleary stated that a syndicate manager will not know the amount required for a sole recourse loan because the syndicate manager will not know the net amount ultimately to be paid to each syndicate member and, as a result, syndicate managers will not know whether the receivable adequately secures any such loan. Cleary commented that syndicate managers also need to treat unsecured and partly-secured receivables as unallowable assets, and this approach therefore would cause uncertainty with regard to net capital for syndicate managers.

In light of the comments received and further discussions regarding the current syndicate account settlement framework, FINRA has determined to modify the approach that was described in the *Notice* and amend FINRA Rule 11880 as described above. In this regard, FINRA believes that the proposed amendments to FINRA Rule 11880 most directly and fairly balance the goals of reducing exposure of syndicate members to the credit risk of the syndicate manager during the pendency of account settlements and providing syndicate members with earlier access to the funds earned from an offering with preserving the ability of syndicate managers to effectively run the settlement process and thereby limit resettlements. After gaining experience with the two-stage—70/30—syndicate account settlement approach, FINRA will consider whether to reduce the 90-day time period for final settlement to align with the MSRB timeframe.

3. Definition of Corporate Debt Security

In the *Notice,* FINRA proposed defining a ''corporate debt security'' as a type of ''TRACE-Eligible Security'' that is U.S. dollar-denominated and issued by a U.S. or foreign private issuer. BDA and Loop Capital expressed support for the definition of ''corporate debt security'' proposed in the *Notice* by stating that it generally captures the universe of corporate bonds for which a move to a 30-day settlement timeframe would be easily achievable. Mizuho similarly expressed support for the definition of ''corporate debt security'' proposed in the *Notice.* BDA and Loop Capital specifically suggested that the definition should include securitized products as defined in FINRA Rule 6710(m), because the process for managing the syndicate account, paying vendors, and releasing deal revenue to comanagers is virtually the same for both corporate bonds and publicly offered securitized products.

However, Cleary opposed including asset-backed securities in the definition and stated that those securities are often composed of multiple tranches, and offerings of these securities often navigate novel, multi-jurisdictional legal issues. FINRA has determined that it is appropriate that the proposed modifications to the syndicate account settlement process also apply to public offerings of corporate debt securities that are securitized products. Therefore, the proposed definition of ''corporate debt security'' in Rule 11880 would include securitized products.

4. Public Offerings of Equity Securities

In response to a question posed in the *Notice* regarding whether the period permitted for the final settlement of syndicate accounts for public offerings of corporate equity securities should be shortened, Cleary stated that the time period should not be less than 90 days because equity offerings are likely to be more complicated than debt offerings, including requiring more diligence and marketing. Mizuho also opposed reducing the timeframe for settling equity syndicate accounts from 90 days to 30 days. However, Loop Capital argued that the time period for settling equity syndicate accounts should be reduced from 90 days and supported the adoption of a two-stage approach for such offerings. FINRA has determined at this time not to propose an amendment to reduce the syndicate account settlement timeframe for equity offerings.

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 of such date (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–FINRA–2022–025 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.

[25] BDA submitted three comment letters in response to the *Notice.*

All submissions should refer to File Number SR–FINRA–2022–025. 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 FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2022–025 and should be submitted on or before September 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17745 Filed 8–17–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95497; File No. SR–CboeEDGX–2022–004]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Codify Certain Practices and Requirements Related to the Exchange's Port Message Rate Thresholds

August 12, 2022.

On January 21, 2022, 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 codify certain practices and requirements related to the Exchange's port message rate thresholds. The proposed rule change was published for comment in the **Federal Register** on February 9, 2022.[3] On March 23, 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 May 10, 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] The Commission has received no comment letters on the proposed rule change. On July 21, 2022, the Exchange withdrew the proposed rule change (CboeEDGX–2022–004).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17748 Filed 8–17–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95495; File No. SR–NASDAQ–2022–047]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule Nasdaq Equity 6, Section 5

August 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 August 8, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') 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 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 Rule Nasdaq Equity 6, Section 5 (Risk Settings) to provide Participants with additional optional settings.

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 changes under Rule Nasdaq Equity 6, Section 5 (Risk Settings) is to provide Participants[3] with additional optional settings to assist them in their efforts to

[26] 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. 94144 (February 3, 2022), 87 FR 7519.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94496, 87 FR 18410 (March 30, 2022). The Commission designated May 10, 2022 as the date by which the Commission shall approve or 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. 94883, 87 FR 29776 (May 16, 2022).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Pursuant to Rule Nasdaq Equity 1, Section 1(a)(5), a ''Participant'' is defined as an entity that fulfills the obligations contained in Equity 2, Section 3 regarding participation in the System, and shall include: (1) ''Nasdaq ECNs,'' members that meet all of the requirements of Equity 2, Section 14, and that participates in the System with respect to one or more System Securities; (2) ''Nasdaq Market Makers'' or ''Market Makers'', members that are registered as Nasdaq Market Makers for purposes of participation in the System on a fully automated basis with respect to one or more System securities; and (3) ''Order Entry Firms,'' members that are registered as Order Entry Firms for purposes of entering orders in System Securities into the System. This term shall also include any Electronic Communications Network or Alternative Trading System (as such terms are defined in Regulation NMS) that fails to meet all the requirements of Equity 2, Section 14.

manage risk on their order flow. These additional settings provide participants with extra oversight and controls on orders coming into the exchange. Once the optional risk controls are set, the Exchange is authorized to take automated action if a designated risk level for a Participant is exceeded. Such risk settings would provide Participants with enhanced abilities to manage their risk with respect to orders on the Exchange.

All proposed risk settings are optional for Participants and afford flexibility to Participants to select their own risk tolerance levels. The proposed new and amended risk settings are as follows.

The Exchange is proposing to add an additional risk setting titled ''Restricted Stock List.'' This control allows a Participant to restrict the types of securities transacted by setting a list of symbols for which orders cannot be entered. This control also allows to set an easy to borrow list, which is a list of symbols for which short sale orders may be entered. Orders for symbols not on the easy to borrow list will not be accepted; however, Participants will have an option to indicate that short sales orders are permitted for all symbols. This setting is similar to Interpretations and Policies .01(d) of BZX Rule 11.13.[4]

The Exchange is proposing to add an additional risk setting titled ''ADV Check.'' This control relates to the size of an order as compared to the 20 day consolidated average daily volume [5] (ADV) of the security and allows a Participant to set a specified percent of ADV that an order size cannot exceed. This control also allows a Participant to specify the minimum value on which such control is based if the average daily volume of the securities is below such value. This setting is similar to Interpretations and Policies .01(g) of BZX Rule 11.13.

The Exchange is proposing to add an additional risk setting titled ''Fat Finger Protection.'' This control relates to the limit price of an order as compared to the NBBO and includes both percentage-based and dollar-based controls. If the limit price of an order deviates from the NBBO in excess of the amount set by a Participant (either percentage or dollar based), the order will not be accepted. This setting is similar to Interpretations and Policies .01(b) of BZX Rule 11.13.

The Exchange is proposing to add an additional risk setting titled ''Rate Thresholds Check.'' A Participant will be able to set the maximum number of messages (other than cancellations, but including new orders, replacement orders and modifications) that can be sent in during a configurable one second time window set by the Exchange. This control can be set as a port level or per symbol. This setting is similar to Interpretations and Policies .01(f) of BZX Rule 11.13.

The Exchange is proposing to add an additional risk setting titled ''Gross Exposure Check.'' This control measures open, executed, or notional exposure of a Participant on the Exchange; and, when breached, prevents submission of all new orders and, optionally, will cancel all open orders. Gross open order exposure is measured as the sum of booked price times size for all open orders plus the sum of booked price times size for all open sell orders. Gross executed order exposure is measured as the sum of all executed buy and sell orders. Gross notional order exposure is measured as the sum of the gross open exposure and gross executed exposure. This setting is similar to Interpretations and Policies .01(h) of BZX Rule 11.13.

The Exchange is proposing to add an additional risk setting titled ''Market Impact Check.'' This optional control, if enabled, will result in the rejection of a Participant's incoming limit order if the limit price of the order is priced through the far-side of the current LULD bands. In other words, a buy (sell) order cannot be priced more aggressively than the upper (lower) LULD band.[6] The Exchange notes that pursuant to the existing LULD requirements, buy orders priced below the lower price bands (and vice versa for sell orders) will be accepted and are eligible for inclusion in the NBBO; however, these orders are outside the price bands and will be non-executable. If the price bands move in such a way that an order that was previously outside the price band is now inside the band, the order will become executable.

The Exchange believes that this new optional setting is similar to the Exchange's existing Limit Order Protection (''LOP''). LOP is a feature of the Nasdaq Market Center that prevents certain Limit Orders at prices outside of pre-set standard limits (''LOP Limit'') from being accepted by the System.[7] LOP is operational each trading day, except for orders designated for opening, re-opening, closing and halt crosses. LOP does not apply in the event that there is no established LOP Reference Price.[8] LOP is applicable on all order entry protocols.[9] While the current LULD functionality would continue to apply, this additional proposed risk setting would allow a Participant to manage its risk more comprehensively.

The Exchange is also proposing to amend two existing risk settings titled, ISO Control and Duplication Control.

Currently, pursuant to Nasdaq Equity 6, Section 5(j), the Duplication control will automatically reject an order that a Participant submits to the Exchange to the extent that it is duplicative of another order that the Participant submitted to the Exchange during the prior five seconds. The Exchange proposes to provide additional flexibility for Participants by allowing the interval applicable to this risk check to vary from one to thirty seconds, as set by a Participant. This setting is similar to Interpretations and Policies .01(e) of BZX Rule 11.13.

Pursuant to Nasdaq Equity 6, Section 5(b), ISO Control setting prevents a Participant from entering an ISO order onto the Exchange. The Exchange proposes to expand this setting to allow a Participant to restrict additional order types from being entered. Specifically, a Participant may restrict their ability to place any of the following: ISO Orders (as currently provided by this risk setting), short sale orders, non-auction market orders, pre-market orders or post-market orders. The Exchange proposes to change the title of this risk setting to Order Type/Attribution Check to better reflect its substance, as amended. This setting is similar to Interpretations and Policies .01(c) of BZX Rule 11.13.

As currently provided for existing risk settings, the Exchange will share any Participant risk settings in the trading system that are specified Rule Nasdaq Equity 6, Section 5, with the clearing member that clears transactions on

[4] *See* Securities Exchange Act Release No. 80611 (May 5, 2017) 82 FR 22045 (May 11, 2017) (SR–BatsBZX–2017–24).

[5] In certain circumstances, when the security does not have 20 days of trading history, the ADV Check is calculated on fewer than 20 data points.

[6] The Limit Up-Limit Down (LULD) mechanism is intended to prevent trades in National Market System (NMS) securities from occurring outside of specified price bands. The bands are set at a percentage level above and below the average reference price of the security over the immediately preceding five-minute period. To accommodate fundamental price moves, there is a five-minute trading pause if trading is unable to occur within the specified price band after 15 seconds.

[7] The LOP Limit is the greater of 10% of the LOP Reference Price or $0.50 for all securities across all trading sessions. The LOP Reference Price is the current National Best Bid or Best Offer, the bid for sell orders and the offer for buy orders.

[8] For example, if there is a one-sided quote or if the NBB, when used as the LOP Reference Price, is equal to or less than $0.50.

[9] Nasdaq maintains several communications protocols for Participants to use in entering Orders and sending other messages to the Nasdaq Market Center, such as: OUCH, RASH, QIX, FLITE and FIX.

behalf of the Participant even if the clearing member is not designated.

Implementation

The Exchange intends to implement of the proposed rule changes on or before December 30, 2022. The Exchange will issue an Equity Trader Alert to members announcing the exact date the Exchange will implement the risk protections.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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.

Specifically, the Exchange believes the proposed amendment will remove impediments to and perfect the mechanism of a free and open market and a national market system because it provides functionality for a Participant to manage its risk exposure, while also maintaining a notification system under Rule Nasdaq Equity 6, Section 5 that would help to ensure the Participant and its clearing member are aware of developing issues.

A clearing member guarantees transactions executed on Nasdaq for members with whom it has entered into a clearing arrangement, and therefore bears the risk associated with those transactions. The Exchange therefore believes that it is appropriate for the clearing member to have knowledge of what risk settings the Participant may utilize within the Exchange's trading system, as well as the option to set and adjust the risk levels. The proposal will permit clearing members who have a financial interest in the risk settings of Participants with whom the Participants have entered into clearing arrangements to better monitor and manage the potential risks assumed by clearing members, thereby providing clearing members with greater control and flexibility over setting their own risk tolerance and exposure and aiding clearing members in complying with the Act.

In addition, the Exchange believes that the proposed amendments under Rule Nasdaq Equity 6, Section 5, are designed to protect investors and the public interest because the proposed functionalities are a form of risk mitigation that will aid Participants and clearing members in minimizing their financial exposure and reduce the potential for disruptive, market-wide events. The proposed new:

- Gross Executed Check settings are appropriate measures to serve as an additional tool for Participants and clearing members to assist them in identifying open, executed, or notional exposure risk;
- Market Impact Check and ADV check may assist Participants in avoiding placing orders with unintentional market impact;
- Rate Thresholds Check may help alert a Participant to excessive message traffic that could affect technical port performance;
- Fat Finger Protection will assist a Participant in avoiding submission of orders with unintended price limits or share sizes;
- Restricted Stock List will assist a Participant in limiting trading for a particular security.

The proposed amendments to ISO Control will a Participant prevent trading in a particular order type by expanding the types of orders subject to this check to pre-market, post-market, short sales, non-auction market orders. The proposed amendments to the Duplication Control will allow a Participant additional flexibility in using this control by letting a Participant to choose the period of time over which this control applies.

The Exchange also believes the proposed amendments will assist Participants and clearing members in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Finally, the Exchange believes that the proposed rule changes do not unfairly discriminate among the Exchange's Participants because use of the risk settings under Rule Nasdaq Equity 6, Section 5 are optional and available to all Participants, and not a prerequisite for participation on the Exchange.

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. In fact, the Exchange believes that the proposal will have a positive effect on competition because, it would allow the Exchange to offer risk management functionality that is comparable to functionality being offered by other national securities exchanges. Moreover, by providing Participants and their clearing members additional means to monitor and control risk, the proposed rule may increase confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed to facilitate more robust risk management by Participants and clearing members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2022–047 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–NASDAQ–2022–047. 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–2022–047 and should be submitted on or before September 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17746 Filed 8–17–22; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 95496]

Notice of Intention To Cancel Registration of Certain Municipal Advisors

August 12, 2022.

Notice is given that the Securities and Exchange Commission (the ''Commission'') intends to issue an order or orders, pursuant to Section 15B(c)(3) of the Securities Exchange Act of 1934 (the ''Act''), cancelling the registrations of the municipal advisors whose names appear in the attached Appendix (hereinafter referred to as the ''registrants'').

Section 15B(c)(3) of the Act provides, in pertinent part, that if the Commission finds that any municipal advisor registered under Section 15B is no longer in existence or has ceased to do business as a municipal advisor, the Commission, by order, shall cancel the registration of such municipal advisor.

The Commission finds that each registrant listed in the attached Appendix:

(i) has not filed any municipal advisor form submissions with the Commission through the Commission's Electronic Data Gathering and Retrieval (''EDGAR'') system since January 1, 2020 (including but not limited to the annual amendments (form MA–A) required by 17 CFR 240.15Ba1–5(a)(1)); and

(ii) based on information available from the Municipal Securities Rulemaking Board (the ''MSRB''), (a) is not registered as a municipal advisor with the MSRB under MSRB Rule A–12(a) and/or (b) does not have an associated person who is qualified as a municipal advisor representative under MSRB Rule G–3(d) and for whom there is a Form MA–I required by 17 CFR 240.15Ba1–2(b) available on EDGAR, and/or (c) has not, since January 1, 2020, filed with the MSRB any Form A–12 annual affirmation as required by MSRB Rule A–12(k).

Accordingly, the Commission finds that each of the registrants listed in the attached Appendix either is no longer in existence or has ceased to do business as a municipal advisor.

Notice is also given that any interested person may, by September 12, 2022, at 5:30 p.m. Eastern Time, submit to the Commission in writing a request for a hearing on the cancellation of the registration of any registrant listed in the attached Appendix, accompanied by a statement as to the nature of such person's interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, and such person may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed to the Commission's Secretary at the address below.

At any time after September 12, 2022, the Commission may issue an order or orders cancelling the registrations of any or all of the registrants listed in the attached Appendix, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with Rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Mark Elion, Attorney Advisor, Office of Municipal Securities, 100 F Street NE, Washington, DC 20549, or at (202) 551–5680.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.[1]

J. Matthew DeLesDernier,

Deputy Secretary.

Appendix

Registrant name	SEC ID No.
Elzey Consulting Group, LLC	867–02230
Hampel Charles Edward	867–01267
Harris Housing Advisors LLC	867–00840
IFS Advisory, LLC	867–02354
Piedmont Securities LLC	867–00767
Pinnacle Financial Group LLC	867–01379
Powell Capital Markets, Inc	867–01363
Public Advisory Consultants, Inc	867–00109
Rydle Project Funding	867–01908
Torain Group	867–02137

[FR Doc. 2022–17747 Filed 8–17–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 17 CFR 200.30–3a(a)(1)(ii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95498; File No. SR–NYSE–2022–37]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Rule 7.39 and Delete Current Rules 900–907

August 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) adopt a new Rule 7.39 governing its Off-Hours Trading Facility based on the rule adopted by its affiliate NYSE American LLC for the Pillar trading platform, and (2) delete current Rules 900–907 governing Off-Hours Trading. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes (1) adopt a new Rule 7.39 governing its Off-Hours Trading Facility based on the rule adopted by its affiliate NYSE American LLC for the Pillar trading platform, and (2) delete current Rules 900–907 governing Off-Hours Trading.

Background

In 2017, in connection with the transition to the Pillar trading platform, the Exchange's affiliate NYSE American LLC (then NYSE MKT LLC) (''NYSE American'') adopted NYSE American Rule 7.39E in order to maintain certain functionality in its Off-Hours Trading Facility. At the time, NYSE American Rules 900—Equities through 907—Equities governed off-hours trading activity on NYSE American.[3] NYSE American Rules 900—Equities through 907—Equities were based in turn on the Exchange's current Rules 900–907.[4] When NYSE American added Rule 7.39E, it described how each element of Rule 7.39E was related to former NYSE American Rules 900-Equities through 907- Equities.[5]

As described in NYSE American Rule 7.39E, the only functionality available on its Off-Hours Trading Facility following the transition to Pillar is for ETP Holders to enter aggregate-price coupled orders. NYSE American Rules 900—Equities through 907—Equities were designated as inapplicable to trading on the Pillar trading platform and later deleted.[6]

NYSE American recently determined to cease offering an after-hours crossing session and that it would delete NYSE American Rule 7.39E.

Currently, the Exchange offers an off-hours trading facility known as Crossing Session II pursuant to NYSE Rules 900–907 that operates between 4:00 p.m. and 6:30 p.m.[7] Like the NYSE American after-hours trading facility, the NYSE's off-hours trading facility only accepts aggregate-price coupled orders. In 2018, NYSE began its own multi-phase transition to the Pillar trading platform.[8] As described below, the Exchange proposes to continue to offer the current functionality pursuant to an updated and streamlined rule modeled on NYSE American Rule 7.39E that reflects current Pillar terminology.

Proposed Rule Change

The Exchange proposes to delete Rules 900–907 and add new Rule 7.39 to describe the Exchange's Off-Hours-Trading Facility. With this proposed rule change, the Exchange would permit member organizations to enter into the Off-Hours Trading Facility Aggregate-Price Coupled Orders, defined as orders to buy or sell a group of securities, which group includes no fewer than 15 Exchange-listed or traded securities having a total market value of $1 million or more. The Exchange would not otherwise change the functionality available on the current Off-Hours Trading Facility. The Exchange believes that proposed Rule 7.39, which would be located in the rule book together with rules describing trading on the Exchange and is based on NYSE American Rule 7.39E, would streamline the Exchange's rules and make them easier to navigate.

[3] *See* Securities Exchange Act Release No. 80590 (May 4, 2017), 82 FR 21843, 21847 (May 10, 2017) (SR–NYSEMKT–2017–01) (Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt New Equity Trading Rules To Transition Trading on the Exchange From a Floor-Based Market With a Parity Allocation Model to a Fully Automated Market With a Price-Time Priority Model on the Exchange's New Trading Technology Platform, Pillar).

[4] *See* Securities Exchange Act Release No. 58705 (Oct. 1, 2008), 73 FR 58995 (Oct. 8, 2008) (SR–Amex–2008–63) (approving adoption of new equity trading rules by NYSE American that are substantially identical to the equity trading rules of NYSE).

[5] *See* Securities Exchange Act Release No. 79993 (February 9, 2017), 82 FR 10814, 10822–10823 (February 15, 2017) (SR–NYSEMKT–2017–01) (''NYSE American Notice'').

[6] *See* Securities Exchange Act Release No. 82212 (December 4, 2017), 82 FR 58036 (December 8, 2017) (SR–NYSEAMER–2017–34) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules To Delete Obsolete Cash Equities Rules That Are Not Applicable to Trading on the Pillar Trading Platform and To Delete Other Obsolete Rules).

[7] *See* Securities Exchange Act Release No. 52026 (July 13, 2005), 70 FR 41806 (July 20, 2005) (SR–NYSE–2005–26) (Order) (extending hours of operation of Crossing Session II from 4:00 p.m. to 6:30 p.m., instead of 6:15 p.m.); NYSE Information Memo 05–57 (August 19, 2005).

[8] *See* Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR–NYSE–2017–36) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt New Equity Trading Rules To Trade Securities Pursuant to Unlisted Trading Privileges, Including Orders and Modifiers, Order Ranking and Display, and Order Execution and Routing on Pillar, the Exchange's New Trading Technology Platform); Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR–NYSE–2019–05) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3, To Amend NYSE Rules 7.31, 7.36, 7.37; Make Conforming Amendments to NYSE Rules 1.1, 7.11, 7.12, 7.16, 7.18, 7.32, 7.34, and 7.36; and Amend the Preambles on Current Exchange Rules Relating to Their Applicability to the Pillar Trading Platform).

Proposed Rule 7.39 would be titled ''Off-Hours Trading'' and the current ''Reserved'' designation would be deleted.

Proposed Rule 7.39(a) would provide that Rule 7.39 would apply to all Exchange contracts made on the Exchange through its ''Off-Hours Trading Facility.'' This proposed rule text is identical to current NYSE American Rule 7.39E(a).

Proposed Rule 7.39(b) would establish the definitions for the Off-Hours Trading Facility.

Proposed Rule 7.39(b)(i) would define the term ''Aggregate-Price Coupled Order'' to mean an order to buy or sell a group of securities, which group includes no fewer than 15 Exchange-listed or traded securities having a total market value of $1 million or more. This proposed definition is identical to that in NYSE American Rule 7.39E(b)(i).

Proposed Rule 7.39(b)(ii) would define the term ''Off-Hours Trading Facility,'' to mean the Exchange facility that permits member organizations to effect securities transactions on the Exchange under proposed Rule 7.39. Except for the non-substantive difference to use the term ''member organization'' rather than ''ETP Holder,'' proposed Rule 7.39(b)(ii) would be identical to NYSE American Rule 7.39E(b)(ii). Proposed Rule 7.39(b)(ii) would also define the term ''Off-Hours Trading'' to mean trading through the Off-Hours Trading Facility. This text is based on NYSE American Rule 7.39E(b)(ii) without difference. Because the Exchange would only be trading Aggregate-Price Coupled Orders in the Off-Hours Trading Facility, the Exchange proposes that Rule 7.39(b) would not include definitions for ''closing price,'' ''closing-price order,'' or ''guaranteed price coupled order,'' which are defined in current Rule 900(e)(ii)–(iv).

Proposed Rule 7.39(c) would establish that only such NMS Stocks, as the Exchange may specify, including Exchange-listed securities and UTP Securities, would be eligible to trade in the Off-Hours Trading Facility. The proposed rule text is based on NYSE American Rule 7.39E(c) without difference.

Proposed Rule 7.39(d) would establish the procedures for entering Aggregate-Price Coupled Orders into the Off-Hours Trading Facility. As proposed, a member organization may only enter into the Off-Hours Trading Facility an Aggregate-Price Coupled Order to buy (sell) that is matched with an Aggregate-Price Coupled Order to sell (buy) the same quantities of the same securities, including in odd lot and mixed lot quantities. The proposed rule text is based on NYSE American Rule 7.39E(d) with a non-substantive difference to use the term ''member organization'' instead of ''ETP Holder.''

Proposed Rule 7.39(d)(i) would provide that transactions effected through the Off-Hours Trading Facility pursuant to Aggregate-Price Coupled Orders may be for delivery at such time as the parties entering the orders may agree. The proposed rule text is identical to NYSE American Rule 7.39E(d)(i).

Proposed Rule 7.39(d)(ii) would provide that member organizations would mark all sell orders as ''long'' as appropriate. The proposed rule text is based on NYSE American Rule 7.39E(d)(ii) with a non-substantive difference to use the term ''member organization'' instead of ''ETP Holder.''

Proposed Rule 7.39(d)(iii) would provide that each side of an Aggregate-Price Coupled Order entered on a matched basis would be traded on entry against the other side without regard to the priority of other orders entered into the Off-Hours Trading Facility. The proposed rule text would be identical to NYSE American Rule 7.39E(d)(iii).

Proposed Rule 7.39(d)(iv) would provide that a transaction described in the Rule would be an Exchange contract that is binding in all respects and without limit on the member organization that enters any of the transaction's component orders and that the member organization would be fully responsible for the Exchange contract. The proposed rule text is identical to NYSE American Rule 7.39E(d)(iv) with non-substantive differences to use the term ''member organization'' instead of ''ETP Holder.''

Proposed Rule 7.39(e) would provide that each member organization would report to the Exchange such information, in such manner, and at such times, as the Exchange may from time to time prescribe in respect of Off-Hours Trading, including reports relating to Off-Hours Trading orders, proprietary or agency activity and activity in related instruments. This proposed rule text is based on NYSE American Rule 7.39E(e) with a non-substantive difference to use the term ''member organization'' instead of ''ETP Holder.''

Proposed Rule 7.39(f) would provide that each member organization would maintain and preserve such records, in such manner, and for such period of time, as the Exchange may from time to time prescribe in respect of Off-Hours Trading, including, but not limited to, records relating to orders, cancellations, executions and trading volume, proprietary trading activity, activity in related instruments and securities and other records necessary to allow the member organization to comply with the reporting provisions of proposed paragraph (e) of proposed Rule 7.39. The proposed rule text is based on NYSE American Rule 7.39E(f) with non-substantive differences to use the term ''member organization'' instead of ''ETP Holder.''

Proposed Rule 7.39(g) would provide that notwithstanding a trading halt in any security (other than a trading halt pursuant to Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility)) or a corporate development, member organizations may enter Aggregate-Price Coupled Orders into the Off-Hours Trading Facility under this Rule. The proposed rule text is based on NYSE American Rule 7.39E(g) with non-substantive differences to cross-reference Rule 7.12 instead of Rule 7.12E and to use the term ''member organizations'' instead of ''ETP Holders.''

The Exchange notes that, like its affiliate, the Exchange would not include rule text from Rule 903(d)(ii) and Rule 906(b) in proposed Rule 7.39E because these provisions relate to Floor-based use of the Off-Hours Trading Facility, which the Exchange proposes would not be available once the new rule is operative. In addition, the Exchange proposes that proposed Rule 7.39 would not include any provisions from Rule 907, which describes now obsolete crossing session functionality.

Finally, the Exchange will announce the implementation date by Trader Update. Although the Exchange is not proposing any new or different functionality for its the Off-Hours Trading Facility, the Exchange wants to provide member organizations utilizing the Off-Hours Trading Facility with sufficient time to transition to the new rule set. The Exchange anticipates that the proposed change will be implemented on September 1, 2022.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that proposed Rule 7.39 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would permit member organizations to continue using the Exchange's off-hours trading facility pursuant to a streamlined and updated rule that reflects current Pillar terminology. As noted, the Exchange proposes to adopt NYSE American's streamlined rule for off-hours trading utilizing Pillar terminology to permit entry into the Off-Hours Trading Facility of Aggregate-Price Coupled Orders, defined as orders to buy or sell a group of securities, which group includes no fewer than15 Exchange-listed or traded securities having a total market value of $1 million or more. The Exchange believes that using text based on NYSE American Rule 7.39E would remove impediments and perfect the mechanism of a free and open market and a national market system because, as described in the NYSE American Notice, NYSE American Rule 7.39E is based on former NYSE American Rule 900—Equities through Rule 907—Equities, which in turn were based on NYSE Rules 900–907. The proposed rule, like the NYSE American rule on which it is based, would permit member organizations to enter Aggregate-Price Coupled Orders while deleting obsolete text and references and updating the rule language to reflect trading on the Pillar trading platform. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rules would promote competition by providing a streamlined and modernized rule governing off-hours trading on the Exchange based on the version adopted by the Exchange's affiliate without substantive differences. The Exchange believes that the proposed rules would not impose any burden on competition that is not necessary or appropriate because the proposed rules are designed to provide member organizations with continuity in utilizing the after-hours facility by offering the ability to enter Aggregate-Price Coupled Orders as currently provided for under the Rule 900 Series while deleting obsolete text and references and updating the rule language to reflect trading on the Pillar trading platform.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b-4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on September 1, 2022.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow member organizations to continue to utilize the Exchange's current off-hours trading facility without interruption. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on September 1, 2022.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2022–37 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–NYSE–2022–37. 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

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2022–37 and should be submitted on or before September 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17749 Filed 8–17–22; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2022–0042]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA

Comments: https://www.reginfo.gov/public/do/PRAMain. Submit your comments online referencing Docket ID Number [SSA–2022–0042].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2022–0042].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 17, 2022. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Waiver of Your Right to Personal Appearance before an Administrative Law Judge—20 CFR 404.948(b)(1)(i), 404.956, 416.1448(b)(1)(i), and 416.1456—0960–0284. Applicants for Social Security, Old Age, Survivors, and Disability Insurance (OASDI) benefits and Supplemental Security Income (SSI) payments have the statutory right to appear in person (or through a representative) and present evidence about their claims at a hearing before a judge. Per SSA regulations, if a claimant is dissatisfied with a determination or decision listed in 20 CFR 404.930 or 416.1430, the claimant may request a hearing before a judge, and has a right to appear at a hearing before a judge. At a hearing, claimants have the right to present evidence; have witnesses testify on their behalf; and present their case to the judge. A hearing may provide the judge with additional information to make a more informed decision. However, in some cases, claimants may choose to waive their right to appear before a judge for various reasons, including if they feel the evidence of record stands on its own, or if they are unable to attend a hearing due to extenuating circumstances. When a claimant chooses to waive the right to appear at a hearing and allows the judge to decide the case based on the written evidence of record alone, we ask the claimant to submit this request to us in writing so we can document it in their record. While SSA will accept a written request, we also allow claimants to use Form HA–4608 to serve as a written waiver for the claimant's right to a personal appearance before a judge. The claimant may complete the paper version of the HA–4608 and submit it back to SSA using the pre-paid envelope SSA sends with it, or the claimant may choose to complete the HA–4608 through the submittable PDF on SSA's website. The judge uses the information we collect on Form HA–4608 to continue processing the case and makes the completed form a part of the documentary evidence of record by placing it in the official record of the proceedings as an exhibit. Respondents are applicants or claimants for OASDI and SSI, or their representatives, who request to waive their right to appear before a judge.

Type of Request: Revision of an approved-OMB information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
HA–4608–PDF/paper version	12,000	1	5	1,000	* $11.70	** $11,700

* We based this figure on the average DI payments based on SSA's current FY 2022 data (*https://www.ssa.gov/legislation/2022factsheet.pdf).*

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Letter to Custodian of Birth Records—20 CFR 404.704, and 422.103–422.110—0960–0693. When individuals need help in obtaining evidence of their age in connection with Social Security number (SSN) card applications and claims for benefits, SSA prepares the SSA–L706, Letter to Custodian of Birth Records. SSA uses Form SSA–L706 to verify the proof of age when an SSN applicant submits a birth record that is deemed questionable in the Social

[19] 17 CFR 200.30–3(a)(12).

Security Number Application Process (SSNAP) system. In most of the cases, we verify birth records (*i.e.,* birth certificates) with the custodian of the record or issuing entity before processing the SSN card application via an online query such as the Electronic Verification of Vital Events (EVVE) or SSA-approved online access to State vital records. However, when the applicant submits alternative evidence to request an original SSN card or to correct a date of birth (DOB) that SSA cannot verify via an online query (*i.e.,* the custodian/issuing entity of the birth record is a hospital or health care provider), we use the SSA–L706 to verify proof of age for enumeration purposes. The SSNAP system pre-fills a PDF version of the SSA–L706 using information from the SSN application to ensure accuracy and save time. SSA uses the letter to verify with the custodian or issuing entity, when necessary, the authenticity of the record the SSN applicant or claimant submitted. SSA mails the SSA–L706 to the respondents to complete and mail or fax back the completed form back to us. The respondents are SSN applicants who sign the request; State and local bureaus or agencies of vital statistics, and religious entities who submit the information regarding evidence of age for the SSN applicant.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–L706—(SSNAP)	573	1	10	96	* $24.57	** $2,359
SSA–L706—(Respondents Signature Only)	573	1	1	10	* 28.01	** 280
Totals	1,146			106		** 2,639

* We based these figures on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*), and by averaging both the average U.S. worker's hourly wage with the average Information and Record Clerks hourly wage, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes434199.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 19, 2022. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Continuing Disability Review Report—20 CFR 404.1589 & 416.989—0960–0072. Sections 221(i), 1614(a)(3)(H)(ii)(I) and 1633(c)(1) of the Social Security Act (Act) require SSA to periodically review the cases of individuals who receive benefits under Title II or Title XVI based on disability to determine if their disability continues. SSA considers adults eligible for disability payments if they continue to be unable to do substantial gainful activity because of their impairments, and we consider Title XVI children eligible for disability payment if they have marked and severe functional limitations because of their impairments. To assess claimants' ongoing disability payment eligibility, SSA uses the information gathered through the Continuing Disability Review Report to complete a mandatory review for the continue disability review (CDR).

SSA also uses the Continuing Disability Review Report to obtain information on sources of medical treatment; participation in vocational rehabilitation programs (if any); attempts to work (if any); and recipients' assessments when they believe their conditions improved. Title II or Title XVI disability recipients can complete the Continuing Disability Review Report using one of three modalities: (1) a paper application or fillable PDF (using Form SSA 454 BK); (2) a field office interview, during which SSA employees enter claimant's data directly into the Electronic Disability Collection System (EDCS); or (3) using an online system (i454). This new web-based modality will provide recipients a new platform for submitting information to increase accessibility and enhance automation. When SSA initiates a medical CDR, we send a mailed notice to the individual with a disability informing that individual that SSA requires a CDR. The mailed notice provides instructions to the recipient on how to assist the agency with initiating the CDR and gives the individual the option to complete a paper SSA–454 or an i454 for adult only disabled individuals. When an individual requires a CDR, a claims specialist (CS) mails the paper Form SSA–454–BK, and the respondent completes the form, and sends or brings it back to SSA; or the CS interviews the respondent and enters the information into the appropriate EDCS screens; or adult disabled individuals complete the SSA–454–BK electronically using the i454 internet application. Regardless of the modality the respondent uses to complete the information (paper, EDCS, or internet versions), SSA electronically stores the information provided in EDCS. The respondents complete the SSA–454–BK by themselves with self-help information available, or a representative may complete the paper form or electronic application on their behalf. The respondents are Title II or Title XVI disability recipients or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Average wait time in field office (minutes) ***	Total annual opportunity cost (dollars) ****
SSA–454–BK (paper version)	189,350	1	* 480	1,514,800	** $11.70	*** 24	**** $18,609,318

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Average wait time in field office (minutes) ***	Total annual opportunity cost (dollars) ****
Electronic Disability Collect System (EDCS)	270,500	1	* 480	2,164,000	** 11.70	*** 24	**** 26,584,740
i454 (Internet)	81,150	1	* 480	649,200	** 11.70		**** 7,595,640
Totals	541,000			4,328,000			**** 52,789,698

* The estimated time of 480 minutes to complete Form SSA–454–BK is an average for the respondents, who are Title II or Title XVI disability recipients or their representatives. Some of these respondents may take longer to complete the forms and submit the information, while others will complete the forms faster, which is why we use average time estimates to calculate time burdens for these information collections. These estimates were originally developed, and are still based on, our current management information data. In addition, we increased this estimate based on public comments.

** We based this figure on the average DI payments based on SSA's current FY 2022 data (*https://www.ssa.gov/legislation/2022factsheet.pdf).*

*** We based this figure on the average FY 2022 wait times for field offices, based on SSA's current management information data.

**** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: August 12, 2022.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2022–17732 Filed 8–17–22; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0111]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Ford Motor Company

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of provisional renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to provisionally renew the Ford Motor Company's (Ford) exemption which allows motor carriers to operate commercial motor vehicles (CMV) based on the Ford Transit model that do not meet the exhaust system location requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemption is renewed for 5 years.

DATES: This renewed exemption is effective August 16, 2022, through August 16, 2027, unless rescinded earlier. Comments must be received on or before September 19, 2022.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2015–0111 using any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA–2015–0111). Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption 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,* the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–0676; *MCPSV@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2015–0111), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2015–0111'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on the ''Comment'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b)(2) and 49 CFR 381.300(b) to renew an exemption from

the FMCSRs for a 5-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.''

III. Background

Current Regulation(s) Requirements

Under 49 CFR 393.83, (1) the exhaust system of a bus powered by a gasoline engine must discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus, and (2) the exhaust system of every truck and truck tractor must discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab. These requirements ensure that exhaust fumes will not affect the driver's alertness or health or the health of passengers.

Application for Renewal of Exemption

Ford has requested a 5-year renewal of its exemption from 49 CFR 393.83, *Exhaust systems,* previously granted on August 12, 2015,[1] and renewed on August 15, 2017 [2] for Ford-manufactured CMVs based on the Ford Transit model. Ford requested the exemption to allow motor carriers to continue to operate Transit-based CMVs, stating that the vehicle design and performance of the Transit emissions system achieves a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with 49 CFR 393.83. The exemption covers gas-powered Transit-based CMVs with gross vehicle weight ratings (GVWR) over 10,000 lb.

Original Application for Exemption and Operations Under Exemption

In its original application, Ford stated that although the Transit CMV did not meet these Agency's exhaust requirements, it conducted performance-based testing which demonstrated that the exhaust system achieved a level of safety equivalent to or greater than, the level of safety that would be obtained by complying with the existing regulation. Ford used monitors to measure the concentration of CO from the power train and exhaust system at locations in the vehicle's passenger compartment under various driving conditions, including idle and top speed. The tests showed that CO concentration levels were below every safety threshold used by Federal Agencies as an allowable performance metric.

Ford applied for an exemption from 49 CFR 393.83 on December 1, 2014, to allow motor carriers to operate Transit-based CMVs that do not comply with the exhaust system location requirements. Based on Ford's application, FMCSA granted a two year exemption on August 12, 2015 (80 FR 48408), and subsequently renewed that exemption from August 15, 2017 to August 15, 2022 (82 FR 53556).

IV. Equivalent Level of Safety Analysis

FMCSA is not aware of any evidence showing that model year 2015 and later Ford Transit-based gas-powered CMVs equipped with exhaust systems allowed by the previous exemption have resulted in any degradation of safety. Ford conducted performance-based testing demonstrating that the design of the exhaust system for the model year 2015 and later Ford Transit CMVs (1) resulted in CO exposure limits well below thresholds established by the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), and National Institute of Occupational Safety and Health (NIOSH), and (2) maintained a level of safety that is equivalent to the level of safety achieved without the exemption.

Ford noted in its renewal application that the exhaust systems for the Transit-based CMVs were modified starting with the model year 2020 vehicles, but that neither the model year 2015–2019 design nor the model year 2020 and later design met the requirements of section 393.83. Ford stated that while its Transit-based CMVs may not satisfy the specific exhaust system location requirements of section 393.83, its internal requirements applicable to the design of the tailpipe system ensure the system will provide an equivalent level of safety for its customers. According to the original application:

> Ford's requirements address passenger compartment exhaust gas intrusion and management of high temperature components. These requirements include testing of the system and basic design requirements for the location of the tailpipe in relation to underbody components like the brake lines and fuel lines.
>
> Most significantly Ford uses internal performance-based tests that demonstrate the system achieves a level of safety equivalent to or greater than, the level of safety that would be obtained by complying with the regulation. The main test of interest is the Carbon Monoxide Concentration test. This performance-based test uses CO monitors at various locations in the vehicle to measure the concentration of CO ingress into the occupant compartment (from vehicles' own powertrain and exhaust system) under various driving conditions including idle and top speed.

In its renewal application, Ford outlined its internal CO cabin concentration requirements, and how those requirements meet or exceed existing CO exposure limits set by EPA, OSHA, and NIOSH. Ford further stated that modifications to the exhaust design to make it compliant with section 393.83 would result in encroachment of required clearances for vehicle departure angles. Failure to comply with the departure angles may result in damage to the exhaust systems from ground contact during normal usage and may adversely affect the function of the exhaust system.

The Agency believes that extending the exemption for a period of five years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because Ford's performance-based testing demonstrated that the design of the exhaust system for the model year 2015 and later Transit CMVs (1) results in CO exposure limits that are well below EPA, OSHA, and NIOSH established thresholds, and (2) will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

V. Exemption Decision

FMCSA is provisionally renewing the exemption for a period of five years subject to the terms and conditions of this decision and the absence of public comments that would cause the Agency to terminate the exemption under Sec. V.D below. The exemption from the requirements of 49 CFR 393.83, is otherwise effective from August 16, 2022, through August 16, 2027, 11:59 p.m. EST unless rescinded.

A. Applicability of Exemption

The exemption is restricted to motor carriers operating model year 2015 and later Ford-manufactured Transit-based CMVs with GVWRs of 10,000 lb. or greater that do not meet the exhaust system location requirements in the 49 CFR 393.83.

B. Terms and Conditions

Drivers operating under the exemption must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR 350–399).

C. Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable

[1] See 80 FR 48408.

[2] See 82 FR 53556.

to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

D. Termination

The exemption will be valid for five years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315.

Interested parties possessing information that would demonstrate that companies operating under this exemption are not achieving the requisite statutory level of safety should immediately notify FMCSA. Such information may be reported via email to *MCPSV@dot.gov.* The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

VI. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Ford's application for renewal of its exemption from the requirement in 49 CFR 393.83 relating to the exhaust system location requirements for model year 2015 and later Ford-manufactured Transit-based CMVs. The exemption renewal is for 5 years.

All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–17774 Filed 8–17–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0085]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Acknowledgement of Use of COVID–19 Emergency Declaration Relief

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. This notice invites comment on the information collection titled ''Acknowledgement of Use of COVID–19 Emergency Declaration Relief,'' which is currently approved on an emergency basis and allows FMCSA to collect information from motor carriers engaged in providing direct assistance in response to certain emergency declarations issued by the Agency to provide regulatory relief for such carriers in continued support of the Nation's coronavirus disease 2019 (COVID–19) recovery efforts. OMB approved this collection on an emergency basis and subsequently extended that emergency approval. The extension of the emergency approval expires on August 31, 2022. No comments were received in response to the 60-day **Federal Register** notice.

DATES: Comments on this notice must be received on or before September 19, 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 information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: William Bannister, Office of Analysis, Research and Technology, DOT, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–385–2388; *William.Bannister@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Acknowledgement of use of COVID–19 Emergency Declaration Relief.

OMB Control Number: 2126–0074.

Type of Request: Renewal of an approved emergency collection.

Respondents: Motor carriers and drivers that operate under the terms of the extended COVID–19 Emergency Declaration No. 2020–002.

Estimated Number of Respondents: 477 per month.

Estimated Time per Response: 15 minutes per response.

Expiration Date: August 31, 2022.

Frequency of Response: Monthly.

Estimated Total Annual Burden: 1,431 hours.

Background

FMCSA issued Emergency Declaration No. 2020–002 in response to the March 13, 2020, declaration of a national emergency under 42 U.S.C. 519(b) related to the danger COVID–19 presents to public health and welfare. FMCSA modified Emergency Declaration 2020–002 to expand and remove categories of supplies, equipment, and persons covered by the Emergency Declaration to respond to changing needs for emergency relief. The modified Emergency Declaration was subsequently extended on June 15, 2020, August 15, 2020, December 1, 2020, August 31, 2021, and November 29, 2021, in accordance with 49 CFR 390.25, because the Presidentially declared emergency remained in place and because a continued exemption was needed to support direct emergency assistance for some supply chains.

In accordance with the expanded, modified Emergency Declaration No. 2020–002, motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID–19 public health emergency are granted emergency relief from certain portions of 49 CFR parts 390 through 399 of the Federal Motor Carrier Safety Regulations, except as restricted in the Emergency Declaration. Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as medical care) or essential supplies related to COVID–19 during the emergency. The notice extending the declaration provides a list of relief services and essential supplies.

Prior to September 1, 2021, neither the Emergency Declaration nor the regulations covering Emergency Declarations (found in §§ 390.23 and 390.25) required that motor carriers or drivers operating under the Emergency Declaration report their operation to

FMCSA. FMCSA determined that the unprecedented period when the expanded, modified Emergency Declaration No. 2020–002 was in place required that FMCSA seek information on the number of motor carriers and drivers relying upon the emergency declaration in order to evaluate the need for additional extensions.

The extension issued on August 31, 2021, included a requirement for motor carriers to report, on a monthly basis, their reliance on the emergency declaration during operations. FMCSA established a website where motor carriers and drivers filled out fields for their USDOT number, the number of commercial motor vehicle trips that relied upon the emergency declaration in the preceding month (using a drop-down menu), the commodities being transported (using a drop-down menu), and a follow up for those listing more than one commodity to indicate which was transported the most (using a drop-down menu). The November 29, 2021, extension continued the reporting requirement. OMB approved the reporting requirement on an emergency basis on August 30, 2021, and subsequently extended that emergency approval on February 14, 2022. That approval expires on August 31, 2022.

FMCSA refined the burden estimates to reflect the average number of monthly submissions received from September 2021 to February 2022. The carrier is reporting for the previous month, therefore October 2021 submitted reports consist of data for the month of September, and March 2022 submitted reports consist of data for the month of February.

This resulted in a decrease in the number of reports estimated to be submitted each month, as the emergency ICR request used the total number of motor vehicles as a stand-in and acknowledged that number was likely to be an overestimate.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2022–17765 Filed 8–17–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2021–0006–N–8]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before October 17, 2022.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2021–0006. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, at email: *Hodan.Wells@dot.gov* or telephone: (202) 868–9412.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Railroad Operating Rules.

OMB Control Number: 2130–0035.

Abstract: On July 24, 2019, FRA published in the **Federal Register** a notice of proposed rulemaking (NPRM) proposing inward- and outward-facing image recording devices be required on all lead passenger train locomotives as required by the Fixing America's Surface Transportation Act (FAST Act).[1]

Specifically, FRA proposed requiring passenger railroads to notate under the REMARKS section of Form F 6180–49A [2] (Locomotive Inspection and Repair Record) on each lead locomotive in commuter or intercity rail passenger service: (1) the presence of any image or audio recording system; and (2) the date when a locomotive image recording device has been removed from service. For convenience to the railroad industry and to avoid confusion as to the application of locomotives recording device requirements, FRA would create a new form for use by passenger railroads, Form F 6180–49AP (Passenger Locomotive Inspection and Repair Record), to record this information.

[1] 84 FR 35712.

[2] Covered under OMB Control Number 2130–0004.

Form F 6180–49AP would essentially be the same as existing Form F 6180–49A, and all information required to be entered on existing Form F 6180–49A would also be included on Form F 6180–49AP. In fact, the only substantive difference between the two forms, aside from adding ''Passenger'' to the form's title, would be the inclusion of an additional, designated row for entering information about the testing of locomotive image recording devices proposed under § 229.136 in the July 2019 NPRM. This new form would in no way affect use of the existing F 6180–49A form for locomotives in freight or switching service, which account for the vast majority of locomotives in the United States and are not subject to the requirements of this rule. Nor would it affect use of the F 6180–49A form by non-lead locomotives used in commuter or intercity passenger service. It would also conserve valuable space on the existing F 6180–49A form.

Because the proposed F 6180–49AP form was not discussed in the NPRM, FRA is soliciting additional public comment specific to this form.

Type of Request: Revision.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 765 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section [3]	Respondent universe	Total annual responses	Average time per responses	Total annual burden hours	Total cost equivalent [4]
217.7(a)—Operating rules; filing and recordkeeping—Filing of code of operating rules, timetables, and timetable special instructions by Class I, Class II, Amtrak, and commuter railroads with FRA.	2 new railroads	2 documents	1 hour	2	$154
—(b) Amendments to code of operating rules, timetables, and timetable special instructions by Class I, Class II, Amtrak, and commuter railroads with FRA.	53 railroads	312 revised documents	20 minutes	104	8,008
—(c) Class III and other railroads—Copy of code of operating rules, timetables, and timetable special instructions at system headquarters.	2 new railroads	2 documents	1 hour	2	154
—(c) Class III and other railroads—Amendments to code of operating rules, timetables, and timetable special instructions at system headquarters.	714 railroads	1,596 amendments	15 minutes	399	30,723
217.9(b)(2)—Program of operational tests and inspections; recordkeeping—Written records documenting qualification of each railroad testing officer.	765 railroads	4,732 records	2 minutes	158	12,166
—(b)(3) Development and adoption of procedure ensuring random selection of employees by railroads utilizing inward-facing locomotive and in-cab audio recordings to conduct operational tests and inspections (New requirement).	36 railroads	12 adopted procedures	24 hours	288	33,120
—(c) Written program of operational tests and inspections.	2 new railroads	2 programs	10 hours	20	2,400
—(d)(1) Records of operational tests/inspections	765 railroads	9,120,000 test records and updates.	5 minutes	760,000	58,520,000
—(d)(2) Railroad copy of current program operational tests/inspections—Amendments.	53 railroads	159 program revisions	70 minutes	186	14,322
—(e)(1)(i) Written quarterly review of operational tests/inspections by RRs other than passenger RRs.	8 (Amtrak + 7 Class I) railroads.	32 reviews	2 hours	64	4,928
—(e)(1)(ii) 6-month review of operational tests/inspections/naming of officer.	7 Class I railroads	14 reviews	2 hours	28	2,156
—(e)(2) 6-month review by passenger railroads designated officers of operational testing and inspection data.	35 (Amtrak + 34 passenger) railroads.	70 reviews	2 hours	140	10,780
—(e)(3) Records of periodic reviews	50 railroads	116 records	1 minute	2	154
—(f)–(g) Annual summary of operational tests and inspections.	50 railroads	71 summary records	1 hour	71	5,467
—(h)(1)(i) RR amended program of operational tests/inspections.	765 railroads	6 revised programs	30 minutes	3	231
—(h)(1)(ii) FRA disapproval of RR program of operational tests/inspections and RR written response in support of program.	765 railroads	6 supporting documents	1 hour	6	462
217.11(a)—RR periodic instruction of employees on operating rules—New railroads.	2 new railroads	2 written programs	8 hours	16	1,232
217.11(b)—RR copy of amendment of program for periodic instruction of employees.	765 railroads	110 modified written programs.	30 minutes	55	4,235
218.95(a)(5)–(b)—Instruction, training, examination—Employee records.	765 railroads	85,600 employees' records.	1 minute	1,427	109,879
—(c)(1)(i) Amended RR program of instruction, testing, examination.	765 railroads	5 amended programs	30 minutes	3	231
218.97(b)(4)—RR copy of good faith challenge procedures.	765 railroads	4,732 copies to new employees.	6 minutes	473	36,421
218.97(c)(1) and (c)(4)—RR employee good faith challenge of RR directive.	10 workers	10 gd. faith challenges	15 minutes	3	231
—(c)(5) RR resolution of employee good faith challenge.	2 new railroads	5 responses	15 minutes	1	77
—(d)(1) RR officer immediate review of unresolved good faith challenge.	2 new railroads	3 reviews	30 minutes	2	154
—(d)(2) RR officer explanation to employee that Federal law may protect against employer retaliation for refusal to carry out work if employee refusal is a lawful, good faith act.	2 new railroads	3 answers	15 minutes	1	77

CFR section [3]	Respondent universe	Total annual responses	Average time per responses	Total annual burden hours	Total cost equivalent [4]
—(d)(3) Employee written/electronic protest of employer final decision.	2 new railroads	3 written protests	15 minutes	1	77
—(d)(3) Employee copy of protest	2 new railroads	3 copies	1 minute	0.1	8
—(d)(4) Employer further review of good faith challenge after employee written request.	2 new railroads	2 further reviews	15 minutes	0.5	39
—(d)(4) RR verification decision to employee in writing.	2 new railroads	2 decisions	15 minutes	0.5	39
—(e) Recordkeeping and record retention—Employer's copy of written procedures at division headquarters.	765 railroads	765 copies	5 minutes	64	4,928
218.99(a)—Shoving or pushing movement—RR operating rule complying with section's requirements.	2 new railroads	2 rule modifications	1 hour	2	154
218.101(a)–(c)—Leaving equipment in the clear—Operating rule that complies with this section.	2 new railroads	2 rule modifications	30 minutes	1	77
218.103(a)(1)—Hand-Operated Switches—Operating Rule that Complies with this section.	2 new railroads	2 rule modifications	30 minutes	1	77
229.22—Locomotive image recording systems—Form FRA F 6180–49AP (New requirements) [5].	36 railroads	4,500 passenger locomotives.	15 minutes	1,125	86,625
229.136(f)(1)—Passenger railroads adoption and development of chain of custody (c of c) procedures (New requirements).	36 railroads	12 c of c procedures	48 hours	576	44,352
—(f)(2)–(3) Passenger railroad preservation of accident/incident data of image and audio recording system from locomotive using such system at time of accident/incident (includes voluntary freight railroads & restates previous requirement under section 229.135(e)) (New requirements).	36 railroads	140 saved recordings	10 minutes	23	1,771
—(g) Locomotive image recording system approval process—Description of technical aspects any locomotive image recording system to FRA for approval (New requirements).	36 railroads	12 descriptions/plans	20 hours	240	18,480
Total	765 railroads	9,223,047 responses	N/A	765,488	58,954,389

Total Estimated Annual Responses: 9,223,047.

Total Estimated Annual Burden: 765,488 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $58,954,389.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2022–17731 Filed 8–17–22; 8:45 am]

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[3] FRA anticipates that no procedures will be disapproved under § 217.9(b)(4). Additionally, the burdens associated under § 299.449 and appendix A to part 299 have been accounted for under the burden associated with § 229.136(f) and (g).

[4] The dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes 75-percent overhead charges.

[5] The burdens for §§ 229.21, 229.136(a)(3), (e)(2), and 229.139(i) are covered under § 229.22.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Announcement of Fiscal Year 2022 Low or No Emission Program and Grants for Buses and Bus Facilities Program and Project Selections

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice; announcement of project selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the award of a total of $1,656,696,061, including $1,105,329,750 to projects under the Fiscal Year (FY) 2022 Low or No Emission Grant Program (Low-No) and $551,366,311 to projects under the Grants for Buses and Bus Facilities Program (Buses and Bus Facilities Program) and provides administrative guidance on project implementation.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional Office for information regarding applying for the funds or program-specific information. A list of Regional Offices can be found at *https://www.transit.dot.gov/about/regional-offices/regional-offices.* Unsuccessful applicants may contact Amy Volz, Office of Program Management at (202) 366–7484, or email: *amy.volz@dot.gov* within 30 days of this announcement to arrange a proposal debriefing. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: Federal public transportation law (49 U.S.C. 5339(b)) authorizes FTA to make competitive grants for the Buses and Bus Facilities Program. Federal public transportation law (49 U.S.C. 5339(c)) authorizes FTA to make competitive grants for the Low-No Program.

Federal public transportation law (49 U.S.C. 5338(a)(2)(M)) authorized $375,696,244 in FY 2022 funds for the Grants for Buses and Bus Facilities Program. The Consolidated Appropriations Act, 2022 (Pub. L. 117–103), appropriated an additional $175,000,000 for the Grants for Buses and Bus Facilities Program. After the oversight takedown of $4,666,931, the total funding is $546,029,313 for the Grants for Buses and Bus Facilities Program. FTA is also making available an additional $5,479,636 of recovered funding for this round, bringing the total available funding to $551,508,949.

Federal public transportation law (49 U.S.C. 5338(a)(2)(M)) authorized $71,561,189 in FY 2022 funds for the Low or No Emission Grant Program; plus an additional $1,050,000,000 appropriated under the 2021 Bipartisan Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117–58). The Consolidated

Appropriations Act, 2022, appropriated an additional $75,000,000 for the Low or No Emission Grant Program. After the oversight takedown and transfer to Office of Inspector General, the total funding available is $1,174,998,689 for the Low-No Program.

On March 4, 2022, FTA published a joint Notice of Funding Opportunity (NOFO) (87 FR 12528) announcing the availability of approximately $372 million in FY 2022 Buses and Bus Facilities Program funds and approximately $1.1 billion in Low-No funds. After this NOFO was published, Congress enacted the FY22 Consolidated Appropriations Act, which made additional funding available to the two programs. Consistent with the NOFO, which stated that FTA ''may award additional funding that is made available to the programs prior to the announcement of project selections,'' FTA is electing to add the FY22 Consolidated Appropriations Act funding made available for both programs to this NOFO. These funds will provide financial assistance to states and eligible public agencies to replace, rehabilitate, purchase, or lease buses, vans, and related equipment, and for capital projects to rehabilitate, purchase, construct, or lease bus-related facilities. For the Low-No Program, projects must be directly related to the low or no-emission vehicles within the fleet. In response to the NOFO, FTA received 530 eligible project proposals totaling approximately $7.71 billion in Federal funds. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria outlined in the NOFO.

Based on the criteria in the NOFO, FTA is funding 100 projects, as shown in Table 1, for a total of $1,105,329,750 for the Low-No Program and 50 projects, as shown in Table 2, for a total of $551,366,311 for the Buses and Bus Facilities Program. A minimum of 15 percent of the amounts made available for the Buses and Bus Facilities Program are set aside for projects located in rural areas, which is reflected in FTA's selections. A statutory cap of 10 percent for any one applicant in the Buses and Bus Facilities Program is reflected as well. A minimum of 25 percent of the amounts made available for the Low or No Emission Grant Program are set aside for projects related to the acquisition of low or no emission buses or bus facilities other than zero emission vehicles and related facilities. In response to this NOFO, FTA did not receive enough applications to the Low or No Emission Grant Program for low emission projects to exhaust this set-aside. FTA intends to include the remainder of this set-aside in the next NOFO that it issues for the Low-No Emission Grant Program. Recipients selected for competitive funding are required to work with their FTA Regional Office to submit a grant application in FTA's Transit Award Management System (TrAMS) for the projects identified in the attached table to quickly obligate funds. Grant applications must include only eligible activities applied for in the original project application. Funds must be used consistent with the competitive proposal and for the eligible capital purposes described in the NOFO.

In cases where the allocation amount is less than the proposer's total requested amount, recipients are required to fund the scalable project option as described in the application. If the award amount does not correspond to the scalable option, the recipient should work with the Regional Office to reduce scope or scale the project such that a complete phase or project is accomplished. Recipients may also provide additional local funds to complete a proposed project. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TrAMS application.

Selected projects are eligible to incur costs under pre-award authority no earlier than the date projects were publicly announced. Pre-award authority does not guarantee that project expenses incurred prior to the award of a grant will be eligible for reimbursement, as eligibility for reimbursement is contingent upon other requirements, such as planning and environmental requirements, having been met. For more about FTA's policy on pre-award authority, please see the current FTA Apportionments, Allocations, and Program Information at *https://www.transit.dot.gov/funding/apportionments.* Post-award reporting requirements include submission of Federal Financial Reports and Milestone Progress Reports in TrAMS (see FTA Circular 5010.1E). Recipients must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. FTA emphasizes that recipients must follow all third-party procurement requirements set forth in Federal public transportation law (49 U.S.C. 5325(a)) and described in the FTA Third Party Contracting Guidance Circular (FTA Circular 4220.1). Funds allocated in this announcement must be obligated in a grant by September 30, 2025.

Technical Review and Evaluation Summary: The FTA assessed all project proposals that were submitted under the FY 2022 Buses and Bus Facilities Program and the Low or No Emission Program competition according to the following evaluation criteria. The specific metrics for each criterion were described in the March 4, 2022, NOFO:

1. Demonstration of Need
2. Demonstration of Benefits
3. Planning/Local Prioritization
4. Local Financial Commitment
5. Project Implementation Strategy
6. Technical, Legal, and Financial Capacity

For each project, a technical review panel assigned a rating of Highly Recommended, Recommended, or Not Recommended for each of the six criteria. The technical review panel then assigned an overall rating of Highly Recommended, Recommended, Not Recommended, or Ineligible to the project proposal.

Projects were assigned a final overall rating of Highly Recommended if they were rated Highly Recommended in at least four categories overall, with no Not Recommended ratings. Projects were assigned a final overall rating of Recommended if the projects had three or more Recommended ratings and no Not Recommended ratings. Projects were assigned a rating of Not Recommended if they received a Not Recommended rating in any criteria. A summary of the final overall ratings for all 530 eligible project proposals is shown in the table below.

OVERALL PROJECT RATINGS

[Eligible submissions]

	Bus	Low-No	Total
Highly Recommended	245	215	460
Recommended	15	12	27

OVERALL PROJECT RATINGS—Continued

[Eligible submissions]

	Bus	Low-No	Total
Not Recommended	22	21	43
Total	282	248	530

As outlined in the NOFO, FTA made the final selections based on the technical ratings as well as geographic diversity, diversity in the size of transit systems receiving funding, Administration priorities including climate change, the creation of good-paying jobs, an application's zero-emission fleet transition plan supporting a full fleet transition, and/or receipt of other recent competitive awards.

As further outlined in the NOFO, in some cases, due to funding limitations, proposers that were selected for funding received less than the amount originally requested.

Nuria I. Fernandez,

Administrator.

TABLE 1—FY 2022 LOW OR NO EMISSION PROJECT SELECTIONS

[Note: Some projects have multiple Project IDs]

State	Recipient	Project ID	Project description	Award
AK	Fairbanks North Star Borough	D2022–LWNO–001	Purchase CNG buses and paratransit vehicles	$2,494,728
AK	Ketchikan Gateway Borough, The Bus	D2022–LWNO–002	Purchase battery electric buses and associated infrastructure.	4,285,436
AL	Birmingham-Jefferson County Transit Authority	D2022–LWNO–003	Construct a new maintenance facility and purchase zero-emission buses.	13,654,636
AL	The Board of Trustees of The University of Alabama	D2022–LWNO–004	Replace diesel buses with battery electric and associated infrastructure.	7,890,065
AR	City of Jonesboro, Arkansas	D2022–LWNO–005	Purchase hybrid buses to replace diesel buses	878,584
AZ	City of Phoenix Public Transit Department	D2022–LWNO–006	Zero-emission bus procurement and associated infrastructure.	16,362,600
AZ	City of Tucson, Sun Tran/Sun Van	D2022–LWNO–007	Battery electric bus procurement and associated charging equipment.	12,112,400
CA	City of Gardena	D2022–LWNO–009	Battery electric bus replacement	2,215,647
CA	City of Roseville	D2022–LWNO–010	Purchase battery electric buses to replace diesel and gasoline transit vehicles and associated infrastructure.	11,617,236
CA	City of Santa Maria	D2022–LWNO–011	Purchase battery electric buses to replace diesel buses.	6,664,318
CA	City of Union City—Union City Transit	D2022–LWNO–012	Replace CNG vehicles with battery electric vehicles and associated infrastructure.	9,342,346
CA	Fresno, City of	D2022–LWNO–013	Facility upgrades to accommodate hydrogen fuel cell buses and purchase low and no emission vehicles for replacement and expansion.	17,367,042
CA	Gold Coast Transit District	D2022–LWNO–014	Purchase hydrogen fuel cell buses to replace CNG buses and a hydrogen fueling station and facility upgrades.	12,117,144
CA	Los Angeles County Metropolitan Transportation Authority ('Metro').	D2022–LWNO–015	Purchase battery electric buses and associated infrastructure.	104,160,000
CA	Napa Valley Transportation Authority	D2022–LWNO–016	Purchase battery electric buses and associated infrastructure.	6,341,892
CA	Omnitrans	D2022–LWNO–017	Purchase hydrogen fuel cell buses and associated infrastructure.	9,342,502
CA	Orange County Transportation Authority	D2022–LWNO–018	Battery electric bus procurement	2,507,895
CA	Riverside Transit Agency	D2022–LWNO–019	Replaced CNG buses with hydrogen fuel cell buses	5,153,594
CA	San Joaquin Regional Transit District (RTD)	D2022–LWNO–020	Purchase hybrid buses for fleet expansion	3,994,277
CA	SunLine Transit Agency	D2022–LWNO–021	Purchase hydrogen fuel cell buses and infrastructure upgrades.	7,819,257
CA	SunLine Transit Agency	D2022–LWNO–022	Purchase battery electric buses and associated infrastructure.	7,146,793
CO	Mesa County	D2022–LWNO–023	Low emission bus replacement	1,056,984
CO	Mesa County	D2022–LWNO–024	Construct a CNG maintenance facility	2,844,274
CO	State of Colorado, Department of Transportation	D2022–LWNO–025	Replace diesel buses with low emission buses	2,353,400
DC	District Department of Transportation	D2022–LWNO–026	Replace diesel buses with battery electric	9,590,000
FL	Central Florida Regional Transportation Authority, dba LYNX.	D2022–LWNO–027	Replace gasoline vehicles with battery electric and associated infrastructure.	16,132,025
FL	Florida Department of Transportation	D2022–LWNO–028	Replace bio-diesel buses with CNG buses	6,478,370
FL	Jacksonville Transportation Authority	D2022–LWNO–029	Replacing diesel buses with CNG and infrastructure for electric buses.	15,417,310
FL	Lee County Board of County Commissioners	D2022–LWNO–030	Purchase battery electric buses and associated infrastructure.	3,863,430
GA	Augusta Richmond County	D2022–LWNO–031	Replace diesel buses with battery electric and associated infrastructure.	6,271,325
GA	Chatham Area Transit Authority	D2022–LWNO–032	Replace diesel buses with battery electric	5,451,844
GA	Metropolitan Atlanta Rapid Transit Authority (MARTA)	D2022–LWNO–033	Replace CNG buses with battery electric and associated infrastructure.	19,302,650
HI	Hawaii Department of Transportation (HDOT)	D2022–LWNO–034	Replace diesel buses with battery electric and hydrogen fuel cell and supporting infrastructure.	23,186,682
HI	Honolulu Department of Transportation Services	D2022–LWNO–035	Replace diesel buses with battery electric	20,000,000

TABLE 1—FY 2022 LOW OR NO EMISSION PROJECT SELECTIONS—Continued

[Note: Some projects have multiple Project IDs]

State	Recipient	Project ID	Project description	Award
IA	City of Davenport, Iowa	D2022–LWNO–036	Replace diesel buses with battery electric and associated infrastructure.	4,874,993
ID	Valley Regional Transit	D2022–LWNO–037	Battery electric expansion vehicles and associated infrastructure.	17,386,450
IL	Decatur Public Transit System	D2022–LWNO–038	Infrastructure and equipment for battery electric buses	16,840,000
IL	Rockford Mass Transit District	D2022–LWNO–039	Replace diesel buses with battery electric and hybrid ..	6,328,980
IL	Springfield Mass Transit District	D2022–LWNO–040	Replace diesel buses with hybrid and CNG	5,927,788
IN	Bloomington Public Transportation Corporation	D2022–LWNO–041	Purchase battery electric buses and associated infrastructure.	7,040,000
KS	City of Lawrence, KS—Lawrence Transit	D2022–LWNO–042	Replace diesel and hybrid buses with battery electric ..	3,279,655
KS	City of Wichita	D2022–LWNO–043	Purchase battery electric paratransit vehicles and associated infrastructure.	3,951,078
KY	Transit Authority of Lexington-Fayette Urban County Government.	D2022–LWNO–044	Replace diesel buses with CNG and associated infrastructure.	6,359,880
KY	Transit Authority of Northern Kentucky	D2022–LWNO–045	Replace diesel buses with hybrid	3,091,200
LA	Jefferson Parish	D2022–LWNO–046	Construct a new facility and hybrid vehicles	6,880,000
MA	Berkshire Regional Transit Authority	D2022–LWNO–047	Replaced diesel buses with hybrid and facility upgrades.	2,457,328
MA	Massachusetts Bay Transportation Authority	D2022–LWNO–048	Replace diesel buses with battery electric	116,000,000
MA	Massachusetts Department of Transportation (MassDOT).	D2022–LWNO–049	Replace diesel buses with electric and propane	4,143,750
MA	Southeastern Regional Transit Authority	D2022–LWNO–050	Replace diesel buses with hybrid	12,240,000
MD	Maryland Transit Administration—Anne Arundel County.	D2022–LWNO–051	Hybrid bus replacement	1,890,000
MD	Montgomery County (MD) Department of Transportation.	D2022–LWNO–052	Purchase hydrogen fuel cell buses and associated infrastructure.	14,875,975
ME	Biddeford-Saco-Old Orchard Beach Transit Committee	D2022–LWNO–053	Replace diesel buses with battery electric	2,047,407
MI	City of Midland Dial-A-Ride	D2022–LWNO–054	Replace gas powered vehicles with electric	167,257
MI	Mass Transportation Authority	D2022–LWNO–055	Replace hybrid buses with hydrogen fuel cell buses and associated infrastructure.	4,334,800
MN	Bois Forte Band of Chippewa	D2022–LWNO–056	Purchase propane buses	739,500
MN	Minnesota Department of Transportation	D2022–LWNO–057	Replace conventional buses with battery electric and associated infrastructure.	3,414,680
MN	Prairie Island Indian Community	D2022–LWNO–058	Replace gasoline vehicles with battery electric	1,616,426
MN	SouthWest Transit	D2022–LWNO–059	Purchase battery electric buses and associated infrastructure.	8,127,891
MO	Bi-State Development Agency of the Missouri-Illinois Metropolitan District.	D2022–LWNO–060	Replace diesel buses with battery electric and associated infrastructure.	5,412,960
MO	The City of Columbia	D2022–LWNO–061	Purchase battery electric buses and associated infrastructure.	2,896,675
MS	JACKSON, CITY OF	D2022–LWNO–062	Facility upgrades and purchase low and zero emission vehicles and associated infrastructure.	8,714,400
MT	City of Billings, MET Transit Division	D2022–LWNO–063	Purchase electric buses and associated infrastructure	3,880,316
MT	Missoula Urban Transportation District	D2022–LWNO–064	Replace diesel buses with battery electric and associated infrastructure.	10,909,127
NC	City of Asheville	D2022–LWNO–065	Purchase hybrid buses and replacement electric battery packs.	4,291,650
NC	City of Concord	D2022–LWNO–066	Hybrid bus replacement	713,813
NC	City of Durham	D2022–LWNO–067	Replace diesel buses with battery electric	5,745,600
NC	City of Fayetteville	D2022–LWNO–068	Replaced diesel and gasoline vehicles with battery electric and propane.	280,500
NM	City of Las Cruces	D2022–LWNO–069	Replace diesel buses with battery electric	5,721,073
NM	New Mexico Department of Transportation	D2022–LWNO–070	Purchase battery electric buses and associated infrastructure.	2,511,882
NV	Regional Transportation Commission of Southern Nevada.	D2022–LWNO–071	Purchase hydrogen fuel cell buses	6,737,042
NY	Capital District Transportation Authority	D2022–LWNO–072	Purchase battery electric buses and associated infrastructure.	25,417,053
NY	Metropolitan Transportation Authority	D2022–LWNO–073/ D2022–LWNO–104.	Purchase battery electric buses	116,000,000
NY	Rochester Genesee Regional Transportation Authority	D2022–LWNO–074	Purchase hydrogen fuel cell buses and associated infrastructure.	7,043,331
NY	Tompkins County, New York on behalf of Tompkins Consolidated Area Transit (TCAT).	D2022–LWNO–075	Replace diesel buses with battery electric	8,740,975
OH	Central Ohio Transit Authority (COTA)	D2022–LWNO–076	Replace diesel buses with battery electric buses and associated infrastructure.	26,714,004
OH	Stark Area Regional Transit Authority	D2022–LWNO–077	Purchase hydrogen fuel cell and CNG vehicles and construct a microgrid.	2,393,600
OH	The Portage Area Regional Transportation Authority	D2022–LWNO–078	Replace diesel vehicles with CNG vehicles	3,201,270
OK	Central Oklahoma Transportation and Parking Authority (COTPA), dba EMBARK.	D2022–LWNO–079	Purchase CNG and electric vehicles	6,745,732
OK	City of Norman, Oklahoma	D2022–LWNO–080	Purchase CNG replacement buses	894,963
OK	Metropolitan Tulsa Transit Authority	D2022–LWNO–081	Replace diesel buses with zero-emission buses	6,666,105
OK	Metropolitan Tulsa Transit Authority	D2022–LWNO–082	Purchase replacement and expansion buses	4,800,375
OR	City of Corvallis	D2022–LWNO–083	Replace diesel buses with battery electric	2,658,068
OR	Oregon Department of Transportation, Public Transportation Division.	D2022–LWNO–084	Purchase battery electric buses and associated infrastructure.	2,081,883
PA	Southeastern Pennsylvania Transportation Authority	D2022–LWNO–085	Upgrade infrastructure to accommodate battery electric buses.	23,360,000

TABLE 1—FY 2022 LOW OR NO EMISSION PROJECT SELECTIONS—Continued

[Note: Some projects have multiple Project IDs]

State	Recipient	Project ID	Project description	Award
PR	AUTORIDAD METROPOLITANA DE AUTOBUSES (PRMBA).	D2022–LWNO–086	Replace diesel buses with battery electric and install solar powered charging.	10,000,000
SC	City of Clemson dba Clemson Area Transit	D2022–LWNO–088	Replace diesel buses with battery electric	3,930,000
SD	South Dakota Department Of Transportation	D2022–LWNO–089	Purchase propane vehicles	1,067,774
TN	Memphis Area Transit Authority (MATA)	D2022–LWNO–090	Purchase battery electric buses and associated infrastructure.	22,378,905
TX	City of El Paso Mass Transit Department-Sun Metro	D2022–LWNO–091	Purchase battery electric paratransit vehicles and associated infrastructure.	8,876,712
TX	City of Laredo and Laredo Transit Management Inc.	D2022–LWNO–092	Replace diesel vehicles with CNG	7,430,385
TX	City of Lubbock	D2022–LWNO–093	Purchase hybrid buses	39,600,000
TX	Metropolitan Transit Authority of Harris County (METRO).	D2022–LWNO–094	Purchase battery electric buses and associated infrastructure.	21,586,913
VA	City of Suffolk	D2022–LWNO–096	Purchase battery electric buses and associated infrastructure.	565,000
VA	Old Dominion Transit Management Company	D2022–LWNO–097	Facility upgrades for transit vehicles	952,192
VA	Old Dominion Transit Management Company	D2022–LWNO–098	Replace diesel buses with CNG	10,032,000
VT	Vermont Agency of Transportation (VTrans)	D2022–LWNO–099	Purchase battery electric buses	9,151,125
WA	Central Puget Sound Regional Transit Authority	D2022–LWNO–100	Purchase battery electric buses and associated infrastructure.	9,264,000
WA	Pierce County Public Transportation Benefit Area Corporation.	D2022–LWNO–101	Replace CNG buses with battery electric and associated infrastructure.	3,870,800
WA	Whatcom Transportation Authority (WTA)	D2022–LWNO–102	Replace diesel buses with battery electric and associated infrastructure.	8,862,951
WI	City of Racine	D2022–LWNO–103	Replace diesel buses with battery electric	3,796,872
Total				1,105,329,750

TABLE 2—FY 2022 GRANTS FOR BUSES AND BUS FACILITIES PROJECT SELECTIONS

State	Recipient	Project ID	Project description	Award
AK	Alaska DOT on behalf of City and Borough of Juneau, Capital Transit.	D2022–BUSC–100	Maintenance facility rehabilitation and modernization.	$2,264,000
AK	Gulkana Village Council	D2022–BUSC–101	Construction of multi-purpose operations and maintenance facility.	4,207,093
AK	Metlakatla Indian Community	D2022–BUSC–102	Battery electric bus and charger to establish new service.	402,257
CA	California DOT on behalf of Redwood Coast Transit Authority.	D2022–BUSC–103	Bus replacement for rural service	296,000
CA	City of Fairfield	D2022–BUSC–104	Battery electric buses and chargers and maintenance facility upgrade.	12,016,400
CA	Riverside Transit Agency	D2022–BUSC–105	Solar panel installation and workforce training for new technologies.	1,594,364
CA	Santa Clara Valley Transportation Authority (VTA).	D2022–BUSC–106	Battery electric buses and additional chargers to extend service range.	15,588,800
CA	Yurok Tribe	D2022–BUSC–107	Construction of a bus facility with charging capacity and passenger amenities.	1,280,000
CO	Colorado Department of Transportation (CDOT).	D2022–BUSC–108	Battery electric buses and chargers	1,814,882
CO	State of Colorado, Department of Transportation.	D2022–BUSC–109	Replacement vehicles and new vehicles to improve and expand service.	2,568,000
CO	State of Colorado, Department of Transportation.	D2022–BUSC–110	Compressed Natural Gas and diesel replacement buses.	5,721,272
CO	State of Colorado, Department of Transportation.	D2022–BUSC–111	Bus facility construction to support electrification.	34,765,737
CT	Connecticut Department of Transportation (CTDOT).	D2022–BUSC–112	Bus facility rehabilitation and modernization and purchase of battery electric buses.	20,394,000
DE	Delaware Transit Corporation	D2022–BUSC–113	Zero-emission vehicle replacement buses	11,000,000
HI	Hawaii Department of Transportation (HDOT).	D2022–BUSC–114	Transit center accessibility improvements and upgrades and new vehicles.	12,000,000
IA	Iowa Department of Transportation	D2022–BUSC–115	Vehicle replacement for 26 of Iowa's transit systems statewide.	12,000,000
IA	Iowa Department of Transportation (IADOT).	D2022–BUSC–116	Zero-emission vehicle replacement buses in rural areas.	15,844,561
ID	Transportation, Idaho Department	D2022–BUSC–117	Commuter vans to expand vanpool service.	384,000
IL	Bloomington-Normal Public Transit System.	D2022–BUSC–118	Zero-emission vehicles, including for microtransit service, and support facility construction.	13,076,800
IL	Chicago Transit Authority (CTA)	D2022–BUSC–119	Electric buses and maintenance facility conversion and modernization.	28,836,080

TABLE 2—FY 2022 GRANTS FOR BUSES AND BUS FACILITIES PROJECT SELECTIONS—Continued

State	Recipient	Project ID	Project description	Award
IN	Indianapolis Public Transportation Corporation.	D2022–BUSC–120/ D2022–BUSC–121.	Fleet Storage, Maintenance Terminal, and Operations Center construction.	33,000,000
KY	Kentucky Transportation Cabinet	D2022–BUSC–122 ..	Replacement vehicles, expansion vehicles, and supporting technology for rural providers across the state.	3,265,592
KY	Transit Authority of River City (TARC)	D2022–BUSC–123 ..	Battery electric replacement buses and chargers.	7,411,032
MA	Pioneer Valley Transit Authority	D2022–BUSC–124 ..	Bus facility modernization and battery electric replacement buses.	54,000,000
MD	Prince Georges County Government	D2022–BUSC–125 ..	Battery electric buses and chargers and microgrid construction.	25,000,000
MI	City of Detroit	D2022–BUSC–126 ..	Battery electric buses and chargers	6,912,404
MI	Michigan Department of Transportation	D2022–BUSC–127 ..	Traditional, zero-emission, and propane replacement buses for small and rural transit agencies statewide.	12,000,000
MN	MN Chippewa Tribe-White Earth Band of Chippewa Indians.	D2022–BUSC–128 ..	Multi-purpose bus facility construction	3,607,642
MT	Blackfeet Tribe	D2022–BUSC–129 ..	Bus facility expansion	1,375,920
NC	Town of Cary	D2022–BUSC–130 ..	Multi-purpose bus facility construction	11,787,275
ND	City of Grand Forks	D2022–BUSC–131 ..	Bus facility modernization and rehabilitation.	7,768,742
NH	Cooperative Alliance for Seacoast Transportation.	D2022–BUSC–132 ..	Multi-purpose bus facility construction	7,736,284
NJ	New Jersey Transit Corporation	D2022–BUSC–133 ..	Multi-purpose bus facility construction	44,677,500
NM	City of Las Cruces	D2022–BUSC–134/ D2022–BUSC–135.	Maintenance and operations center expansion and upgrades to support battery electric fleet.	2,170,214
NM	New Mexico Department of Transportation	D2022–BUSC–136/ D2022–BUSC–137.	Battery electric replacement buses and chargers.	3,071,882
NV	Pyramid Lake Paiute Tribe	D2022–BUSC–138 ..	Bus purchase and rehabilitation	115,000
NY	Rochester Genesee Regional Transportation Authority.	D2022–BUSC–139/ D2022–BUSC–140.	Bus operations and maintenance facility construction.	16,000,000
OR	Oregon Department of Transportation, Public Transit Division.	D2022–BUSC–141 ..	Vehicle replacement	1,050,000
OR	Oregon Department of Transportation, Public Transit Division.	D2022–BUSC–142 ..	Vehicles for microtransit service	612,000
OR	Oregon Department of Transportation, Public Transportation Division.	D2022–BUSC–143 ..	Bus maintenance facility and battery electric buses and chargers.	4,632,050
OR	Tri-County Metropolitan Transportation District of Oregon.	D2022–BUSC–144/ D2022–BUSC–145.	Bus facility relocation and expansion	5,566,583
SD	South Dakota Department of Transportation.	D2022–BUSC–146 ..	Bus facility construction	692,758
TN	Memphis Area Transit Authority (MATA)	D2022–BUSC–147 ..	Bus operations and maintenance facility construction and solar panels.	54,000,000
TN	Tennessee Department of Transportation, Division of Multimodal Transportation Resources.	D2022–BUSC–148/ D2022–BUSC–149.	Bus and paratransit vehicle replacement in urban and rural areas.	12,000,000
TX	Capital Metropolitan Transportation Authority.	D2022–BUSC–150 ..	Demand response operations and maintenance facility construction.	20,000,000
UT	Utah Department of Transportation	D2022–BUSC–151/ D2022–BUSC–152.	Battery electric buses and chargers	6,095,770
VT	Vermont Agency of Transportation	D2022–BUSC–153 ..	Multi-purpose bus facility construction	3,279,616
WA	Cowlitz Indian Tribe	D2022–BUSC–154 ..	Bus facility rehabilitation	185,368
WA	Lummi Indian Business Council	D2022–BUSC–155 ..	Multi-purpose bus facility construction	1,876,265
WA	Washington State Department of Transportation.	D2022–BUSC–156 ..	Bus replacement for rural transit agencies	5,422,168
Total				551,366,311

[FR Doc. 2022–17751 Filed 8–17–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2022–0082]

Agency Information Collection Activities: Technical Assistance PRA; Emergency Approval

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Emergency clearance notice and request for comments.

SUMMARY: The Office of the Secretary (OST), Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for an emergency approval of a proposed information collection, for

the DOT Technical Assistance PRA, which is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 29, 2022.

ADDRESSES: You may send comments within 10 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. All comments received are part of the public record. Comments will generally be posted without change. All comments should include the Docket number DOT–OST–2022–0082.

FOR FURTHER INFORMATION CONTACT: Please email *ThrivingCommunities@dot.gov* or contact Victor Austin at 202–366–2996. Office hours are from 8 a.m. to 5 p.m. EDT, Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: DOT Technical Assistance PRA.

Background: Bipartisan Infrastructure Law (BIL) enacted as the Infrastructure Investment and Jobs Act (IIJA) (H.R. 3684, Pub. L. 117–58, also known as the Bipartisan Infrastructure Law or BIL) created several new programs at the US Department of Transportation (DOT) that allow local governments, non-profit organizations, tribal governments, and other political subdivisions of state or local governments to apply directly for DOT discretionary grant funding. In response to President Biden's Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and Executive Order 14008, Tackling the Climate Crisis at Home and Abroad. DOT has included criteria in its notices of funding opportunity to prioritize the needs of disadvantaged communities for many of these new programs.

The Thriving Communities Initiative will include programs by which DOT will utilize cooperative agreements and procurements with technical assistance and capacity building providers to support communities seeking to advance transformative, equitable, and climate-friendly infrastructure projects that benefit disadvantaged communities. Specifically, these include the Thriving Communities program, the Rural and Tribal Infrastructure Assistance Pilot Program *(see § 21205 of Pub. L. 117–58)*, and Asset Concession and Innovative Finance Assistance Program *(see 23 U.S.C. 611 as amended by § 71001 of Pub. L. 117–58).*

DOT will utilize a Letter of Interest (LOI) or using a simplified in-take form from communities interested in receiving technical assistance and capacity building through these programs. Technical assistance and capacity building is offered by the Government at no charge and with no required non-federal share.

Establishment of the program has two distinct tasks: (a) contracting of technical assistance advisors through a Notice of Funding Opportunity (NOFO) or existing procurement vehicles; and (b) recruitment of project sponsors who will receive technical assistance services. Responding to both will occur on a voluntary basis, utilizing an electronic platform.

For item A, eligible applicants to provide technical assistance through the Thriving Communities program will request cooperative agreement funding through an application process in response to a published NOFO. The application is planned as a one-time information collection. DOT estimates that it will take approximately 20 hours to complete the NOFO application process used to select capacity builders under the Thriving Communities program. DOT estimates the recipients of Thriving Communities program funding will spend another 4 hours, annually, submitting post-award reports. In addition, reporting requirements will be submitted by the select capacity building providers and technical assistance recipients during the implementation, and evaluation phases.

For the Rural and Tribal Infrastructure Assistance Pilot Program and Asset Concession and Innovative Finance Assistance Program, advisors and technical assistance providers will be contracted using existing procurement vehicles. Estimated time required for these programs will be 4 hours annually.

For item B, the intake form to be used by communities seeking technical assistance is estimated to take no more than 1 hour to complete. Recipients of technical assistance support are estimated to spend no more than 2 hours annually providing evaluation metrics.

Respondents to Item A (technical assistance providers): for-profit companies, non-profit organizations, or other technical assistance providers.

Respondents to Item B (requestors of technical assistance): philanthropic entities, non-profit organizations, other Federal agencies, state or local governments and their agencies, and Indian Tribes.

Frequency: Once a year.

Estimated Average Burden per Response: Approximately 24 hours for applicants to complete the application process and reporting requirements and an estimated 30 applicants. Approximately seven hours to complete the in-take form and evaluation metrics and an estimated 20 project sponsors.

Estimated Total Annual Burden Hours: Approximately 860 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the DOT's performance; (2) the accuracy of the estimated burdens; (3) ways for the DOT to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 23 U.S.C. 134 and 135; and 23 CFR chapter 1, subchapter E, part 450.

Dated: August 12, 2022.

Mariia Zimmerman,

Strategic Advisor for Technical Assistance and Community Solutions Office of the Secretary, U.S. Department of Transportation.

[FR Doc. 2022–17735 Filed 8–17–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

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 Agent for Consolidated Group.

DATES: Written comments should be received on or before October 17, 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 *pra.comments@irs.gov.* Include ''OMB Number 1545–1699-Agent for Consolidated Group'' 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: Agent for Consolidated Group.

OMB Number: 1545–1699.

Regulation Project Number: TD 9715

Abstract: The information is needed in order for a terminating common parent of a consolidated group to designate a substitute agent for the group and receive approval of the Commissioner, or for a default substitute agent to notify the Commissioner that it is the default substitute agent, pursuant to Treas. Reg. § 1.1502–77. The Commissioner will use the information to determine whether to approve the designation of the substitute agent (if approval is required) and to change the IRS's records to reflect the information about the substitute agent.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 200.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 400.

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: August 15, 2022.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–17798 Filed 8–17–22; 8:45 am]

BILLING CODE 4830–01–P

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