FEDERAL REGISTER

Vol. 87 Tuesday

No. 171 September 6, 2022

Pages 54297–54608

OFFICE OF THE FEDERAL REGISTER

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Tuesday, September 6, 2022

Presidential Documents

Title 3—

The President

Proclamation 10432 of August 31, 2022

National Childhood Cancer Awareness Month, 2022

By the President of the United States of America

A Proclamation

During National Childhood Cancer Awareness Month, we remember the bright lives of children we have lost to this terrible disease. We recommit ourselves to finding new therapies to treat and defeat pediatric cancer. And we pledge to help children not only survive cancer but thrive.

Cancer remains the leading cause of death by disease for American children under the age of 15, and survivors often face physical, emotional, and cognitive challenges. Jill and I know from personal experience how a cancer diagnosis can be paralyzing. Worry and heartache cast a shadow on life's joys, medical bills mount, and treatment paths are often confusing and difficult to absorb.

My Administration is committed to ending cancer as we know it. The First Lady and I reignited the 2016 Cancer Moonshot Initiative, and we have set a goal of cutting the cancer death rate by at least half over the next 25 years. I formed a new Cancer Cabinet to ensure that Federal agencies are coordinating cancer care programs, research, and development. And this year, my Administration created the first Advanced Research Projects Agency for Health (ARPA–H) with the single purpose of expediting breakthroughs in the prevention, detection, and treatment of deadly diseases. This is one of the pillars of the Unity Agenda I announced in my State of the Union Address.

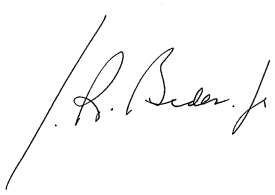
Although significant progress has been made, many parents still have to advocate for their children's basic care when insurance companies refuse to pay. My Administration is committed to strengthening the Affordable Care Act and Medicaid to help ensure access to preventive care screenings and life-saving treatments. Thanks to the American Rescue Plan's provisions that build upon the Affordable Care Act and other actions my Administration has taken, 1 million children have gained health care coverage since I became President, helping to reverse the coverage losses during the previous Administration. And, as part of the Inflation Reduction Act, 13 million Americans will continue to save $800 per year on health insurance premiums—making lifesaving care affordable for millions of American families. My Administration is also committed to helping families navigate the flood of information that comes with a cancer diagnosis. For anyone experiencing uncertainty around risk factors, treatment options, or other opportunities for support, you can connect with a trained specialist at 1–800–4–CANCER or visit cancer.gov.

During this National Childhood Cancer Awareness Month, we recognize the health care professionals, researchers, private philanthropies, social support organizations, and patient advocacy groups who work tirelessly to protect our children's well-being. We honor the courage of our children fighting pediatric cancers and the strength of their families and caregivers who never stop loving, supporting, and advocating for them. We rededicate ourselves to ensuring that every child can enjoy a long, healthy, and fulfilling life.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim September 2022 as National Childhood Cancer Awareness Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of what Americans can do to support the fight against childhood cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19275
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10433 of August 31, 2022

National Ovarian Cancer Awareness Month, 2022

By the President of the United States of America

A Proclamation

This year, nearly 20,000 women in the United States will be diagnosed with ovarian cancer. Hard to detect and frequently discovered in advanced stages, this disease is often deadly for so many. Structural barriers inhibit access to quality and affordable health care, and documented disparities in treatment can lead to higher mortality rates for Black women and elderly women in particular. During Ovarian Cancer Awareness Month, our Nation honors those who are struggling with this dreaded disease, remembers the loved ones we have lost, and recommits to ending ovarian cancer—and all cancer—as we know it.

This issue is personal to me and the First Lady, as it is for so many families. Earlier this year, we reignited the Cancer Moonshot Initiative which I oversaw in 2016. The Cancer Moonshot Initiative has a goal of cutting the cancer death rate in half—at least—over the next 25 years. My Administration also created, and the Congress has funded, the Advanced Research Projects Agency for Health (ARPA–H) at the National Institutes of Health to revolutionize the way we detect and treat diseases like cancer, Alzheimer's, and diabetes. With improved screening and early detection technologies, diagnostics, treatments, and supportive care, we are on the cusp of real breakthroughs. The incidence of ovarian cancer has decreased over the last decades as survival rates have increased.

Of course, there is more work to do. I promised to protect and build on the Affordable Care Act (ACA), and that is exactly what my Administration will do—including by guaranteeing protections for women with preexisting conditions and preventing insurance companies from dropping patients with ovarian cancer. The ACA covers visits to a primary care physician and gynecologist without copayments or deductibles, which can lead to earlier detection of ovarian cancer. We must also increase diversity in clinical trials to ensure that new treatments will work for everyone and to better understand why ovarian cancer impacts some Americans more than others. My Administration will continue supporting the National Institutes of Health, the Food and Drug Administration, and other agencies as they broaden outreach to racial and ethnic minority populations and other underrepresented groups and assess whether cancer treatments will be effective for the diverse range of patients who need them.

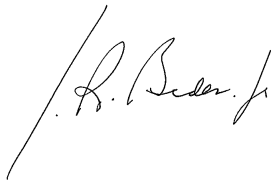
Expanding access to care is especially critical as we emerge from the COVID–19 pandemic. In the early days of the pandemic, Americans missed almost 10 million cancer screenings. Medical experts in my Administration and around the country encourage women to reschedule these appointments as soon as possible. Additionally, the Centers for Disease Control and Prevention's (CDC) ''Inside Knowledge about Gynecologic Cancer'' website is a useful resource for information on ovarian cancer. For people who think they may be at risk for this disease, experts have compiled helpful information about ovarian cancer at cancer.gov/types/ovarianandcdc.gov/cancer. Being informed is a first step toward prevention.

As we observe National Ovarian Cancer month, we will never forget those we have lost. We honor our health care experts who work tirelessly to

save lives. And we offer strength to women and families across this country fighting ovarian cancer today and in the future.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022 as National Ovarian Cancer Awareness Month. I call upon the people of the United States to speak with their doctors and health care providers to learn more about ovarian cancer. I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of what Americans can do to detect and treat ovarian cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19282
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10434 of August 31, 2022

National Preparedness Month, 2022

By the President of the United States of America

A Proclamation

During National Preparedness Month, my Administration recommits to preparing our Nation for disasters, both natural and manmade, and especially the extreme weather events that we face with increasing frequency and ferocity. We also continue our efforts to ensure that all Americans have the resources they need to keep themselves and their families safe.

Every part of this Nation faces the threat of disasters, and while many emergencies are unpredictable, we know that the most vulnerable among us often bear the most significant impacts. When extreme weather destroys homes, families with less savings are more prone to housing insecurity. When pandemics arise, individuals without access to health care are more liable to become sick or face financial hardship. For the future of all Americans, my Administration is committed to strengthening our disaster resilience and continuing our strong partnerships with State, local, Tribal, and territorial leaders.

Our work begins with tackling the climate crisis. We know that wildfires are super-charged by prolonged drought, that storms and coastal flooding are exacerbated by rising sea levels, and that extreme heat threatens our power grids and national security. That is why my Administration has invested billions of dollars in clean energy, secured funding for thousands of new climate-friendly jobs, and supported enhanced wildfire preparedness and forest restoration efforts. This summer, I signed the Inflation Reduction Act, a historic law that will slash our Nation's greenhouse gas emissions by roughly 40 percent through investments in renewable energy and low-carbon technologies and also help communities cope with long-term drought. And demonstrating our commitment to global leadership, we rejoined the Paris Climate Agreement and pledged to support developing nations in their campaigns to combat climate change. By addressing climate challenges today, we can minimize the risk of natural disasters tomorrow.

My Administration has also taken steps to ensure that our roads, bridges, buildings, and energy sector infrastructure are more resilient to future natural and manmade disasters. Last year, I signed a once-in-a-generation infrastructure law to modernize our power grid, protect us against cyberattacks, and revamp our ports, airports, and freight infrastructure. The Bipartisan Infrastructure Law invests over $50 billion to protect against drought, heat, and flooding and includes funding for the weatherization of American homes. It also supports Army Corps of Engineers projects across the Nation, which will reduce the risks of coastal and inland flooding. Through our Justice40 Initiative, we are working to ensure that 40 percent of the overall benefits of these historic investments reach communities that are marginalized, underserved, and overburdened by pollution.

Additionally, we are investing in more resilient American supply chains to make us less reliant on foreign countries for the critical technologies that we need. In August, I signed the CHIPS and Science Act to accelerate the manufacturing of semiconductors in America and help prevent economic disaster when disruptions to global supply chains arise.

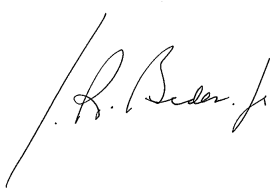
As we continue our fight against the COVID–19 pandemic and other pathogens, my Administration is preparing for the emergence of future biological threats of natural, accidental, and deliberate origin. We must be ready to prevent these catastrophes and treat pandemic preparedness, health security, and global health as top national security priorities. That is why I am requesting significant funding from the Congress to help us develop new vaccine technologies, accurate and affordable diagnostics, effective therapeutics, and next-generation personal protective equipment. We also need Federal funds to enhance partner countries' capacities to prevent, detect, and respond to infectious disease threats across the globe.

Preparedness is a collective effort that requires the whole of government and the communities we represent to work together. The Federal Emergency Management Agency (FEMA) is helping to prepare the Nation—hiring, training, qualifying, and retaining a ready workforce that is available to deploy to support disaster survivors across the country. By training emergency managers across all levels of government, FEMA is better equipping our country to respond quickly and support all Americans.

During this National Preparedness Month, let us strengthen our support for first responders—our first line of defense when catastrophes threaten our homes, businesses, schools, and families. Let us each recommit to doing our part to prepare for emergencies. I encourage all Americans to download the FEMA App and receive real-time alerts, to turn on wireless emergency alerts on mobile phones, and to pack emergency go-bags. Everyone can access free information about readiness at Ready.gov, or Listo.gov for Spanish-speakers. Together, we can be prepared for any disaster that lies ahead.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022 as National Preparedness Month. I encourage all Americans to recognize the importance of preparedness and work together to enhance our resilience and readiness.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19296

Filed 9–2–22; 8:45 am]

Billing code 3395–F2–P

Presidential Documents

Proclamation 10435 of August 31, 2022

National Prostate Cancer Awareness Month, 2022

By the President of the United States of America

A Proclamation

During National Prostate Cancer Awareness Month, we recommit ourselves to taking on a cancer that will affect over 260,000 people in America this year alone. It is for those we have lost, those who continue to fight, and those who will undergo this battle in the future that we redouble our efforts to better understand prostate cancer, develop innovative treatments, and make care affordable and accessible.

Ending cancer as we know it is a top priority for my Administration and a key pillar of the Unity Agenda that I announced in my State of the Union Address. This is personal to my family, as it is for millions of Americans. That is why the First Lady and I reignited our 2016 Cancer Moonshot Initiative, setting a goal of cutting the cancer death rate by at least half over the next 25 years. My Administration created a new Cancer Cabinet to ensure that Federal agencies can better coordinate research and development. And with bipartisan support, we secured $1 billion in funding from the Congress to launch the Advanced Research Projects Agency for Health (ARPA–H), which will develop cutting-edge cancer medicines, therapies, and early detection technologies.

While our Nation's scientists push hard to find cures, we must also safeguard protections for patients with preexisting conditions and make treatments more affordable for individuals diagnosed with prostate cancer. No one should worry about whether they can pay for their doctor or choose between filling a prescription and putting food on the table. The provisions in the Inflation Reduction Act will fulfil my promise to make prescription drugs more affordable for millions of Americans—many of whom are living with illnesses like cancer—by capping out-of-pocket prescription drug costs at $2,000. And it will finally allow Medicare the ability to negotiate prescription drug prices.

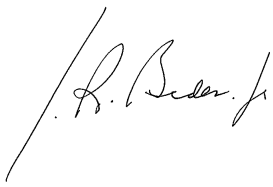
We must also increase awareness about the symptoms of prostate cancer so it can be detected and treated as early as possible. And it is important that we acknowledge how prostate cancer affects us unequally. Men over the age of 65, men who have a family history of prostate cancer, and Black men are most likely to be diagnosed and to die from this disease. I encourage these and all Americans to talk to their primary care providers about the risk factors for prostate cancer, ask about opportunities for screenings, and learn more about this disease at cancer.gov/types/prostateandcdc.gov/cancer/prostate.

Our Nation is defined by possibilities, and when we invest in American spirit and American ingenuity, there is nothing we cannot accomplish. During this National Prostate Cancer Awareness Month, let us mourn those we have lost, offer strength to those who continue to fight, thank the health care workers who battle this disease to give others a chance at life, and join forces as one to protect the health of future generations.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022

as National Prostate Cancer Awareness Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of what Americans can do to prevent and cure prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19300
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10436 of August 31, 2022

National Recovery Month, 2022

By the President of the United States of America

A Proclamation

Today, more than 20 million Americans are recovering from substance use disorder. Whether they are parents, children, siblings, neighbors, co-workers, or friends, many of us are close to someone working to overcome drug or alcohol addiction. In celebration of Americans on the road to recovery, this National Recovery Month we recommit to helping prevent substance use disorder, supporting those who are still struggling, and providing people in recovery with the resources they need to live full and healthy lives.

When our fellow Americans recover from substance use disorder, our Nation becomes stronger and more resilient. Still, we recognize that the path to full recovery can be long and demanding. For many struggling with untreated addiction, securing reliable housing and long-term employment can be a challenge, restoring relationships can take time, and treatment and recovery services can be expensive and hard to find. These obstacles are amplified for Tribal and other underserved communities, including rural communities that must often travel farther to find care. Black and Brown Americans are also often subject to harsher penalties for addiction-related charges.

My Administration is working to ensure that achieving and sustaining recovery is within reach for every American and that everyone has equal access to economic mobility and improved health. This year, we secured nearly $22 billion from the Congress to support drug prevention, treatment, harm reduction, and recovery support services, with a focus on underserved communities. With the additional $4 billion investment from our American Rescue Plan, my Administration is expanding recovery community organizations, recovery high schools, collegiate recovery programs, and recovery residences. These vital support networks allow people to balance healing with their everyday responsibilities. We are also advocating for recovery-ready workplace policies across the public and private sectors to promote inclusive hiring, enable employers to assist in the recovery process, and help companies retain talent. And to incentivize new innovations, the Department of Health and Human Services is launching its first-ever behavioral health Recovery Innovation Challenge to award funding to peer-run and community-based programs that advance recovery and can be scaled nationwide.

As I outlined in my State of the Union address this year, a key pillar of my Unity Agenda is beating the opioid epidemic. Drug overdoses have taken a heartbreaking toll on our country, and addressing untreated addiction is a key component of our National Drug Control Strategy. We also recognize that alcoholism remains one of the leading preventable causes of death in the United States. We owe it to the loved ones we have lost to overdose and addiction to ensure that fewer harmful substances—and particularly illegally manufactured synthetic drugs—reach our communities and that people have greater access to mental health and substance use disorder services. That is why I am calling for more Federal funding to equip law enforcement agencies with the resources they need to target drug trafficking at our border and disrupt traffickers' financial networks. It is also why I am calling for a historic investment to transform behavioral health services

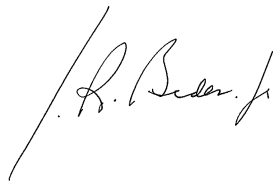
across America and help Americans receive the support they need and deserve.

As we consider the work ahead, let us remember that there are many pathways to recovery and that overcoming substance use disorder is courageous and difficult. Let us also understand the importance of eliminating the stigmatization of addiction. I believe everyone who experiences substance use disorder is capable of achieving and sustaining recovery, and my Administration will support all Americans on this journey.

This National Recovery Month, we thank peer recovery support professionals, counselors, addiction specialists, first responders, scientists, family members, and everyone who works tirelessly to help our fellow Americans recover from substance use disorder. We offer strength to our loved ones at every step of their recovery process. And we rededicate ourselves to protecting our families and communities so all Americans can enjoy health and happiness.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022 as National Recovery Month. I call upon all citizens, government agencies, private businesses, nonprofit organizations, and other groups to take action to promote recovery and improve the health of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19301
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10437 of August 31, 2022

National Sickle Cell Awareness Month, 2022

By the President of the United States of America

A Proclamation

Sickle cell disease (SCD) presents grave health challenges for an estimated 100,000 Americans. For some, it triggers intermittent episodes of pain, difficulty with vision, and serious fatigue. Other survivors experience this disease more acutely—SCD can cause infections, strokes, and even organ failure. For almost everyone impacted, coping with inherited red blood cell disorders means putting plans on pause, living with excruciating pain, paying for expensive treatments, and hoping for a day when medications and doctor visits no longer interrupt life. During National Sickle Cell Awareness Month, we recognize the perseverance of SCD patients, and we recommit to working with our partners in State and local government, the nonprofit space, and the private sector to develop treatments and cures for this debilitating disease.

Like many rare diseases, SCD affects our population unevenly. Black and Brown Americans are disproportionately affected. About 1 in 13 Black children tests positive for the sickle cell trait, and about 1 in 365 Black Americans develops the disease over the course of their lifetime. Due to persistent systemic inequities in our health care system, these same patients are also often the last to get help. Few specialty clinics are available for SCD treatments, information about detecting this disease is not always widely shared, and pain management can be a challenge due to the intermittent nature of sickle cell crises and persistent racial disparities in pain assessment and treatment. Moreover, there exists no universally effective cure; bone marrow and stem cell transplants have allowed some people to overcome SCD, but low donor availability and treatment-related complications render these procedures unviable for many patients.

Medical professionals and scientists in my Administration and across our Nation are working to put an end to SCD. The Food and Drug Administration recently approved new drug therapies to help patients manage their pain. Through its ''Cure Sickle Cell Initiative,'' the National Institutes of Health (NIH) is striving to develop safe and effective genetic therapies and exploring applications for machine learning to predict organ function decline in SCD patients. Additionally, the NIH has invited researchers to apply for funding to support large-scale clinical trials on treating SCD pain symptoms. We are closer than ever to finding a cure today for all patients, and I am optimistic about our progress.

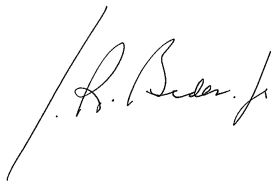
Even so, it is still important for Americans to understand the signs of this disease, the risks of inheriting this condition, as well as the various resources available to those who test positive. Most people with the sickle cell trait do not exhibit symptoms, and many are unaware of their potential to carry on this gene. Experts agree that it is important to get tested, especially if you have family members who have been diagnosed with SCD. There are also helpful resources online to learn more about this disease, like the Centers for Disease Control and Prevention's sickle cell information page at cdc.gov/ncbddd/sicklecell/index.html.

As we continue our quest to cure sickle cell disease, let us celebrate the strides our health experts have made in understanding and treating this

condition. Let us offer strength to those Americans fighting its effects today and unite in our mission to enhance the quality of life for those diagnosed with SCD.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022 as National Sickle Cell Awareness Month. I call upon the people of the United States to learn more about the progress we are making to reduce the burden of this disease on our fellow Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19302
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10438 of August 31, 2022

National Wilderness Month, 2022

By the President of the United States of America

A Proclamation

From the peaks of the Sierras to the rolling foothills of the Alleghenies, our Nation's wilderness boasts national treasures that provide opportunities for discovery, wonder, and serenity. They are also the current and ancestral homelands of Tribal Nations and Indigenous peoples, many of whom have deep cultural, historic, and spiritual connections to these places. During National Wilderness Month, let us express gratitude for lands and waters that remain in their natural condition, acknowledge the importance of making public lands accessible to all Americans, and rededicate ourselves to conserving and protecting the earth for future generations.

When designated wilderness areas are left intact, they defend us against climate change, keep us resilient when natural disasters strike, and create a refuge for biodiversity. Our Nation's forests offset 10 percent of our greenhouse gas (GHG) emissions every year. Native grasslands, wetlands, and other healthy soils retain water at faster rates, protecting us against flooding and offering drought relief for surrounding vegetation. Owing to the beauty of these places—and perhaps anticipating their environmental importance—President Lyndon B. Johnson signed into law the 1964 Wilderness Act and created the National Wilderness Preservation System. In the years since, the Congress has designated over 800 wilderness areas comprising more than 111 million acres of land.

Still, America's natural spaces are in danger. Extreme wildfires threaten to destroy our woodlands. Rising tides imperil our coastlines. Runoff from toxic chemicals pollutes our rivers and endangers species. Even if designated wilderness areas appear safe from harm for now, the unpredictable nature of climate change and biodiversity loss looms over our entire Nation.

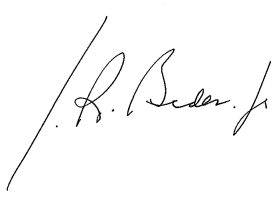
In response, my Administration has set ambitious goals to scale back our GHG emissions and chart a new course with clean energy. We pledged to reduce emissions by up to 52 percent by 2030, achieve 100 percent carbon pollution-free electricity by 2035, and create an economy with net-zero emissions by 2050. We set the first-ever national conservation goal through the America the Beautiful Initiative to voluntarily conserve at least 30 percent of lands and waters in the United States by 2030. We are funding ecosystem restoration and reforestation efforts with billions of dollars from the Bipartisan Infrastructure Law and through the America the Beautiful Challenge, which merges Federal investments with private and philanthropic donations to boost conservation. We are making strategic investments through the Great American Outdoors Act to conserve at-risk lands, including critical habitats and migration corridors. On Earth Day, I signed an Executive Order to strengthen our Nation's, and the world's, vitally important forests.

As we reflect upon the work that remains before us, we must acknowledge that not all Americans share equal access to public lands. I remain committed to ensuring that everyone can benefit from the natural beauty and bountiful gifts of our wild spaces. I also remain committed to ensuring that Tribal Nations and Indigenous communities can continue sustainably using and connecting with their sacred lands. My Administration will honor those whose ancestors stewarded these lands since time immemorial.

This National Wilderness Month, we give thanks for the magnificent beauty that surrounds us, offer our gratitude to the men and women who maintain our public lands, and affirm our duty to safeguard designated wilderness areas and natural spaces across our world.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2022 as National Wilderness Month. I encourage all Americans to experience our Nation's outdoor heritage, to recreate responsibly and to leave no trace, to celebrate the value of preserving an enduring wilderness, and to strengthen our commitment to protecting these vital lands and waters now and for future generations.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



[FR Doc. 2022–19303
Filed 9–2–22; 8:45 am]
Billing code 3395–F2–P

Rules and Regulations

Federal Register
Vol. 87, No. 171
Tuesday, September 6, 2022

FEDERAL COMMUNICATIONS COMMISSION

2 CFR Chapter LX

47 CFR Parts 0 and 54

[WC Docket No. 21–450; FCC 22–64; FR ID 101087]

Affordable Connectivity Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) establishes the Affordable Connectivity Outreach Grant Program (Outreach Grant Program), which will provide eligible partners grant funds to conduct outreach in support of the Affordable Connectivity Program (ACP).

DATES: Effective November 7, 2022.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Jessica Campbell, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Jessica.Campbell@fcc.gov* or 202–418–7400, or Rashann Duvall, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Rashann.Duvall@fcc.gov* or 202–418–1438.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (Report and Order) in WC Docket No. 21–450, adopted on August 5, 2022 and released on August 8, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-establishes-affordable-connectivity-outreach-grant-program-0*.

I. Introduction

1. In this final rule, the Commission establishes the Outreach Grant Program, which will provide eligible partners grant funds to conduct outreach in support of the Affordable Connectivity Program. The Infrastructure Investment and Jobs Act (Infrastructure Act) appropriated $14.2 billion for the Affordable Connectivity Program, which provides qualifying low-income households discounts on broadband service and connected devices, and expressly authorizes the Commission to conduct outreach for the Affordable Connectivity Program, including providing grants to outreach partners. The Commission previously allocated up to $100 million of this budget for outreach, including an outreach grant program and outreach activities by the Commission's Consumer and Governmental Affairs Bureau (CGB) as authorized in the Infrastructure Act, to be spent over five years.

2. The Affordable Connectivity Program plays an integral role in helping to bridge the digital divide, which is an ongoing top priority for Congress and the Commission. To date, over 12 million low-income households participate in the Affordable Connectivity Program. However, a significant number of qualifying households have not yet enrolled in the Affordable Connectivity Program. The Commission previously recognized in the *ACP Order,* 87 FR 8346, February 14, 2022, that to achieve the program's full potential and reach as many eligible households as possible, households must be clearly informed of the program's existence, benefits, and eligibility qualifications, and how to apply. Through this Outreach Grant Program, the Commission seeks to enlist partners around the country to help inform ACP-eligible households about the program in their local communities, and to provide those partners with the funding and resources needed to increase participation among those Americans most in need of affordable connectivity.

II. Discussion

3. In this final rule, the Commission discusses the goals and objectives of the Outreach Grant Program; provides examples of the types of outreach activities and expenses that may be considered for funding and types of eligible entities; allocates funding set-asides for specific types of grantees; establishes important safeguards to promote program integrity and guard against potential waste, fraud and abuse; adopts and implements regulations pertaining to grants in title 2, subtitle B, and title 47 of the Code of Federal Regulations; directs CGB, in coordination with the Office of General Counsel (OGC) and Office of the Managing Director (OMD) as appropriate, to develop, manage, and administer the Outreach Grant Program; provides guidance and regulatory requirements for the framework for the Outreach Grant Program; and addresses other requirements and administrative aspects of the Outreach Grant Program. While this final rule provides the necessary structure and guidelines for the Outreach Grant Program, consistent with its authority under applicable Federal statutes and regulations, additional details on specific grant program requirements and the application process will be provided in one or more Notices of Funding Opportunity (NOFOs) to be subsequently issued to solicit grant applications, in the awards to individual eligible grantees, and in orders and/or public notices issued by CGB in coordination with OMD, the Wireline Competition Bureau (WCB), and OGC, as appropriate.

4. The *ACP Further Notice of Proposed Rulemaking (FNPRM),* 87 FR 8385, February 14, 2022, explained that a number of Federal statutes and regulations govern Federal grant programs, including 2 CFR parts 25, 170, 175, 180, 182, and 200, and that appropriations riders may also impose additional conditions on Federal grant programs. Commenters did not specifically comment on the implementation of these provisions. Accordingly, the Outreach Grant Program will be structured in accordance with these regulations and any applicable statutes and Federal grant program conditions in appropriations riders. To fully implement the requirements of 2 CFR parts 25, 170, 175, 182 and 200 and any other non-self-executing requirements in 2 CFR (and other government-wide statutes and regulations applicable to grants and other awards of Federal financial assistance), the Commission grants CGB, in coordination with WCB, OGC, and OMD as appropriate, authority to adopt policies and procedures regarding such requirements

through inclusion in the NOFO, inclusion in the terms and conditions of each grant, adoption, modification, and/or clarification of regulations, issuance of orders or public notices on delegated authority, and/or through publicly available instructions provided to applicants and/or grantees.

5. The Outreach Grant Program will provide funding to support eligible partners in their outreach efforts to increase awareness of the Affordable Connectivity Program among eligible households, and to encourage eligible households to participate in the Affordable Connectivity Program. The record, in particular, supports ACP outreach to diverse populations. For purposes of the Outreach Grant Program, diverse populations include people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality.

6. Federal grant regulations require Federal awarding agencies to incorporate into their grant programs ''clear goals and objectives that facilitate the delivery of meaningful results consistent with the Federal authorizing legislation of the program.'' Federal grant regulations also require that the program design ''align with the strategic goals and objectives within the Federal awarding agency's performance plan and should support the Federal awarding agency's performance measurement, management, and reporting as required by Part 6 of OMB Circular A–11'' and ''align with the Program Management Improvement Accountability Act (Pub. L. 114–264).''

7. The *ACP FNPRM* sought comment on the goal of the Outreach Grant Program. Pursuant to the Commission's Congressional authorization to conduct ACP outreach, the Commission establishes an Outreach Grant Program goal and related objectives to be consistent with the goals of the Affordable Connectivity Program, to reduce the digital divide and to promote awareness of and participation in the Affordable Connectivity Program, and the Commission's overall strategic goals and objectives that support bringing affordable broadband to low-income households.

8. The Commission adopts the goal of facilitating the promotion of the Affordable Connectivity Program to increase awareness of and participation in the program among eligible households. This goal is sound, supported by the record, and can be measured with appropriate data collected from grantees and ACP program data. Additionally, progress towards this goal advances the goals of the program to ''promote awareness and participation in the Affordable Connectivity Program,'' and to ''reduce the digital divide for low-income consumers.'' It also advances the Commission's overall strategic goals and objectives of facilitating access to and adoption of broadband internet by underserved, underrepresented, and low-income households. To meet this Outreach Grant Program goal, the Commission will provide funding to outreach partners to engage in targeted outreach to low-income and diverse households nationwide both to gauge existing levels of ACP awareness and to promote increased awareness of and participation in the program by eligible households.

9. To support the accomplishment of the goal of facilitating the promotion of the Affordable Connectivity Program to increase awareness of and participation in the program among eligible households, the Commission adopts three objectives for the Outreach Grant Program: (1) expand and support diverse and impactful outreach efforts nationwide to reach eligible Affordable Connectivity Program households, including, but not limited to, people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality; (2) strengthen outreach partners nationwide by empowering them to mobilize people and organizations to help raise awareness about the Affordable Connectivity Program; and (3) increase enrollment in the Affordable Connectivity Program, particularly in areas served by the outreach grants, by underrepresented, underserved, and low-income households. These objectives are consistent with the authorizing language in the Infrastructure Act and are also consistent with the record and in alignment with the Commission's strategic goals and objectives identified in this document.

10. The first objective—expanding and supporting diverse and impactful outreach efforts nationwide—implements the Commission's strategic goals of facilitating access to and adoption of affordable broadband internet service and promoting affordable access to reliable broadband networks by diverse populations in underserved areas including rural, high-cost, and insular areas. This objective is also supported by the record—many commenters highlight the need for ACP outreach, and, in particular, for outreach to diverse and underserved groups across diverse geographic regions. To accomplish this objective, the Outreach Grant Program will use eligibility criteria that encourage program participation by entities that are capable of meeting the goal of the program and will provide funding to support ACP outreach by a broad range of eligible outreach partners.

11. The second objective—strengthen outreach partners—also implements the Commission's strategic goal of increasing broadband adoption and access and the strategic objective of communicating information about FCC programs and policies to help increase adoption of affordable broadband. It further implements the goals of the Affordable Connectivity Program to promote awareness of and participation in the program for eligible households. To accomplish this objective, the Outreach Grant Program will provide funding for outreach and will also provide prospective applicants technical assistance on the Outreach Grant Program application requirements and Outreach Grant Program rules and requirements and provide grantees with programmatic training and standardized outreach materials.

12. The Commission's third objective under the Outreach Grant Program—increasing enrollment in the Affordable Connectivity Program by qualifying underrepresented, underserved, and low-income households—implements the Commission's strategic objectives of facilitating access to and adoption of broadband internet service, including by low-income and underserved populations, and the Affordable Connectivity Program's goal of reducing the digital divide. The Outreach Grant Program can facilitate universal access to affordable broadband internet service by raising awareness of and encouraging participation in the Affordable Connectivity Program among eligible households. To accomplish this objective, the Outreach Grant Program will provide funding to facilitate outreach by eligible partners and will encourage participation of partners who are capable of reaching underrepresented, underserved, and low-income households and helping them to enroll in the Affordable Connectivity Program.

13. Consistent with Federal grant regulations, and the delegations of authority in this final rule, the Commission directs CGB, in consultation with WCB and the Office of Economics and Analytics (OEA), to develop meaningful performance measures to evaluate progress towards this goal and to collect the necessary

information from grant recipients, subrecipients, and Universal Service Administrative Company (USAC or ACP Administrator) to measure progress towards this goal. Further the Commission instructs CGB, WCB, and USAC to explore whether and how outreach activities could be linked to specific enrollments, which could help measure the success of specific outreach efforts. The Commission will use data collected as part of the Outreach Grant Program as an indicator to measure Affordable Connectivity Program awareness among eligible households, which will be necessary to monitor progress toward the goal established in this final rule. Accordingly, the Commission directs CGB, in coordination with OEA and WCB, to use the data collected from grant recipients, which may include consumer surveys, research efforts, and feedback sought from ''our state, community and non-profit partners helping to educate consumers on the [ACP] application process'' to measure progress toward the goal the Commission has established for the Outreach Grant Program.

14. In authorizing the Commission to conduct outreach, Congress recognized that multiple forms of outreach are appropriate to ensure that eligible households are aware of and encouraged to participate in the Affordable Connectivity Program. However, the Infrastructure Act does not specify the types of outreach activities that are fundable through the Outreach Grant Program. Accordingly, in the *ACP FNPRM,* the Commission sought comment on the types of outreach activities that should be eligible for outreach grant funds, and the Commission now provides examples of the types of outreach activities that may be funded through authorized grants. Any NOFO issued for the Outreach Grant Program will provide further guidance on allowable activities and costs consistent with the goal and objectives of the Outreach Grant Program and the applicable authority under Federal statutes and regulations governing Federal grant programs.

15. Based on the Commission's careful review of the record, and CGB's outreach experience, the Commission finds that a wide range of activities including, but not limited to, in-person events, literature campaigns, digital campaigns, and paid media campaigns could provide meaningful, effective Affordable Connectivity Program outreach tailored to targeted communities. Accordingly, in this final rule the Commission does not prescribe a comprehensive list of fundable outreach activities for the Outreach Grant Program. Instead, the Commission more broadly directs that all grant-funded outreach activities must be designed to support the stated goal and one or more of the stated objectives of the Outreach Grant Program. Further information will be provided as part of any NOFO issued by CGB. Consistent with the delegations of authority in this final rule, the Commission directs CGB to determine whether certain types of outreach activities should be prioritized based on a reasoned evaluation of which outreach activities will best meet the Outreach Grant Program goal and objectives, except as otherwise directed herein.

16. The record supports funding a wide range of outreach activities to ensure that grant program participants have the flexibility to tailor outreach to the specific community they are targeting. For example, Common Sense urges the Commission to give grantees flexibility to use a variety of approaches because ''no single outreach method will be appropriate for all communities'' given that the digital divide impacts a diverse range of communities that are geographically distinct, use a variety of languages and communication media, trust different organizations, and have varying levels of technological fluency. Alaska Federation of Natives (AFN) recommends that the Commission give grantees ''maximum flexibility to conduct outreach activities including television and radio, social media, local newspapers (still common in rural communities), or community events'' to accommodate the needs of and most effective methods of reaching out to different communities. Similarly, the San Diego Association of Governments (SANDAG) states that ''[c]ommunity-focused outreach and engagement strategies are highly dependent on a community's political, social, and economic conditions'' and recommends that the Commission ''should provide the flexibility for grantees to design community outreach and engagement based on localized community needs.'' The Commission agrees that funding a wide range of outreach activities through the Outreach Grant Program would best provide grantees flexibility to conduct outreach tailored to the specific community they are targeting and allow us to direct funding in a manner that optimizes its ability to meet the programs goals and objectives.

17. Examples of the types of activities that commenters ask the Commission to fund through the grant program include, but are not limited to, in-person and virtual outreach events and campaigns, text messaging, phone banking, social media campaigns, literature campaigns, and paid media campaigns. Specifically, the National Hispanic Media Coalition (NHMC) recommends that the Commission ''prioritize investment in trusted messengers, culturally-relevant programming, and in-language materials.'' Based on its experience implementing other federally funded outreach campaigns, the National Urban League recommends that ''community events, mailers, radio and television broadcasts, paid advertisements, ethnic media, newsletters, social media, and other outreach targeted to the populations covered in the [Infrastructure Act]'' be funded through the Outreach Grant Program. Several commenters support funding paid media campaigns such as public service announcements, radio and television ads, and billboards, particularly in communities most impacted by the digital divide. Other commenters emphasize the importance of traditional outreach campaigns, both virtual or in-person, including, but not limited to, community events, workshops, mailers, newsletters, phone banks, street teams/canvassers, and door knocking. Commenters also support funding social media and digital outreach, such as social media advertisements and text messaging campaigns. These types of activities are tested and proven in their ability to reach diverse and targeted audiences and may therefore be considered an allowable use of grant funds in any NOFO consideration.

18. The Commission recognizes the importance of ensuring that grant-funded ACP outreach is accessible to all diverse, eligible low-income households. Several commenters emphasize the value of multilingual outreach, such as making program information available in multiple languages and ensuring outreach staff are prepared to communicate in languages other than English. The ACP rules also require that service provider ACP outreach and other communications be accessible to individuals with disabilities. The Commission agrees with commenters that outreach in languages other than English is important and also continues to find that there is a need for ACP outreach to be accessible to individuals with disabilities. Accordingly, the Commission allows funding for multilingual and accessible outreach, and it strongly encourages grantees to conduct grant-funded outreach in the languages spoken in the areas and communities that they are targeting and to also ensure that the grant-funded outreach is accessible to individuals with disabilities.

19. In addition, commenters emphasize the importance of providing ACP application assistance to eligible consumers in connection with fundable outreach activities. The Commission agrees that in-person application assistance would help many potential applicants who may experience difficulty completing and submitting an application on their own, and specifically finds that grant funds may be used for this purpose. The Commission notes that some commenters advocate for funding that would support the ability to provide potential applicants remote assistance with completing and submitting their applications. However, as explained in the *ACP Order,* to protect the program's integrity, the Commission requires ACP applicants to be physically present with the individual providing application assistance to complete, sign, and certify their application. This requirement provides an important safeguard against waste, fraud, and abuse by ensuring that the applicant is actually the person who signs and submits the application and has reviewed and acknowledged the required applicant certifications. The Commission therefore declines to provide grant funds for remote assistance with completing and submitting ACP applications.

20. Although access to the National Verifier can facilitate ACP enrollment by allowing direct assistance to low-income households with completing and submitting an application in the National Verifier, the Commission declines to provide grantees access to the National Verifier as part of this grant program. For program integrity and administrative reasons, access to the National Verifier is limited to service providers and certain neutral, trusted, third-party entities (*e.g.,* governmental entities and their partners). Further, grantees are able to conduct meaningful, effective ACP outreach and provide application assistance without having direct access to the National Verifier. However, the Commission separately has two limited scope and duration pilot initiatives through which some outreach grantees that are also neutral, trusted third party entities (such as state, regional, and local governments, schools or school districts, state and local housing authorities, Tribally Designated Housing Entities, associations representing multiple Tribally Designated Housing Entities, or other state, regional, and local government entities or public housing authorities and their partners, as permitted pursuant to pilot rules), may be able to obtain direct access to the National Verifier for purposes of helping eligible consumers apply for the Affordable Connectivity Program directly in the National Verifier.

21. Consistent with Federal grant regulations, all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award. Many parties commented on the types of outreach expenses for which grant funds could be used. For example, commenters advocate for the ability to use outreach grant funds for a broad variety of costs. Specifically, commenters advocate for funding the following types of costs: grant application, compliance, and planning costs; advertising costs (*e.g.,* traditional advertising, social media, and text messaging campaigns); indirect costs; travel costs for outreach (*e.g.,* mileage, gas, and related travel incidentals); grant administration costs (*e.g.,* reporting, evaluation, auditing); percentage of program costs for facilities to cover overhead; outreach personnel costs; costs for hosting outreach events (*e.g.,* supplies, facility costs, incentives, and food and refreshments for households attending outreach events); costs to create and distribute materials such as toolkits, fliers, or train-the-trainer guides that enable other organizations to promote the Affordable Connectivity Program; costs for technology (*e.g.,* tablets, laptop computers, and printers for use at outreach events) to support enrollment; costs to create, produce, and disseminate consumer outreach materials such as mailers and posters; and costs to translate and interpret ACP consumer outreach materials.

22. Given the broad range of expenses that could be necessary and reasonable to provide meaningful, effective outreach to eligible households, the Commission declines to prescribe in this final rule a comprehensive list of allowable outreach expenses, but reiterate that all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award. To promote fiscal responsibility and ensure that the vast majority of the grant funding is targeted towards outreach activities, moreover, grants will be subject to a five percent cap on management and administrative expenses per individual award. In addition, the Commission makes clear that the grant funding is intended for eligible costs of ACP outreach for which applicants do not already have or expect to receive other funding. Grant funds may not be used to replace (supplant) funds that applicants have already obtained or expect to receive for the same purpose. The Commission directs CGB, in consultation with WCB, OMD, and OGC, to identify allowable and unallowable outreach costs for the grant program, subject to the necessary and reasonable for the performance of the award standard applicable to Federal grants, and to provide this information in any NOFO issued for the grant program. In making these determinations, CGB shall consider the goal and objectives and available funding for the Outreach Grant Program, the need for fiscal responsibility, and the restrictions on fundable costs in the applicable statutes and regulations governing Federal grants. CGB shall have the authority to make revisions to the types of allowable costs during the grant program and may also cap certain types of expenses. The Commission further notes that Federal grant regulations, which it has adopted herein for this grant program, prohibit the use of Federal funds for certain costs.

23. The Commission takes seriously its obligation to guard against waste, fraud, and abuse in the use of Federal funds. To promote the integrity of the Outreach Grant Program and the Affordable Connectivity Program and to protect consumer choice among service providers, the Commission adopts several important program safeguards. In addition, costs funded through the outreach grants are subject to principles, restrictions, and limitations under the statutes and regulations applicable to Federal grant programs. For example, award recipients are prohibited from using grant funds for entertainment or to purchase alcohol, contracting with the enemy, and purchasing telecommunications and video surveillance services or equipment provided by prohibited companies.

24. The Commission requires that all grantees not favor any particular service provider in performing outreach activities funded by this Outreach Grant Program. Service providers stand to benefit financially from the enrollment of additional eligible households in the Affordable Connectivity Program. Accordingly, it would be inappropriate to use Outreach Grant Program dollars in a manner intended to specifically increase a particular provider's program enrollment. Additionally, requiring grantees to maintain neutrality among service providers will protect eligible households' right to choose their ACP provider and the type of broadband service that best fits their needs. Neutrality with respect to participating providers is similarly a requirement for the ACP Navigator and Your Home, Your Internet Pilots that were established in the *ACP Order* and the

Your Home, Your Internet Pilot Order, published elsewhere in this issue of the **Federal Register**, respectively, and these same concerns equally apply in the context of the Outreach Grant Program.

25. Consistent with this outreach neutrality requirement, grantees may not direct, steer, incentivize or otherwise encourage eligible households to enroll with a particular ACP provider or one of a specific group of ACP providers (including, but not limited to, broadband industry groups such as trade associations) when conducting grant-funded outreach activities, and grantees must make clear that eligible households may enroll with the ACP provider of their choice. In addition, grantees may not use service provider-branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities. Grantees also may not offer or provide consumers gifts or incentives provided by service providers when conducting grant-funded outreach activities. Such gifts and incentives could compromise the grantee's neutrality with respect to ACP service providers and could also improperly influence eligible households' choice of provider. Furthermore, grantees may not otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers (including, but not limited to, broadband industry groups such as trade associations) for the purpose of conducting grant-funded outreach activities. The Commission recognizes that it may be beneficial in some instances to have service provider representatives in attendance at grant-funded outreach events to provide eligible households information on the available service offerings to which they may apply their ACP benefit. The Commission does not prohibit this, provided that all ACP participating providers that provide service in the area where the outreach is conducted have the same opportunity to attend and provide information on their services to which the ACP benefit can be applied. The Commission also does not prohibit including information in connection with grant-funded outreach on how to find an ACP service provider. Accordingly, outreach funded through the Outreach Grant Program can direct eligible households to the Companies Near Me Tool and can include a list of all providers serving the areas where the outreach is performed. The Commission makes clear that this service provider neutrality requirement does not preclude grantees from otherwise collaborating with state agencies, public interest groups, and non-profit organizations to carry out public awareness campaigns that highlight the value and benefits of broadband internet access service and the existence of the Affordable Connectivity Program, as required under the Infrastructure Act.

26. The Commission also prohibits entities conducting outreach funded through the Outreach Grant Program from providing any form of compensation to individuals engaged in grant-funded outreach activities based on the number of ACP applications or enrollments resulting from their grant-funded outreach activities. The Commission's rules for the Lifeline program similarly prohibit participating providers from offering or providing commission or other compensation to enrollment representatives or their direct supervisors that is based on the number of consumers who applied for or are enrolled in Lifeline with that particular provider. The ACP rules also prohibit participating providers from offering or providing to enrollment representatives, their direct supervisors, or entities operating on behalf of a participating provider, any form of compensation that is based on the number of ACP applications or enrollments with that provider, revenues the provider receives or expects to receive through the Affordable Connectivity Program, or any other compensation based on ACP applications, enrollments, or other revenues. Based on the Commission's experience administering the Lifeline program and the Affordable Connectivity Program, it finds that allowing grantees to provide such compensation in connection with grant-funded outreach activities could compromise the integrity of the program and its goals. Therefore, the Commission prohibits grantees from providing compensation to their personnel, representatives, or others acting on their behalf based on the number of ACP enrollments or applications submitted in connection with outreach activities funded under the Outreach Grant Program.

27. Consistent with Federal regulations that the Commission has made applicable to this grant program, it notes that grantees may not ''earn or keep any profit resulting from'' an Outreach Grant Program award. For example, a grantee may not accept or receive payment or other compensation (other than funded, allowable outreach expenses) in exchange for hosting an outreach event or providing application assistance to an ACP applicant at a specific site as part of the Outreach Grant Program. The Commission also notes that grantees may not charge low-income households a fee for educating them about or providing them with assistance in submitting an ACP application. This ensures that outreach grant partners do not make a profit from or otherwise financially benefit from conducting ACP outreach through the Outreach Grant Program.

28. To further promote program integrity, the Commission prohibits the use of grant funds to support or obtain gifts or incentives to offer or provide to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program. At least one commenter advocates for the ability to use grant funds to provide incentives to encourage consumers to learn about and apply for the Affordable Connectivity Program. The Commission finds that gifts and incentives supported by or offered when conducting grant-funded outreach activities may induce households to submit an ACP application that they may not have otherwise submitted primarily to obtain the gift or incentive or may encourage an ACP participating household to attempt multiple enrollments to obtain the gift or incentive even though the ACP benefit is limited to one per household. These outcomes may result in waste, fraud, and abuse, and thus the Commission prohibits the use of grant funds for these practices.

29. Outreach by a range of entities is critical to maximizing the impact of the Affordable Connectivity Program. While the Infrastructure Act authorizes the Commission to provide grants to outreach partners, it does not specify the types of entities that qualify as outreach partners. In the following, the Commission provides examples of the types of entities that may be eligible to participate in the Outreach Grant Program as grantees and subrecipients. The Commission encourages entities of all types and diverse organizations, including organizations serving, led, and/or owned by persons of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, to submit applications for the Outreach Grant Program once a NOFO is released. Like commenters, the Commission is also mindful of the importance of equitable outreach efforts as it works to reach underserved communities most impacted by the digital divide, and it reminds prospective applicants of the Federal grant requirement to ''take all necessary affirmative steps to assure that minority

businesses, women's business enterprises, and labor surplus area firms are used when possible.'' The Commission also encourages entities participating in the Commission's ACP Navigator and Your Home, Your Internet Pilot Programs, through which limited trusted entities may be granted access to the National Verifier to assist eligible households to complete and submit the ACP application, to apply for outreach grants to enhance their participation in those pilot programs.

30. The Infrastructure Act authorizes the Commission to provide grants to outreach partners to encourage eligible households to enroll in the Affordable Connectivity Program. At a minimum, then, outreach partners must be capable of conducting ACP outreach, that is, communicating or engaging with eligible low-income populations to inform or educate them about the Affordable Connectivity Program, to increase their awareness of the program, and to encourage or assist them to apply for the program. Moreover, eligible entities must be able to satisfy all legal requirements applicable to Federal grantees. For instance, to be eligible, an entity must be able to comply with Federal grant regulations adopted by the Commission, to obtain and report an FCC Registration Number (FRN), and to register with, and maintain an active registration with, the System for Award Management (SAM). Additionally, entities seeking to participate must satisfy statutory requirements, such as those restricting grant eligibility of entities indebted to the United States. Accordingly, the Outreach Grant Program will be open to entities capable of (a) directly or indirectly (through subrecipients) conducting outreach to increase awareness of and to encourage or assist with applying for the Affordable Connectivity Program; and (b) complying with all applicable policies and rules adopted herein, including the adopted requirements of 2 CFR part 200, any policies and rules that may be subsequently adopted on delegated authority by CGB to implement the Outreach Grant Program, and any other applicable grant-related statutes and regulations. The Commission strongly encourages eligible entities interested in applying for the Outreach Grant Program to familiarize themselves with regulatory and statutory requirements by closely studying applicable grant regulations and the relevant NOFO.

31. The *ACP FNPRM* sought comment on the types of entities that should be deemed eligible to apply for outreach grant funds and proposed, at a minimum, that non-profit organizations and trusted community organizations be eligible. Commenters support making the Outreach Grant Program open to a wide range of public and non-profit entities. The Commission agrees that the Outreach Grant Program should generally be open to a variety of entities to encourage participation from a diverse range of outreach partners, in terms of type and size, and to maximize the reach and impact of the grant program. Consistent with the record and the goal and objectives of the grant program, and subject to the basic eligibility criteria in the document, governmental and non-governmental entities are eligible for the grant program. Based on the Commission's review of the record, the types of entities eligible to participate in the Outreach Grant Program include, but are not limited to:

- Tribal governments and subdivisions thereof, as well as tribal organizations;
- State governments and subdivisions thereof (including the District of Columbia and U.S. Territories);
- Local governments and subdivisions thereof (including county, borough, municipality, city, town, township, parish, local public authority, special district, intrastate district, council of governments, and agencies or instrumentalities of multi-regional or intra-state or local government);
- Public housing authorities;
- Social service providers (*e.g.,* food banks, community transportation, childcare);
- Education organizations, such as schools and other institutions of higher education;
- Workforce development training organizations;
- Non-profit organizations;
- Community-based organizations (including faith-based organizations and social service organizations);
- Community anchor institutions (*e.g.,* healthcare providers and healthcare organizations and libraries and library consortia);
- Public service organizations; and
- Consortia of the entities listed in the document.

Depending on the outreach target or audience for a particular NOFO and where appropriate to meet a specific program goal or objective, CGB is authorized to modify, expand, or limit the types of entities that may be eligible to receive grant funds under a particular funding opportunity in this grant program.

32. The *ACP FNPRM* asked whether the eligibility of non-profit organizations should be limited to organizations with 501(c)(3) status. This refers to section 501(c)(3) of the Internal Revenue Code, under which an organization will be tax-exempt if it is ''organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.'' The exempt purposes are charitable (including ''relief of the poor, the distressed, or the underprivileged'' and ''eliminating prejudice and discrimination''), religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. To qualify for 501(c)(3) status, an organization must pass ''organizational'' and ''operational'' tests, and must not be an ''action organization,'' meaning that it ''may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.''

33. Several commenters suggest limiting eligibility for non-profit organizations to those with 501(c)(3) status. The National Digital Inclusion Alliance (NDIA), for instance, ''urges the Commission to consider only nonprofits with 501(c)(3) status as eligible grantees under the program.'' Likewise, the Hawaii Broadband and Digital Equity Office recommends giving award preference to 501(c)(3) non-profit organizations but allowing non-profit organizations who lack that status to be subgrantees. In contrast, the National Lifeline Association (NaLA) contends that the Commission should ''avoid categorical limitations on the types of entities that can participate'' and asserts that there is ''no reason to require grant recipients to be charitable organizations with 501(c)(3) status.''

34. The Commission declines to limit the eligibility of non-profits to organizations with 501(c)(3) status. As NDIA acknowledges, this tax status has limited relevance to whether an applicant can perform effective ACP outreach. The commenters who suggest the 501(c)(3) limitation do not explain why it is necessary or explain how this limitation would support the purposes of the Outreach Grant Program. Making 501(c)(3) status an eligibility criterion could exclude organizations that are capable of engaging in effective outreach efforts but are outside the scope of the 501(c)(3) category, such as social welfare organizations and civic leagues. The Commission also notes that 501(c)(3) status is not necessary to evaluate an applicant's general eligibility to receive Federal grants or ability to comply with the applicable

Federal grant regulations—Federal grant regulations require a robust risk assessment of all Federal grant applicants. Further, numerous other Federal grants are open to non-profit organizations that do not have 501(c)(3) status with the Internal Revenue Service. For these reasons, the Commission does not limit the eligibility of non-profits to organizations with 501(c)(3) status, but it does authorize CGB to require an applicant to provide proof of non-profit status as appropriate.

35. The Commission also declines to categorically exclude for-profit organizations from participation in the grant program. The California Emerging Technology Fund (CETF) argues that private, for-profit companies should be ineligible entities for outreach grants. In contrast, Centri Tech and the U.S. Chamber of Commerce advocate eligibility for both non-profit and for-profit entities, like minority businesses. The Commission agrees that there may be some for-profit entities that could provide meaningful outreach, such as healthcare providers or minority businesses, and CETF does not identify any reason to exclude such entities at the eligibility stage. The Commission reiterates, however, that grantees may not make a profit from or otherwise financially benefit from conducting ACP Outreach through the Outreach Grant Program.

36. Although the illustrative list of eligible entity types incorporates a wide range of organizations, to promote the integrity of the grant program, the Commission concludes that broadband providers and their subsidiaries, affiliates, representatives, contractors, and agents will not be eligible to participate in the Outreach Grant Program or receive awards, either as grantees, pass-through entities, or subrecipients. Given that broadband providers individually benefit from customer enrollments in the Affordable Connectivity Program, awarding grant funds to help broadband providers increase awareness of and enrollments in the Affordable Connectivity Program presents a significant conflict of interest and would not be a fiscally responsible use of Federal funds. Excluding broadband providers from receiving grant awards would not hinder the goal or objectives of the grant program. Broadband providers that participate in the Affordable Connectivity Program are already obligated by statute and regulation to engage in ACP outreach efforts and should not receive Federal funds to accomplish these obligations. Additionally, because broadband providers benefit financially from ACP enrollment, they already have sufficient incentive to engage in outreach.

37. Further, the Commission is not persuaded by NaLA that it should permit broadband industry trade associations to receive grant awards. Although the Commission agrees with NaLA that its approach to program eligibility should be ''inclusive,'' broadband provider trade associations present conflict of interest concerns that charitable non-profit organizations, for instance, do not. Just as the Commission finds that permitting broadband providers to participate in the Outreach Grant Program presents a conflict of interest, it finds that the same conflict of interest is inherent where an industry association or trade association made up of or representing the same broadband providers may be seeking government funds to increase its members' consumer enrollments in the Affordable Connectivity Program. Therefore, the Commission also prohibits broadband industry groups and trade associations that represent broadband providers from receiving awards through the Outreach Grant Program, either as grantees, pass-through entities, or subrecipients.

38. Additionally, consistent with the Federal grant regulations, entities that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities will be ineligible for participation in the Outreach Grant Program. The Commission currently has pending a notice of proposed rulemaking to adopt and implement the Office of Management and Budget (OMB) Guidelines for suspension and debarment (non-procurement) in 2 CFR part 180, and it asked for comment about the implementation of that part in the *ACP FNPRM.* Commenters did not address suspension and debarment procedures in response to the *ACP FNPRM.* To mitigate the potential for waste, fraud, and abuse in the grant program, the Commission determines here that those rules, should they be adopted, will apply to the Outreach Grant Program. Additionally, certain entities may be ineligible by statute. For example, 501(c)(4) non-profit organizations that engage in lobbying activities are ineligible for Federal grants, as are organizations that are indebted to the United States and have judgment liens filed against them.

39. CGB has extensive experience and expertise in conducting outreach and working with a range of outreach partners, including most recently for the Affordable Connectivity Program and the Emergency Broadband Benefit Program (EBB Program). The Commission directs CGB to develop, administer, and manage the Outreach Grant Program in compliance with the Federal laws and regulations applicable to Federal grant programs, and consistent with the program goal and objectives and requirements the Commission establishes in this final rule. The Commission modifies §§ 0.11, 0.141, and 0.231 of the Commission's rules to reflect CGB's and OMD's additional responsibilities for the grant program and related delegations of authority. In carrying out these delegated functions, CGB shall consult with WCB, OMD, and OGC as appropriate to ensure that the grant program is in compliance with the applicable statutes and regulations for Federal grant programs and the Affordable Connectivity Program, and to ensure that the grant program is otherwise meeting the program objectives, goals and requirements outlined in this final rule. The Commission further directs CGB, in coordination with OMD, OEA, and OGC as needed, to engage with the National Telecommunications and Information Administration, and other Federal agencies that administer broadband funding programs to promote information sharing and collaboration across broadband-related investments across the Federal Government and to avoid unnecessary duplication.

40. Although the Infrastructure Act authorizes the Commission to issue grants to outreach partners, the Infrastructure Act does not specify a budget for these grants, leaving the Commission with authority to determine how much of the overall ACP appropriation should be expended on this grant program. In the *ACP Order,* the Commission established a budget of up to $100 million for all outreach for the Affordable Connectivity Program, which includes the Outreach Grant Program as well as the Commission's own non-grant outreach efforts permitted by the Infrastructure Act. This budget recognizes the need for extensive outreach for the Affordable Connectivity Program, while also leaving ample funds from the total $14.2 billion ACP budget to provide the ACP benefit to as many eligible households as possible for as long as possible. As explained in the *ACP Order,* the $100 million outreach budget reflects the Commission's consideration of the estimates for the costs of Commission outreach for the Affordable Connectivity Program and the Commission's costs for Digital Television Transition outreach (which included broad paid media campaigns).

41. The allocation of the $100 million budget for ACP outreach takes into consideration the costs of the

Commission's outreach for the Digital Television Transition and EBB Program and comments in the record concerning the costs of outreach activities. This funding allocation will enable CGB to provide grant awards to respond to the need for extensive, meaningful outreach by numerous, diverse eligible outreach partners, while also enabling CGB to conduct its own outreach as authorized in the Infrastructure Act. The Commission makes clear that CGB is not required to spend this full amount. CGB is authorized, in coordination with OMD, to decide if and when to reallocate any remaining unused funds from individual outreach grants for any outreach allowed under the statute or none at all.

42. The Commission directs CGB to designate up to $60 million of the ACP outreach budget for competitive allocation to eligible entities. Of the $60 million set-aside for competitive allocation to eligible entities, $27 million will be reserved for States and U.S. Territories, with a minimum allocation to grantees in each State and U.S. Territory for ACP outreach activities, consistent with this final rule and the program's goal and objectives. In establishing the minimum funding allocation to each State and U.S. Territory, CGB shall allocate an equal amount of funding for each state, the District of Columbia, and Puerto Rico, but may allocate a lesser minimum amount to the remaining U.S. Territories. To facilitate coordination, States and U.S. Territories may choose, but will not be required, to establish a single point of contact to, among other things, coordinate among entities within the State or U.S. Territory that have relevant outreach responsibilities related to implementing the Outreach Grant Program. The Commission further directs CGB to designate a minimum of $10 million of the ACP outreach budget for competitive allocation to eligible Tribal governments and Tribal organizations, including Tribally Designated Housing Entities, to be used specifically for ACP outreach to persons who live on qualifying Tribal lands as defined in § 54.1800(s) of the Affordable Connectivity Program rules.

43. To maximize the impact of the dollars allocated for ACP outreach, the Commission seeks to build upon existing initiatives that it has already determined will support the goal and objectives established in this final rule to increase awareness of and participation in the Affordable Connectivity Program; specifically, the ACP Navigator Pilot and Your Home, Your Internet Pilot Programs. Appropriately targeted outreach funding could further the scope of outreach and enrollment activities conducted by participants in these pilots, which in turn would promote the success of these pilots and provide the Commission with valuable information on what is needed to increase awareness and aid in the enrollment of targeted populations, including households that participate in Federal Public Housing Assistance Programs. In establishing the parameters of both pilots, the Commission will inform potential participants that are eligible for grants of its intent to make available outreach grant funds to support their pilot program activities, and will encourage and enable eligible entities participating in one or both of these pilots to apply for Outreach Grant Program funding. Therefore, the Commission directs CGB to set aside up to $5 million each, for a total of up to $10 million of the ACP outreach budget, for outreach grants specifically for eligible entities participating in either or both the ACP Navigator or Your Home, Your Internet Pilot Programs. The Commission makes clear, however, that CGB is not required to award this full amount to pilot participants. The Commission also makes clear that while it directs CGB to set aside a specific funding allocation solely for grants to eligible entities participating in Your Home, Your Internet or the ACP Navigator Pilot, eligible entities participating in both or either of these pilots are not limited to applying for that targeted funding, and may apply for a grant in any funding opportunity for which they qualify.

44. The Commission expects that the allocated budget established today for the Outreach Grant Program will support extensive, meaningful outreach by numerous eligible outreach partners. The Commission acknowledges that certain commenters advocate for a total budget larger than $100 million for outreach grants and other outreach. However, the Commission declines to increase this budget. The $100 million budget the Commission set for all ACP outreach reflects the critical need for extensive ACP outreach and the fact that the Affordable Connectivity Program has a limited budget, while also ensuring that ample funding remains for providing broadband and device discounts to eligible ACP households for as long as possible. Increasing the total budget for ACP outreach, including the grant program, as these commenters suggest would reduce the amount of funding available to provide the ACP benefit to as many eligible households for as long as possible.

45. The Commission otherwise declines in this final rule to prescribe a specific number of funding opportunities for the Outreach Grant Program. CGB should determine how quickly and in what amounts to disperse funding across the duration of the Outreach Grant Program. The Commission also directs CGB, in coordination with WCB and OMD, to decide whether to make the grant funds available through one or multiple NOFOs. CGB shall also determine the size of each grant awarded to each eligible outreach partner within the budget limit the Commission establishes herein based on an application process that complies with the applicable Federal grant regulations. The Commission notes that some commenters advocate for front-loading the grant funds to maximize the impact of the outreach grants in the early years of the Outreach Grant Program where the need for outreach is likely to be the greatest. The Commission agrees that this would be an appropriate approach for CGB to consider in deciding funding allocations, including the allocation of the funding set aside for pilot participants, and allocation for competitive grants to eligible entities, to include set-asides to States and U.S. Territories, as well as Tribal organizations, for this Outreach Grant Program. To determine the funding allocation across the grant program, including whether to issue one or multiple NOFOs, the Commission directs CGB to consult with OMD, WCB, OEA, and OGC as appropriate to ensure compliance with the applicable statutes and regulations governing Federal grant programs and the requirements the Commission establishes in this final rule, to also ensure consistency with the Outreach Grant Program's goal and objectives, and to further its interest in maximizing the impact of the grant funds as early as practicable in the course of the Affordable Connectivity Program.

46. The *ACP FNPRM* sought comment on whether the grant program should be a one-time funding opportunity or a multiple-year program. Certain commenters advocate for allowing eligible outreach partners to apply for grant funds throughout the Affordable Connectivity Program. The Commission permits CGB to continue to make grant awards until the Affordable Connectivity Program's end is announced consistent with any wind-down processes established by WCB, or until all grant funds allocated for outreach in this final rule is disbursed. When the *ACP FNPRM* was released, the Commission capped outreach funding to $100 million over the next five years.

However, increased subscriber numbers could accelerate the depletion of the Affordable Connectivity Fund prior to the allotted 5-year-period for outreach spending. CGB shall coordinate with WCB on the wind-down process to be established pursuant to the direction the Commission provided in the *ACP Order.* At the point when the forecasted end of the Affordable Connectivity Program is announced pursuant to those wind-down procedures, the Commission expects that new grantees would not have sufficient time to implement and execute new outreach efforts, and any new grant awards would be highly unlikely to have meaningful impact on increasing awareness of and enrollment in the Affordable Connectivity Program. Accordingly, the Commission finds that it would not be fiscally responsible to issue new grant awards after the forecasted end of the Affordable Connectivity Program is announced pursuant to the wind-down procedures established by WCB, unless additional spending is otherwise authorized by Congress. To effectuate the Commission's direction here, CGB is authorized to cancel, withdraw, or set aside any open NOFO and to cease processing any grant applications once the forecasted end of the ACP is announced. The deadline the Commission establishes for making new grant awards provides CGB flexibility to continue to make new grant awards for as long as practicable, while also ensuring that grant funds are being used in a fiscally responsible manner. Entities that receive grant awards may continue to use their grant funds for outreach until ACP enrollments cease, pursuant to any ACP wind-down procedures established by WCB. To the extent that uncommitted funding remains in the Outreach Grant Program budget or awardees have unused grant funds after the end of the Outreach Grant Program, but before the end of the Affordable Connectivity Program, the remaining funds may be allocated back to the larger ACP budget to pay for broadband service and connected devices.

47. As explained in the *ACP FNPRM,* 2 CFR part 200 outlines numerous requirements for the administration and management of Federal grant programs. As required under Federal grant regulations, the Commission formally adopts and implements the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the following, the Commission also provides additional guidelines and requirements for the development, administration, and management of the grant program. CGB must develop, administer, and manage the Outreach Grant Program in compliance with the applicable Federal laws and regulations for grant programs and in compliance with the goal and objectives and any other requirements that the Commission has established for the Outreach Grant Program. This authority includes developing and administering, and the issuance of NOFO(s), establishing terms and conditions of each grant, adopting, modifying, and/or clarifying implementing regulations, and issuing orders, public notices, and/or publicly available instructions provided to applicants and/or grantees. Further, CGB shall consult with OMD, WCB, and OGC as appropriate to ensure compliance with these requirements and the requirements outlined in this final rule.

48. Federal agencies administering Federal grant programs are required to release a NOFO for grant opportunities. The NOFO provides detailed information about the specific grant opportunity, including information about the amount of funding available, eligible entities, fundable expenses and activities, application and evaluation process, reporting requirements, and other rules and requirements for the grant opportunity. The Commission directs CGB to develop and issue a NOFO for any funding opportunity for the Outreach Grant Program, in compliance with the applicable Federal regulations concerning NOFOs and the requirements the Commission establishes in this final rule, and consistent with the goal and objectives for the Outreach Grant Program. CGB shall consult with WCB, OGC, and the Office of the Inspector General (OIG) as appropriate to ensure that any NOFO issued for the grant program complies with the applicable Federal statutory requirements and regulations and any rules, requirements and policies set forth in this final rule.

49. The authorizing statute and Federal grant regulations do not require the Commission to adopt a matching requirement for the grant program. Accordingly, the Commission has the discretion to determine whether to require grant recipients to provide matching funds or contributions. Benefits Data Trust opposes a match requirement, while other commenters discuss the significant budget limitations faced by many of the types of organizations that are eligible for the grant program.

50. Based on the Commission's careful review of the record and in consideration of the urgent need for outreach by a diverse range of eligible outreach partners, it finds that a matching requirement for the Outreach Grant Program would likely thwart the potential effectiveness and impact of the grant program. The record demonstrates that many prospective eligible outreach partners are already facing significant budget constraints. Therefore, a matching requirement for the Outreach Grant Program would likely discourage or delay applications from potential outreach partners, particularly smaller organizations. A matching requirement may also lead potential outreach partners to design and propose more limited-scope outreach efforts to ensure they have sufficient funding or resources to satisfy a matching requirement. These outcomes would potentially minimize the number of eligible households touched by grant-funded outreach and, thus, would not serve the goal or objectives of the Outreach Grant Program. Accordingly, the Commission declines to adopt a matching requirement for this grant program. Consistent with this decision, grantees that are pass-through entities also may not require a match from subrecipients. While the Commission declines to adopt a matching requirement as a condition of receiving an outreach grant, it recognizes that matching funds can maximize the effectiveness and impact of the limited outreach grant program funds. Accordingly, as explained in the following, for purposes of prioritizing grant awards, the Commission directs CGB to consider whether the applicant proposes a cost match or cost share, among other factors.

51. The Infrastructure Act does not specify the type of grant that the Commission may issue for the grant program. Therefore, the Commission has the authority to make this determination. For Federal grants, the potential types of grants include, but are not limited to, discretionary grants (which generally require a competitive process) and formula grants (which generally provide set amounts of funding based on specific criteria). The Commission concludes that competitive funding opportunities would best further the goal and objectives of the Outreach Grant Program, encourage participation by a diverse range of outreach partners, and maximize the impact of the grant program as early as practicable. The Commission also concludes that it would be appropriate to issue more than one NOFO. To the extent that more than one funding opportunity is released for this grant program, it will be necessary to allocate

funding for each funding opportunity consistent with the allocations specified in this final rule or as it may be necessary to set award ceilings or floors.

52. The Commission directs CGB to decide whether funding will be released through one or more funding opportunity, determine the allocation of funding for any funding opportunity under the Outreach Grant Program consistent with the allocations specified in this final rule, and establish minimum funding amounts for States and U.S. Territories or award floors or ceilings to the extent necessary. CGB may roll over unused funding from one set-aside to another, or from one funding opportunity to another. CGB's determinations on the number of funding opportunities and related funding allocations must be consistent with the goal and objectives of the grant program and must also promote the Commission's interests in maximizing the impact of the Outreach Grant Program as early as practicable and encouraging participation by a diverse range of outreach partners across diverse geographic regions. To make these determinations, the Commission directs CGB to consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with Federal grant laws and regulations and requirements in this final rule, and to ensure consistency with the goal and objectives of this grant program. Any NOFO issued for this grant program shall provide specific detail on the grant opportunity including, but not limited to, the type of grant, the total amount of funding for the grant opportunity, and any ceilings and floors for the grant opportunity.

53. The *ACP FNPRM* asked whether use of outreach grant funds should be limited to named grantees or pass-through entities, or whether subgrantees, that is, subrecipients, could use funds for outreach. The Commission also sought comment on the prevalence of subrecipient models in Federal grant programs, and the advantages and disadvantages of a subrecipient model. Many commenters advocate for allowing pass-through entities to use subrecipients to conduct outreach under the Outreach Grant Program, and explain that the subrecipient model has proven highly effective in other contexts. According to commenters, a subrecipient model facilitates the participation of smaller entities that may not have the capacity or resources to apply for grants and comply with reporting requirements and allows for leveraging pass-through entity resources and expertise.

54. Based on the Commission's careful consideration of the record, it agrees that allowing pass-through entities to use subrecipients would best promote the goal and objectives of the Outreach Grant Program and maximize the potential scope and impact of grant-funded outreach. Allowing the subrecipient model would also facilitate the administration of the Outreach Grant Program by reducing the number of grants awarded and requiring management. Consequently, the Commission directs CGB to permit the use of subrecipients, where appropriate (*e.g.,* grant awards to a national organization or to a state or local government), for funding opportunities for the Outreach Grant Program. Any subrecipients must satisfy the eligibility requirements the Commission establishes in this final rule. To ensure full transparency regarding any subrecipients, grantees who are pass-through entities must inform CGB of which subrecipients they use, as well as the amount of each subaward. Pursuant to Federal grant regulations, pass-through entities are responsible for conducting risk assessments of potential subrecipients, monitoring their subrecipients and ensuring their subrecipients' compliance with the requirements of applicable Federal laws and regulations and this grant program. Consistent with the delegations of authority in this final rule, CGB, in consultation with OMD, may require pass-through entities to have additional policies and procedures in place to ensure subrecipient compliance with the grant requirements, terms and conditions.

55. The *ACP FNPRM* also sought comment on the application process and requirements for the grant program, noting that in previous comments, the National Digital Inclusion Alliance proposed that the application process be as minimally burdensome as possible, especially for small organizations that have limited capacity to participate in large Federal grant programs. This view is shared by many other commenters, who urge the Commission to avoid creating a program so complex that it discourages applicants. Commenters also advocate for an ''accessible and non-burdensome application process.'' The Commission acknowledges commenters' desire for minimal administrative burden for applicants and agree that an overly complex application process could deter applicants who could provide meaningful outreach.

56. The Commission directs CGB to develop an application process, which may include relevant application templates and any supplements as appropriate, for the Outreach Grant Program in compliance with the applicable Federal guidance and regulations and consistent with the goal and objectives of the grant program. Among these regulations, 2 CFR 200.207, as implemented by the Commission, requires use of standard OMB-approved grant applications and provides for agency use of any supplemental application requirements. CGB may determine the types of eligible entities outlined in this final rule that may be eligible for a particular funding opportunity for the grant program. To develop such an application, the Commission directs CGB to consult with WCB, OMD, and OGC as appropriate to ensure compliance with the applicable Federal laws and regulations and to also ensure consistency with the program goal and objectives. In developing the application process for the grant program, the Commission further directs CGB to carefully balance minimizing the burden to potential applicants (as discussed in the comments) and the need for sufficient information to allow reviewers effectively to analyze applications and comply with Federal grant regulations, and select applications best positioned to conduct effective, meaningful outreach.

57. Any application for the grant program must collect information sufficient for meaningful review. At a minimum, applicants must submit the following information as part of an application package: (a) project summary; (b) detailed budget; (c) budget narrative supporting the budget and demonstrating that it is consistent with the requirements in the NOFO; and (d) any mandatory forms for Federal grants. As part of the project summary, applicants will provide: a description of the geographic areas that will be targeted and served through the proposed outreach; constituencies intended to be targeted and served, to include members of an unserved or marginalized community; an estimated number of households or individuals to be targeted; whether the outreach will target communities that have low ACP participation rates; description of the applicant's role in the community which it is serving; description of the applicant's outreach goals and milestones and for their proposed outreach; and a description of whether the applicant is proposing a cost-match or cost share for their proposed outreach. These and additional project summary information requirements will be captured in detail as part of the NOFO release. To guard against duplicative funding and ensure that outreach grant program funding will be

awarded for new outreach efforts and not outreach efforts for which an applicant already has funding or expects to receive funding, applicants will also be required to disclose support or funding for outreach received from broadband providers and other sources, or certify that they received no such support or funding, and to explain the need for additional funding from the Outreach Grant Program if they have already received, are receiving, or expect to receive other support or funding for ACP outreach. The Commission directs CGB to work with OEA to collect information on how grantees will gather data and track metrics related to meeting the Outreach Grant Program's goal and objectives. CGB may require any additional information necessary to evaluate grant applications and ensure compliance with the applicable Federal laws and regulations applicable to grants. CGB may also issue more than one application process or template to accommodate different types of grants, or different grant opportunities under the grant program, as necessary.

58. *Red Light Rule.* The Outreach Grant Program will be subject to the red light rule that the Commission implemented to satisfy the requirements of Debt Collection Improvement Act of 1996. Under the red light rule, the Commission will not take action on applications or other requests by an entity that is found to owe debts to the Commission until full payment or resolution of that debt. If the delinquent debt remains unpaid or other arrangements have not been made within 30 days of being notified of the debt, the Commission will dismiss any pending applications. Consistent with practices in the Lifeline program and other programs such as the Telecommunications Relay Service, the red light rule is not waived for the Affordable Connectivity Program and its Outreach Grant Program. If a prospective grant applicant is on red light, it will need to satisfy or make arrangements to satisfy any debts owed to the Commission before its application and/or election notice will be processed. The Commission directs CGB and OMD to ensure that a process is in place to check an entity's red light status prior to processing a grant application, disbursement, or other request from the entity consistent with the red light rule.

59. *Treasury Offset.* Grant outreach grantees will be subject to Treasury Offset. The Treasury has several collection tools, including its offset program, known as the Treasury Offset Program (TOP), through which it collects delinquent debts owed to Federal agencies and states by individuals and entities, by offsetting those debts against Federal monies owed to the debtors. Grant recipients that owe past-due debt to a Federal agency or a state may have all or part of their payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, entities are notified of the debt owed, including repayment instructions. If the referred debt of a grantee remains outstanding at the time of a payment by the U.S. Treasury from the ACP Fund to that grantee, the grantee will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding Federal or state debt. Potential grant applicants who owe past due Federal or state debts are encouraged to resolve such debts and in doing so, consult the TOP Frequently Asked Questions for the Public, available at *https://fiscal.treasury.gov/top/faqs-for-the-public.html,* for delinquent debt that has been referred to Treasury, and for delinquent debt that the Commission has not yet referred to Treasury, consult *https://www.fcc.gov/general/red-light-frequently-asked-questions.*

60. *Additional Requirements.* To be eligible to receive disbursements from the Affordable Connectivity Fund, grant applicants must obtain and report an FRN. Persons or entities doing business with the Commission are required to obtain an FRN, a unique identifier that is obtained through the Commission Registration System. Participating grant applicants must obtain an FRN if they do not already have one and report it as directed by the Commission.

61. *SAM Registration.* All entities that intend to apply for a grant must also register with the SAM. SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the Federal Government's partners in support of Federal awards, grants, and electronic payment processes. With data in SAM the Commission has an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act of 2006, as amended by the Digital Accountability and Transparency Act of 2014 (collectively the Transparency Act or FFATA/DATA Act). Only grantees registered in SAM with an active registration will be able to receive reimbursement from the Affordable Connectivity Fund. Furthermore, participating grantees may be subject to reporting requirements. To the extent that participating grantees subaward the grant, as defined by FFATA/DATA Act regulations, such grantees may be required to submit data on those subawards.

62. *Do Not Pay.* Pursuant to the requirements of the Payment Integrity Information Act of 2019, the Commission must ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds. To meet this requirement, the Commission will make full use of the Do Not Pay system administered by the Treasury's Bureau of the Fiscal Service as has done for other payments from the Affordable Connectivity Fund. If a check of the Do Not Pay system results in a finding that an ACP grant recipient should not be paid, the Commission will withhold issuing commitments and payments. The Commission may work with the grant recipient to give it an opportunity to resolve its listing in the Do Not Pay system if the grantee can produce evidence that its listing in the Do Not Pay system should be removed. However, the grant recipient will be responsible for working with the relevant agency to correct its information before payment can be made by the Commission.

63. The Commission directs CGB, in coordination with WCB, OGC, OEA, and OMD, to develop a robust application review process to ensure that the grant awards maximize the impact of grant funds on ACP awareness and participation among qualifying low-income households and also ensure the fiscally responsible use of government funds. To ensure compliance with the applicable Federal statutes and regulations, the review process must include, at a minimum, compliance, merit, and risk assessment components. Compliance review involves assessing whether application materials are complete and comply with NOFO requirements. Merit review involves objectively evaluating, using review and scoring criteria outlined in the NOFO, an applicant's outreach proposal for likely efficacy in meeting the Outreach Grant Program's objectives. Risk assessment review involves examining an applicant's fiscal stability and operational capabilities, including the risk associated with allowing the applicant to expend Federal funds. In developing the application review process, CGB shall consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with the applicable Federal laws and regulations for grant programs, and to otherwise ensure

consistency with the goal and objectives of the grant program.

64. The *ACP FNPRM* sought comment on whether certain grant applications should be prioritized and evaluated. Based on the Commission's review of the record and experience administering the Affordable Connectivity Program, and its predecessor the EBB Program, it concludes that prioritizing certain applications will best promote the goal and objectives of the Outreach Grant Program, ensure that grant funding is targeted to where it will have the greatest impact on addressing the digital divide, and maximize the impact and effectiveness of the Outreach Grant Program funding. In evaluating applications, the Commission directs CGB, at a minimum, to prioritize applications based on the following criteria: (1) the extent to which an applicant would target unserved low-income households or individuals (*i.e.,* households or individuals that are not currently on a low-income broadband plan or that do not have broadband service); (2) the extent to which an applicant would target outreach in communities that have low ACP participation rates (including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality); and (3) whether an applicant proposes a cost-share or cost match. In evaluating grant applications from state governmental entities or territorial governmental entities, CGB may also consider prioritizing grants based on whether the state or territory has entered into or has committed to enter into a Computer Matching Agreement with USAC for purposes of verifying the eligibility of low-income consumers for the Affordable Connectivity Program. The prioritization factors outlined in this final rule and any other prioritization and evaluation factors shall be identified in the NOFO(s).

65. Commenters suggest additional ways to prioritize or select applications to maximize the impact of the grant funds. CGB may decide to use additional prioritization factors to promote the goal of the Outreach Grant Program and maximize the reach, effectiveness, and impact of the grant funds. Consistent with the record, when developing prioritization criteria and evaluation criteria, CGB may also consider, for instance, an applicant's experience, ties to local communities, multilingual capabilities, ACP and digital equity experience, all of which may be relevant to the likelihood of success of an applicant's outreach plan. The following are examples of prioritization or evaluation factors that may be appropriate for CGB to use for purposes of maximizing the impact and effectiveness of the outreach grant funds:

- Experience with, and past success in, conducting outreach regarding government programs and resources, particularly providing resources and directing services (such as ACP application assistance) and education to people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality;
- Existing relationships with the communities grant applicants expect to target (*e.g.,* as ''trusted messengers''), or the ability to readily establish those relationships, particularly relationships with people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality;
- Participation in the Commission's ACP Navigator or Your Home, Your internet Pilot Programs;
- Familiarity with the Affordable Connectivity Program and experience with or knowledge of digital equity and connectivity issues;
- Experience with or capability of providing multilingual outreach;
- A plan and/or demonstrated capacity to collect data and track metrics in order to comply with reporting requirements;
- Ability to provide outreach to multiple categories of outreach targets;
- Experience working with subrecipients with relationships to targeted communities, if an applicant intends to pass through awards to subrecipients.

66. The *ACP FNPRM* also sought comment on whether and how grants should be distributed to achieve geographic diversity and diversity in recipient organization sizes and types. A few commenters advocate allocating grants based on geographic diversity. Others recommend ensuring funding to entities of various sizes. The Commission agrees that a diversity of award recipients and geographic areas would further the interest in nationwide ACP enrollment and outreach to target populations. Accordingly, in developing and administering the grant program, the Commission directs CGB to consider how best to ensure that grant awards are made to diverse geographic regions and entity sizes or types, whether through the funding announcement or evaluation process, and to consult with OEA and WCB to make these determinations.

67. The Infrastructure Act does not establish a performance period for the outreach grants. In the *ACP FNPRM,* the Commission sought comment on an appropriate performance period for the outreach grants. The Commission directs CGB to determine the performance period for any grant opportunity issued for the grant program. The Commission notes that many commenters indicated that a one-year performance period would not provide grantees sufficient time to develop and implement their proposed ACP outreach, and that a more than one-year performance period is more likely to incentivize applications. To determine an appropriate performance period for the outreach grants, the Commission directs CGB to consider the time frames needed to implement and execute meaningful outreach efforts based on its own outreach experience and those of existing outreach partners. The Commission further directs CGB to take into account the ACP budget projections to ensure that the performance period maximizes the impact of grant funds as early as practicable. Consistent with Federal regulations, any NOFO issued for the Outreach Grant Program will specify the performance period. As such, applicants must submit a grant application with a budget spend or draw down plan to cover the period of performance, demonstrating a plan to execute outreach efforts and support grant award closeout activities within the established period of performance.

68. Federal agencies administering grant programs are required to establish performance measures to ''show achievement of program goal and objectives, share lessons learned, improve program outcomes, and foster adoption of promising practices'' and establish reporting requirements. The *ACP FNPRM* sought comment on the performance measures and reporting requirements for the grant program. Given its extensive experience conducting outreach, the Commission directs CGB to develop performance measures and reporting requirements for the Outreach Grant Program in compliance with the applicable Federal regulations. The Commission directs CGB to consult with OEA, OMD, and WCB to determine the appropriate performance measures as well as data collection and reporting requirements and related deadlines for this grant program, and to ensure the metrics and reporting requirements comply with the

applicable Federal regulations, are consistent with the goal and objectives for the grant program, are tailored to accommodate a range of fundable outreach, and support a fiscally responsible administration of the program. The Commission further directs USAC to provide Commission staff upon request Affordable Connectivity Program data relevant to assessing the performance of the Outreach Grant Program, as determined by CGB, WCB, OEA and OMD.

69. To develop the performance measures and related grantee reporting requirements, CGB should strike an appropriate balance between the need for robust metrics and reporting requirements to assess the performance of the grant program and need for financial reporting, and the administrative burden to grantees. The Commission notes that many commenters caution against overly burdensome reporting requirements, and advocate for reporting on no more than an annual basis. In addition, many commenters stress the need for any performance measures to take into account the various types of outreach that may be funded through the grant program—metrics that may be appropriate for one type of outreach (*e.g.,* in-person events) may not be appropriate for other types of outreach (*e.g.,* paid media). A few commenters also recommend collecting qualitative (such as personal stories) as well as quantitative data to measure performance. At a minimum, the Commission requires grantees to report on the outreach activities they performed with the grant funds, how the grant funds were spent, and the effectiveness of those outreach activities. Consistent with the applicable Federal regulations, any NOFO that is released for the grant program will provide specific detail on the performance measures and reporting requirements and any reporting deadlines. Grantees must comply with progress and financial reporting requirements for the grant program, as outlined in the NOFO.

70. All awards made through the Outreach Grant Program will be subject to the audit and document retention requirements under the applicable Federal laws and regulations for grant programs. In addition to these requirements, the Commission directs CGB and OMD, to conduct compliance audits for grantees that are not subject to the single audit act requirements (*i.e.,* non-Federal entities that do not expend Federal awards of $750,000 or more in the recipient's fiscal year) to ensure compliance with the Federal grant regulations, and any program rules and requirements outlined in the NOFO and grant award for individual grantees. Grantees must cooperate with any such audits and provide the requested documentation pertaining to their participation in the grant program. As noted in the following, failure to cooperate to the fullest extent required by the Commission or USAC staff may result in the termination of the award or disallowance of costs, subsequent recovery of funds by the Commission, or other enforcement actions.

71. The Commission emphasizes that it is committed to program integrity, guarding against waste, fraud, and abuse and ensuring that funds disbursed through the Outreach Grant Program are used only for approved purposes. The Commission makes clear that the enforcement authority it has with respect to the Affordable Connectivity Program, including the authority to impose forfeiture penalties to enforce compliance, also applies to the Outreach Grant Program. The Commission also has tools beyond forfeiture to address grantee noncompliance, including imposing additional conditions, disallowing costs, and suspending or terminating awards. The Commission takes seriously its enforcement obligations. Consistent with the Infrastructure Act's requirement that the Commission act expeditiously to investigate potential violations of program rules and requirements and to enforce compliance, the Commission directs the Enforcement Bureau to expeditiously investigate potential violations of and enforce the Outreach Grant Program rules and grant award terms and conditions. The Commission also reserves the right to take appropriate actions, including, but not limited to, seeking recovery of funds.

72. The *ACP FNPRM* sought comment on the types of technical assistance and other support the Commission could provide to prospective applicants and grantees in connection with the Outreach Grant Program. Specifically, the Commission sought comment on what might be valuable technical assistance to grantees and how technical assistance might evolve over the duration of the grant program implementation. The Commission also sought comment on the types of materials that it could provide outreach partners in connection with the Outreach Grant Program.

73. Several commenters support providing technical assistance to applicants. NDIA urges the Commission to provide technical assistance to prospective applicants by hosting informational webinars, holding office hours for real-time applicant assistance, and providing applicants with links to grant-writing resources and tools. SANDAG requests that the Commission provide optional training sessions for grantees to attend that could ''answer questions regarding materials, provide step-by-step instructions on how to use tools, and serve as another opportunity to share best practices.'' The Hawaii Broadband & Digital Equity Office recommends that the Commission provide technical assistance online or in-person as needed and specifically ''conduct at minimum one annual 'face-to-face' technical assistance meeting'' with representatives from both grantees and subgrantees.'' The Hawaii Broadband & Digital Equity Office also asks that the Commission provide technical assistance related to allowable costs associated with facilities, refreshments, mileage reimbursement, and incentives for enrollment engagements.

74. The Commission agrees that CGB should provide opportunities to walk prospective applicants through the application process and further explain the purpose and scope of the grant program. Due to the competitive nature of the funding opportunities for this grant program, CGB cannot assist prospective applicants in preparing individual applications or developing outreach proposals, as this would undermine the integrity of the application and evaluation process. However, CGB will provide publicly available general information further explaining elements of the grant program and NOFO. The Commission also finds that it would be helpful to obtain feedback from participants concerning the administration and design of the grant program. The Commission therefore directs CGB to provide opportunities (*e.g.,* webinars, fact sheets, frequently asked questions) to help prospective applicants understand the Outreach Grant Program and its requirements and to obtain feedback from grantees during their period of performance. The Commission directs CGB to determine the mechanisms for and timing of requesting any feedback from participants, and to provide information sessions tailored to specific funding opportunities, to make adjustments to the program administration as appropriate during the course of the grant program based on feedback from participants, and to provide new information sessions or training to reflect any such adjustments. In providing information sessions, the

Commission directs CGB to encourage applications from entities of all types and diverse organizations, including those serving, led, and/or owned by persons of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, and entities participating in the ACP Navigator Pilot and the Your Home, Your Internet Pilot Program.

75. Commenters also request that the Commission develop and disseminate toolkits, outreach materials, and train-the-trainer guides related to conducting outreach to eligible households about and encouraging eligible households to enroll in the Affordable Connectivity Program. In addition, several commenters emphasize the importance of multilingual outreach and outreach resources, and request that the Commission provide grantees and subrecipients with multilingual outreach materials. While CGB already provides and continues to make available extensive outreach toolkits and ACP materials in multiple languages, the Commission directs CGB to evaluate whether revisions should be made to the existing toolkits, trainer guides, and or other outreach materials for use by grant program participants and to also evaluate whether new toolkits or materials or additional non-English translations would help promote the effectiveness and impact of the grant program. To carry out these responsibilities, CGB may engage consultants or contractors. Providing standardized materials would increase efficiency and expedite grantees and subrecipients' outreach, particularly for smaller organizations with limited resources, and would promote accurate and consistent ACP messaging. However, to maximize the impact of grant-funded outreach, the Commission encourages grantees to develop their own outreach materials tailored to the areas and communities that are the focus of their outreach.

76. The Commission next addresses commenter requests for other types of support and assistance for grantees. For example, EducationSuperHighway requests that the Commission provide grantees a ''sandbox,'' or virtual testing environment that would simulate the National Verifier application and enrollment process. Other commenters request additional training for individuals providing application assistance. The Commission finds that existing resources for partner organizations and potential grant resources for future grantees are sufficient to train and educate individuals providing consumers with application assistance. EducationSuperHighway and NDIA also ask that the Commission provide real-time support, either through live chat or a call center for grantees that provide application assistance. The Commission reminds prospective applicants of the existing ACP call center resources to answer questions about the application process. While extensive resources are already available to assist outreach partners with helping eligible consumers to navigate the ACP application process, CGB may, in consultation with WCB and USAC, explore the utility and feasibility of providing other avenues for providing assistance and technical support to grantees that provide application assistance.

77. The Commission makes robust data available to track enrollments in the Affordable Connectivity Program and to allow grantees to identify potential areas where targeted outreach could be beneficial, including making aggregate enrollment data available by ZIP code, county, age, National Verifier selected eligibility criteria, and type of service. Additionally, as explained in the *ACP Order,* separate from the grant program, the Commission has directed WCB and OEA, with support from USAC, to collect data to develop metrics to determine progress towards narrowing the digital divide, and WCB, OEA, and USAC are continuing to explore potential metrics to track that goal. Some commenters request that the Commission collect and make available plan characteristic and pricing information for the Affordable Connectivity Program. The Commission is required by the Infrastructure Act to make additional information concerning ACP plan pricing and characteristics available through the Commission's *Broadband Labels* or *ACP Transparency Data Collection* proceedings. Once the Commission defines the requirements of those initiatives later this year, CGB may consider whether these data can be useful for participants engaged in or considering a meaningful outreach campaign. The Commission also believes the program data already publicly available to grant recipients is sufficiently robust that the Outreach Grant Program need not be delayed pending the resolution of those proceedings. Indeed, today, CGB currently conducts outreach, and coordinates outreach with other organizations without this data.

78. At least one commenter requests that the Commission establish a grantee database of organizations engaged in Affordable Connectivity Program outreach efforts including organizations' contact information, details about service areas, expertise, and available resources. The purpose of this database would be to allow for resource sharing and coordination among grantees. Federal regulations already require Federal awarding agencies to announce all Federal awards publicly and to publish the required information about the award on a publicly-available OMB designated website. To promote transparency, the Commission directs CGB also to provide publicly available information on the entities that have received awards through the Outreach Grant Program on the Commission's website. At a minimum this information should include the name of the awardee, the amount of the award, an abstract outreach project summary, and a main point of contact for the funding recipient. In addition, the Commission recognizes that grantees may be interested in additional information concerning other grantees and their outreach efforts to facilitate coordination and communication amongst grantees. Accordingly, the Commission directs CGB to explore the possibility of making available additional information on participants in this grant program to facilitate coordination and communication amongst grantees, and it expects CGB to determine how this information could be made available, and also the types of data that could be made available to facilitate coordination and communication amongst participants in the grant program. Based on grantees' willingness to participate, CGB may also establish and host an information sharing forum to exchange lessons learned and best practices among grant recipients in executing outreach activities.

79. Additionally, some commenters request that the Commission issue unique grantee ID numbers to allow for tracking enrollments for specific outreach efforts, and communication and coordination amongst grantees. Although this proposal raises potential technical, administrative, and legal issues, the Commission agrees there may be utility in tracking enrollments based on grantees' outreach efforts, perhaps by requiring the use of an FRN, SAM registration number, or other unique identifier a grantee would be required to obtain as part of the Outreach Grant Program, to the extent this is technically and administratively feasible. The Commission nevertheless directs CGB and OEA to explore the feasibility and administrability of

tracking enrollments by grantee outreach effort and legality of disseminating this information.

80. The Commission acknowledges that many commenters stress the importance of and need for data transparency concerning the Outreach Grant Program. To promote transparency, the Commission directs CGB, with assistance from WCB, OMD, OEA, and USAC as appropriate, to submit to them interim updates, and a final report detailing the results of the Outreach Grant Program. CGB shall submit the final report after the end of the grant program, after all grant awards have been closed out. At a minimum, the final report shall provide an assessment of the grant program's performance against the goal identified in this final rule and shall also summarize any lessons learned concerning the development, administration, and management of the Outreach Grant Program.

81. Over 12 million low-income households have already benefited from ACP enrollment. Most providers offer plans that are either fully or largely covered by the monthly subsidy, allowing households to obtain affordable broadband to access job search and work options, educational, telehealth, and entertainment resources, and communicate with family and friends. However, tens of millions of eligible households have yet to enroll in the Affordable Connectivity Program. From the Commission's review of comments, it appears that many of these households have traditionally been the most underserved and underrepresented when it comes to broadband access. By increasing program awareness among this diverse and underserved population, the Outreach Grant Program will make substantial progress toward narrowing the digital divide.

82. While the potential benefits of the Outreach Grant Program are substantial, the Commission seeks to provide funding to support outreach in the most cost-effective manner possible, and its discussion in this final rule reflects that goal. The Commission recognizes that outreach to a diverse and underserved population can be more effectively accomplished by providing support to a diverse group of qualified grantees that are capable of directly or indirectly (through subrecipients) conducting effective outreach activities or working directly with low-income populations to raise awareness of the Affordable Connectivity Program or provide application assistance. The Commission's decision to open eligibility up to a wide range of governmental and non-governmental entities should result in a wide range and variety of outreach efforts targeted towards different segments of the targeted low-income population by grantees and subgrantees capable of conducting this outreach. Further, the Commission only permits grantees to receive support for allowable costs consistent with the goal and objectives of the Outreach Grant Program.

83. The Commission also extends to CGB the flexibility necessary to administer the Grant Program in a cost-effective manner. The Commission makes it possible for CGB to structure NOFOs for the grant program so as to make use of the performance measures that the Commission requires CGB to track, and grantees to provide, in order to make more cost-effective funding allocation decisions for the duration of the grant program. For example, by not prescribing the number of funding opportunities or the size of grants at this time, the Commission allows CGB to make these determinations taking into account the information provided by potential outreach partners in the application process as well as enrollment, awareness or other programmatic data from the Affordable Connectivity Program to the greatest possible extent. Likewise, unless otherwise specified in this final rule, CGB has flexibility in how the overall grant program budget shall be distributed across one or more NOFOs. This prioritizes cost-effective spending by ensuring that funding decisions are driven by outreach needs and quality of grantee applications rather than presupposing uniformity. In taking these steps to maximize cost-effectiveness, the Commission compromises none of the integrity of the Outreach Grant Program: it still requires that grantees operate in a broadband service provider-neutral manner, prohibit grantee representatives from receiving compensation based on the number of ACP applications or enrollments attributable to their outreach (including enrollment assistance), prohibit grantees from earning or keeping any profit resulting from a grant award, and the Commission maintains full accordance with all Federal requirements for the administration and management of Federal grant programs.

III. Severability

84. All of the rules that are adopted in this final rule are designed to work in unison to develop, administer and manage the Outreach Grant Program, provide grant funds to eligible outreach partners, and to protect the integrity of the Outreach Grant Program's administration. However, each of the separate rules the Commission adopts here serves a particular function toward these goals. Therefore, it is the Commission's intent that each of the rules adopted herein shall be severable. If any of the rules is declared invalid or unenforceable for any reason, it is the Commission's intent that the remaining rules shall remain in full force and effect.

IV. Procedural Matters

A. Paperwork Reduction Act

85. Pursuant to 47 U.S.C. 1752(h)(2) the collection of information sponsored or conducted under the regulations promulgated in this final rule is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501–3521.

B. Congressional Review Act

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

87. *Regulatory Flexibility Act.* Consistent with the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *ACP Order* in WC Docket No. 21–450. The Commission sought written public comment on the proposals in the *ACP Order,* including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis conforms to the RFA.

88. In the Infrastructure Act, Congress established the Affordable Connectivity Program, which is designed to promote access to broadband internet access services by households that meet specified eligibility criteria by providing funding for participating providers to offer certain services and connected devices to these households at discounted prices. The Affordable Connectivity Program funds an affordable connectivity benefit consisting of a $30.00 per month discount on the price of broadband internet access services that participating providers supply to eligible households in most parts of the country and a $75.00 per month

discount on such prices for households residing in qualifying Tribal lands.

89. The Infrastructure Act also requires the Commission to conduct outreach efforts to inform potentially eligible households about the Affordable Connectivity Program and encourage them to enroll in the program, and it authorizes the Commission to provide grants to outreach partners in order to carry out this responsibility. With the expectation that the Affordable Connectivity Program will extend for multiple years, in this final rule the Commission promulgates rules and guidelines establishing the Outreach Grant Program. The Commission establishes a program goal and objectives, implements applicable Federal grant regulations, and provides a framework for the program.

90. The Commission establishes rules and requirements in this final rule necessary to establish the Outreach Grant Program. Additional information on the Outreach Grant Program, including, but not limited to, the application process and reporting requirements will be provided in a subsequent NOFO. Establishing the Outreach Grant Program is consistent with our authorization under the Infrastructure Act and our ongoing efforts to bridge the digital divide by ensuring that eligible low-income households have access to affordable, high-quality, broadband internet access service.

91. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; (3) satisfies any additional criteria established by the Small Business Administration (SBA).

92. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

93. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

94. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

95. *Regional Planning Committees.* Neither the Commission nor the SBA have developed a small business size standard specifically applicable to Regional Planning Committees (RPCs). The closest applicable industry with a SBA small business size standard is Business Associations, which comprises establishments primarily engaged in promoting the business interests of their members. Examples of such organizations include: real estate boards, chambers of commerce, trade associations and manufacturers' associations. The SBA small business size standard for Business Associations classifies firms with annual receipts of $8 million or less as small. For this industry, U.S. Census Bureau data for 2017 show that there were 14,540 firms that operated for the entire year. Of these firms, 11,215 had revenue of less than $5 million. Based on this data, the majority of firms in this industry can be considered small.

96. The Commission set aside six megahertz of spectrum in the 800 MHz band for exclusive use by local, regional and state public safety agencies under guidelines developed by the National Public Safety Planning Advisory Committee (NPSPAC). The 800 MHz NPSPAC spectrum is administered on a regional basis by 55 public safety RPCs. RPCs consist of public safety volunteer spectrum planners and members that dedicate their time, to coordinate spectrum efficiently and effectively to make it available to public safety agency applicants in their respective regions. In the 700 MHz band the general use channels and some of the narrowband low power channels are subject to regional planning. There are 55 RPCs for the 700 MHz band whose task is to create a plan for General Use in their area and submit it to the Commission. RPCs are volunteer committees and the Commission does not have revenue information to which the SBA size standard can be applied. However, these committees typically have less than 5 members per region, therefore the Commission estimates that most RPCs are small.

97. *Grants to Consumer Outreach Partners.* The Commission, like all other Federal agencies, is required to comply with government-wide regulations governing grant awards, codified primarily in title 2 of the Code of Federal Regulations (2 CFR), that apply to all Federal agencies. Those uniform Federal grant-related requirements, developed based on guidance provided over a number of years by OMB, were codified in an interim final rule that OMB and over 30 other Federal agencies jointly adopted and published in the **Federal Register** on December 19, 2014 (*Uniform Guidance,* 79 FR 75871, December 19, 2014). In adopting their own rules to implement these standardized grant-making requirements, some agencies that joined in the issuance of the *Uniform Guidance*—including the Department of Commerce, whose rules apply to sub-agencies including the National Telecommunications and Information Administration, and the SBA—incorporated OMB's guidance without change. Other agencies that joined in the issuance of the *Uniform Guidance,* including the Department of Agriculture's Rural Utilities Service (RUS), adopted additional language in their own regulations to provide more detail with respect to how they intended to implement the policy and to clarify

any pertinent exceptions to the general rules.

98. OMB and the other agencies that joined in issuing the *Uniform Guidance* in 2014 concluded that, under the standards of the RFA, the requirements regarding grant awards would not have a significant economic impact on a substantial number of small entities. These agencies reached this conclusion based on the fact that largely identical generic requirements were already in place, and the *Uniform Guidance* simply codified them without any incremental impact on a substantial number of small entities.

99. The grant-related rules adopted in this final rule follow the *Uniform Guidance* that applies to all Federal agencies. Like OMB, SBA, and other agencies that joined in issuing the *Uniform Guidance* in 2014, the Commission does not anticipate that such rules will have a significant economic impact on a substantial number of small entities. A subsequent Notice of Funding Opportunity will be issued with additional information on the Outreach Grant Program, including the application and reporting requirements. These requirements will be necessary to ensure high-quality applications and facilitate the evaluation of the applications, and to also ensure compliance with the requirements in the *Uniform Guidance.* In establishing these requirements, consideration will be given to the administrative and compliance burdens on Outreach Grant Program participants, including small entities.

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

101. The Commission concludes that the rules adopted in this final rule are not likely to have any significant economic impact on eligible small entities that voluntarily opt to apply for outreach grants or participate in the Outreach Grant Program as subrecipients. Moreover, regardless of size, all entities that apply for an outreach grant will need to satisfy the minimum application requirements outlined in the applicable Notice of Funding Opportunity and entities participating in the Outreach Grant Program will be required to comply with Outreach Grant Program requirements, including, but not limited to, progress and financial reporting consistent with the government-wide *Uniform Guidance,* which necessarily will be the foundation of our rules and requirements for the Outreach Grant Program. This final rule declines to adopt a matching requirement for the Outreach Grant Program, because it would likely discourage or delay applications from potential outreach partners, particularly smaller organizations. In developing the rules and requirements, including, but not limited to, the application requirements and reporting requirements, consideration will be given to the burdens on all participants, including small entities. The Outreach Grant Program will permit subrecipients where appropriate (*e.g.,* awards to state or local government entities, or national entities), which will enable eligible small entities to participate in the Outreach Grant Program and benefit from the administrative capacity and resources of larger grantees with respect to reporting and other Outreach Grant Program requirements, which may minimize the administrative and compliance burdens for small entities that participate as subrecipients.

V. Ordering Clauses

1. Accordingly, *it is ordered* that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, as amended by section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), and the authority contained in sections 1, 4(i), 5(c), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(c), 303(r), 1752, and the authority contained section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, 47 U.S.C. 1752(b)(10)(C), the Report and Order *is adopted.*

2. *It is further ordered,* that parts 0 and 54 of the Commission's rules, 47 CFR parts 0 and 54, are *amended* as set forth in the following, and such rule amendments shall be effective sixty (60) days after publication of the text or summary thereof in the **Federal Register**.

3. *It is further ordered,* that subtitle B of title 2 of the Code of Federal Regulations are *amended* as set forth in the following, and such rule amendments shall be effective sixty (60) days after publication of the text or summary thereof in the **Federal Register**.

List of Subjects

2 CFR Part 6000

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements.

47 CFR Part 0

Authority delegations (Government agencies), Communications, Communications common carriers, Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act, Telecommunications.

47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends subtitle B of title 2 and parts 0 and 54 of title 47 of the Code of Federal Regulations as follows:

Title 2—Grants and Agreements

Subtitle B—Federal Agency Regulations for Grants and Agreements

■ 1. Under the authority of 47 U.S.C. 154(i) and 1752(b)(10)(C) and 2 CFR part 200, add chapter LX, consisting of parts 6000 through 6099, in subtitle B of title 2 to read as follows:

CHAPTER LX—FEDERAL COMMUNICATIONS COMMISSION

PART 6000—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

PARTS 6001–6099 [Reserved]

PART 6000—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
6000.1 Adoption of 2 CFR part 200.
6000.2 [Reserved]

Authority: 47 U.S.C. 154(i), 1752(b)(10)(C); 2 CFR Part 200.

§ 6000.1 Adoption of 2 CFR Part 200.

Except as otherwise may be provided by this part, the Federal Communications Commission adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 CFR part 200.

§ 6000.2 [Reserved]

PARTS 6001–6099 [Reserved]

Title 47—Telecommunication

PART 0—COMMISSION ORGANIZATION

■ 2. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 3. Amend § 0.11 by adding paragraph (a)(11) to read as follows:

§ 0.11 Functions of the Office.

(a) * * *

(11) Advise the Chairman, Commission, and Commission Bureaus and Offices on matters concerning the development, administration, and management of the Affordable Connectivity Outreach Grant Program.

* * * * *

■ 4. Amend § 0.141 by revising the introductory text and adding paragraph (l) to read as follows:

§ 0.141 Functions of the Bureau.

The Consumer and Governmental Affairs Bureau develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relationships with other governmental agencies and organizations. The Bureau is responsible for rulemaking proceedings regarding general consumer education policies and procedures and serves as the primary Commission entity responsible for communicating with the general public regarding Commission policies, programs, and activities in order to facilitate public participation in the Commission's decision-making processes. The Bureau also serves as the primary Commission entity responsible for administering the Affordable Connectivity Outreach Grant Program for outreach, in coordination with the Office of the Managing Director, Office of the General Counsel, Wireline Competition Bureau, and Office of Economics and Analytics. The Bureau also performs the following functions:

* * * * *

(l) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, to develop, administer, and manage the Affordable Connectivity Outreach Grant Program. This includes coordinating with the Office of the Managing Director (OMD) on interagency agreements with other Federal agencies as may be necessary to develop, administer, and manage the Affordable Connectivity Outreach Grant Program, including, developing, administering, and issuing Notices of Funding Opportunity for and making grant awards or entering into cooperative agreements for the Affordable Connectivity Outreach Grant Program. This also includes, with the concurrence of the General Counsel, interpreting rules and regulations pertaining to the Affordable Connectivity Outreach Grant Program.

■ 5. Amend § 0.231 by:

■ a. Revising paragraph (l); and

■ b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 0.231 Authority delegated.

* * * * *

(l) The Managing Director is delegated authority to issue subpoenas for the Office of Managing Director's oversight of audits of the USF programs and other financial assistance programs, and the Office of Managing Director's review and evaluation of the interstate telecommunications relay services fund, the North American numbering plan, regulatory fee collection, FCC operating expenses, and debt collection. Before issuing a subpoena, the Office of Managing Director shall obtain the approval of the Office of General Counsel.

* * * * *

PART 54—UNIVERSAL SERVICE

■ 6. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

■ 7. Add subpart S, consisting of §§ 54.1900 through 54.1904, to read as follows:

Subpart S—Affordable Connectivity Outreach Grant Program

Sec.
54.1900 Applicability of Uniform Administrative Requirements for grants and cooperative agreements to non-Federal entities.
54.1901 Neutrality requirement.
54.1902 Prohibited activities and costs.
54.1903 Ineligible entities.
54.1904 Recordkeeping and audits.

§ 54.1900 Applicability of Uniform Administrative Requirements for grants and cooperative agreements to non-Federal entities.

Federal awards to non-Federal entities are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as adopted at 2 CFR 6000.1.

§ 54.1901 Neutrality requirement.

Outreach conducted by Grantees, Pass-through Entities, and Subrecipients, as defined in 2 CFR part 200, through the Commission's Affordable Connectivity Outreach Grant Program shall be neutral with respect to a particular participating provider (as defined in § 54.1800(r)(1) through (4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations).

§ 54.1902 Prohibited activities and costs.

In addition to any prohibited activities or costs, or other restrictions on grantee activities and costs under 2 CFR part 200, as adopted at 2 CFR 6000.1, or any other Federal statutes and regulations governing Federal grants, the following prohibitions apply to Grantees, Pass-through Entities, and Subrecipients for the Affordable Connectivity Outreach Grant Program.

(a) *Prohibition against steering consumers to particular ACP participating providers.* Grantees, Pass-through Entities, and Subrecipients (as defined in 2 CFR 200.1) shall not direct, steer, incentivize, or otherwise

encourage consumers to enroll with a particular participating provider (as defined in § 54.1800(r)(1) through (4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) when conducting grant-funded outreach activities. Grantees, Pass-through Entities, and Subrecipients shall also make clear that eligible households may enroll with the participating provider of their choice.

(b) *Prohibition against use of ACP participating provider-branded items.* Grantees, Pass-through Entities, and Subrecipients shall not use participating-provider (as defined in § 54.1800(r)(1) through (4)) branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities.

(c) *Prohibition against ACP participating provider gifts, incentives, and funding.* Grantees, Pass-through Entities, and Subrecipients shall not:

(1) Offer or provide consumers gifts or incentives provided by or funded by a participating provider (as defined in § 54.1800(r)(1) through (4)) or a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program (ACP) when conducting grant-funded outreach activities; or

(2) Otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers for the purpose of conducting grant-funded outreach activities.

(d) *Prohibition against using grant funds for gifts and incentives.* Grantees, Pass-through Entities, and Subrecipients may not use grant funds to obtain or support gifts or incentives to offer or provide to consumers to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program or otherwise engage with the Grantee, Pass-through Entity, or Subrecipient concerning the Affordable Connectivity Program when conducting grant-funded outreach activities.

(e) *Prohibition of certain compensation for individuals engaged in outreach.* Grantees, Pass-through Entities, and Subrecipients shall not offer or provide any form of compensation that is based on the number of consumers or households that learn about, apply for, or enroll in the Affordable Connectivity Program to individuals conducting grant-funded outreach activities, including but not limited to their personnel, their representatives, their contractors, or others acting on behalf of the entity to conduct grant-funded outreach.

§ 54.1903 Ineligible entities.

(a) In addition to any participant restrictions in 2 CFR part 200, as adopted at 2 CFR 6000.1, the following entities may not receive awards, either as Grantees, Pass-through Entities, or Subrecipients under the Outreach Grant Program:

(1) Broadband providers (including municipal broadband providers), their affiliates, subsidiaries, contractors, agents, or representatives; and

(2) Broadband industry groups and trade associations that represent broadband providers.

(b) For municipal broadband providers, the exclusion of broadband providers and their affiliates, subsidiaries, or representatives from eligibility does not extend to separate arms of the municipality that do not maintain, manage, or operate the municipal broadband network.

§ 54.1904 Recordkeeping and audits.

Participants in the Affordable Connectivity Outreach Grant Program must maintain records to document compliance with the rules and requirements for the Outreach Grant Program in accordance with 2 CFR 200.334, 200.335, 200.336, and 200.338, as adopted at 2 CFR 6000.1, and shall provide that documentation to the Office of the Managing Director or any other FCC Bureau or Office, or their assigns, upon request in accordance with 2 CFR 200.337, as adopted at 2 CFR 6000.1.

[FR Doc. 2022–17927 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[EERE–2012–BT–STD–0045]

RIN 1904–AE90

Energy Conservation Program for Appliance Standards: Certification for Ceiling Fan Light Kits, General Service Incandescent Lamps, Incandescent Reflector Lamps, Ceiling Fans, Consumer Furnaces and Boilers, Consumer Water Heaters, Dishwashers, and Commercial Clothes Washers, Battery Chargers, and Dedicated-Purpose Pool Pumps; Correction

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

ACTION: Correcting amendments.

SUMMARY: On July 22, 2022, the U.S. Department of Energy (''DOE'') published a final rule that amended the certification provisions for ceiling fan light kits (''CFLKs''), in addition to several other covered products. This document corrects an error in the amended regulatory text for CFLKs as it appeared in the final rule. Neither the error nor the correction in this document affect the substance of the rulemaking or any conclusions reached in support of the final rule.

DATES: Effective September 6, 2022.

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Background

DOE published a final rule in the **Federal Register** on July 22, 2022, amending certification requirements in part 429 of title 10 of the Code of Federal Regulations (10 CFR part 429) applicable to ceiling fan light kits (''CFLKs''), general service incandescent lamps, incandescent reflector lamps, ceiling fans, consumer furnaces and boilers, consumer water heaters, dishwashers, commercial clothes washers, battery chargers, and dedicated-purpose pool pumps. 87 FR 43952. Since publication of the final rule, DOE has learned of an error in the regulatory text for the CFLK certification provisions in 10 CFR 429.33. The regulatory text in this section contains provisions that apply to CFLKs based upon their date of manufacture. Specifically, the requirements in 10 CFR 429.33(b)(2)(ii) and (b)(3)(ii) apply to products manufactured on or after January 21, 2020, whereas those in 10 CFR 429.33(b)(2)(i) and (b)(3)(i) apply to products manufactured prior to January 21, 2020. However, the amended regulatory text as adopted by the July 22, 2022, final rule erroneously identified the compliance date in these paragraphs as January 1, 2020, rather than January 21, 2020.

II. Need for Correction

As published, the regulatory text in the July 2022 final rule may result in confusion as to the applicability of specific certification provisions that apply to CFLKs. The current regulatory text is also in conflict with the current compliance date for energy conservation standards for CFLKs in 10 CFR 430.32(s)(6). Because this final rule would simply correct an error in the text without making substantive changes in the July 2022 final rule, the changes addressed in this document are technical in nature.

III. Procedural Issues and Regulatory Review

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the July 2022 final rule remain unchanged for this final rule technical correction. These determinations are set forth in the July final rule. 87 FR 43952, 43973–43976.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), DOE finds that there is good cause to not issue a separate notice to solicit public comment on the changes contained in this document. Issuing a separate notice to solicit public comment would be impracticable, unnecessary, and contrary to the public interest. Neither the errors nor the corrections in this document affect the substance of the July 2022 final rule or any of the conclusions reached in support of the final rule. Providing prior notice and an opportunity for public comment on correcting objective, typographical errors that do not change the substance of the test procedure serves no useful purpose.

Further, this rule correcting a regulatory text error makes non-substantive changes to the test procedure. As such, this rule is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d) otherwise applicable to rules that make substantive changes.

List of Subjects in 10 CFR Part 429

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

Signing Authority

This document of the Department of Energy was signed on August 26, 2022, by Dr. Geraldine L. Richmond, Undersecretary for Science and Innovation, 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 26, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE corrects part 429 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations by making the following correcting amendments:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 429.33 is amended by revising the introductory text of paragraphs (b)(2)(i) and (ii), paragraph (b)(3)(i), and paragraph (b)(3)(ii) introductory text to read as follows:

§ 429.33 Ceiling fan light kits.

* * * * *

(b) * * *

(2) * * *

(i) For ceiling fan light kits manufactured prior to January 21, 2020:

* * * * *

(ii) For ceiling fan light kits manufactured on or after January 21, 2020:

* * * * *

(3) * * *

(i) For ceiling fan light kits with any other socket type manufactured prior to January 21, 2020, a declaration that the basic model meets the applicable design requirement, and the features that have been incorporated into the ceiling fan light kit to meet the applicable design requirement (*e.g.,* circuit breaker, fuse, ballast).

(ii) For ceiling fan light kits manufactured on or after January 21, 2020:

* * * * *

[FR Doc. 2022–18863 Filed 9–2–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2021–BT–DET–0034]

RIN 1904–AF30

Energy Conservation Program: Final Determination of Miscellaneous Gas Products as a Covered Consumer Product

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

ACTION: Final rule; final determination.

SUMMARY: The U.S. Department of Energy (''DOE'') has determined that miscellaneous gas products (''MGPs''), which are comprised of decorative hearths and outdoor heaters, qualify as covered products under Part A of Title III of the Energy Policy and Conservation Act, as amended (''EPCA''). DOE has determined that coverage of MGPs is necessary and appropriate to carry out the purposes of EPCA, and that the average U.S. household energy use for MGPs is likely to exceed 100 kilowatt-hours per year.

DATES: The effective date of this rule is October 6, 2022.

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2021-BT-DET-0034.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT: Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and

Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 597–6265. Email: *Matthew.Schneider@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as some of the relevant historical background related to the inclusion of MGPs as covered equipment under the Energy Policy and Conservation Act (''EPCA''), as amended.

A. Statutory Authority

EPCA [1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain consumer products, referred to generally as ''covered products''.[3] In addition to specifying a list of consumer products that are covered products, EPCA authorizes the Secretary of Energy to classify additional types of consumer products as covered products. EPCA defines a ''consumer product'' in relevant part as any article (other than an automobile) of a type—(A) which in operation consumes, or is designed to consume, energy; and (B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.[4] (42 U.S.C. 6291(a)(1)) For a given consumer product to be classified as a covered product, the Secretary must determine that: classifying the product as a covered product is necessary or appropriate to carry out the purposes of this chapter; and the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (''kWh'') (or its British thermal unit (''Btu'') equivalent) per year. (42 U.S.C. 6292(b)(1)) [5]

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

B. Background

On February 7, 2022, DOE published a notice of proposed determination (''NOPD'') that proposed to determine coverage for MGPs, which are consumer products comprising: (1) Those hearth products that are not direct heating equipment (''DHE'') (*i.e.,* those hearth products that are indoor or outdoor decorative hearth products) and (2) outdoor heaters. 87 FR 6786 (''February 2022 NOPD''). The rulemaking history of MGPs as well as hearth products is discussed in the February 2022 NOPD. 87 FR 6786, 6787—6788.

II. General Discussion

DOE developed this determination after considering comments, data, and information from interested parties that represent a variety of interests. Table II.1 lists the interested parties that provided comments on the February 2022 NOPD.

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A and is hereinafter referred to as such.

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

[4] As such, in considering the potential scope of coverage, DOE does not consider whether an individual product is distributed in commerce for residential or commercial use, but whether it is *of a type* of product distributed in commerce for residential use.

[5] DOE has defined ''household'' to mean an entity consisting of either an individual, a family, or a group of unrelated individuals, who reside in a particular housing unit. For the purpose of this definition:

Group quarters means living quarters that are occupied by an institutional group of 10 or more unrelated persons, such as a nursing home, military barracks, halfway house, college dormitory, fraternity or sorority house, convent, shelter, jail or correctional institution.

Housing unit means a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but does not include group quarters.

Separate living quarters means living quarters: (i) to which the occupants have access either directly from outside of the building, or through a common hall that is accessible to other living quarters and that does not go through someone else's living quarters, and (ii) occupied by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building. 10 CFR 430.2.

TABLE II.1—FEBRUARY 2022 NOPD WRITTEN COMMENTS

Commenter(s)	Abbreviation	Comment No. in the docket	Commenter type
Hearth, Patio & Barbecue Association	HPBA	2*, 3, and 11	Trade Association
American Gas Association.	AGA	4	Trade Association.
American Public Gas Association	APGA	5 and 14	Trade Association.
National Propane Gas Association	NPGA	6	Trade Association.
Dana Moroz	Moroz	7	Individual.
The Outdoor GreatRoom Company	OGC	8	Manufacturer.
Hearth & Home Technologies	HHT	9	Manufacturer.
Alliance for Green Heat	AGH	10	Efficiency Organization.
California Investor-Owned Utilities	CA IOUs	12	Utilities.
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council, Northwest Energy Efficiency Alliance.	Joint Commenters	13	Efficiency Organizations.
American Gas Association and American Propane Gas Association.	Gas Associations	15	Trade Association.
The Air-Conditioning, Heating, and Refrigeration Institute	AHRI	16	Trade Association.

* Comment No. 2 was submitted by Barton Day, Counsel for HPBA.

A. Definitions and Scope of Coverage

MGPs as considered in this final determination are comprised of decorative hearth products and outdoor heaters. In the February 2022 NOPD, DOE proposed to define a ''decorative hearth product'' as a gas-fired appliance that:

- Simulates a solid-fueled fireplace or presents a flame pattern;
- Includes products designed for indoor use, outdoor use, or either indoor or outdoor use;
- Is not designed to be operated with a thermostat;
- For products designed for indoor use, is not designed to provide space heating to the space in which it is installed; and
- For products designed for outdoor use, is not designed to provide heat proximate to the unit. 87 FR 6786, 6790.

A wide range of decorative hearth products are available on the market, including, for example, gas log sets, gas fire pits, gas stoves, and gas fireplace inserts. Decorative hearth products may be used indoors or outdoors.

In the February 2022 NOPD, DOE proposed to define an ''outdoor heater'' as a gas-fired appliance designed for use in outdoor spaces only, and which is designed to provide heat proximate to the unit. 87 FR 6786, 6790.

1. Outdoor Heaters

In response to the definition for outdoor heaters proposed in the February 2022 NOPD, HHT commented that the proposed definition for outdoor heaters is very broad as it covers radiant heaters, firepits, and outdoor fireplaces. HHT added that the majority of the products in this category are for aesthetic appeal and not for use as a local heat source. (HHT, No. 9 at p. 2)

HPBA commented that the definition of outdoor heaters is vague, overbroad, unjustified, and susceptible to potential abuse. HPBA stated that if DOE intends to cover products other than gas-fired outdoor infrared patio heaters subject to the [American National Standards Institute (ANSI)] Z83.26 standard, they must be identified and a justification for their coverage provided. (HPBA, No. 11 at pp. 47–48) HPBA added that the definition is overbroad because it includes portable and non-portable units subject to ANSI Z83.26. HPBA stated that these two categories of products are too different in their design and constraints to be considered a single product. HPBA suggested that a heating efficiency standard for any of these products should be limited to strictly utilitarian heating products and should exclude ''patio heaters.'' Further, HPBA stated that patio heaters are not strictly utilitarian as they provide outdoor lighting or visual appeal and are likely to be compromised by high heating efficiencies. (*Id.* at p. 48)

Moroz commented that patio heaters are the only outdoor appliance that should be covered as outdoor heaters, and stated that gas fireplaces and gas fire pits serve as decorative appliances, and should not be considered outdoor heaters. Moroz commented that they are only aware of outdoor gas fireplaces for decorative use, as opposed to being intended as heaters. Moroz questioned the benefit of regulating the efficiency of an appliance that emits heat directly to the atmosphere. (Moroz, No. 7 at p. 1)

The definition of outdoor heaters, as DOE proposed to define it in the February 2022 NOPD and as adopted in this final determination, could include products such as patio heaters, outdoor fire pits, and outdoor fireplaces, so long as they are designed to provide heat to the space around the unit. (DOE notes that were such products not designed to provide heat to the space proximate the unit, they may instead be classified as decorative hearth products.) Therefore, DOE clarifies that products other than patio heaters could meet the definition of outdoor heaters, if those products are designed for use in outdoor spaces and designed to provide heat to the space proximate the unit. In contrast to the assertions by commenters that the definition is overbroad, DOE notes that products must meet specific criteria to be considered an outdoor heater—be designed for installation in outdoor spaces only, and be designed to provide heat proximate to the unit. If a product does not meet both aspects of this definition it would not be an ''outdoor heater''. Regardless of whether a product is marketed as a ''patio heater'' or some other term, or if it is certified to ANSI Z83.26 or another standard, it would be covered as an ''outdoor heater'' if it meets both parts of this definition. A product that is designed for installation outdoors, but that is not designed to provide heat proximate to the unit may be classified as a decorative hearth product if all other definitional criteria for decorative hearth product were met.

Moroz commented that an outdoor heater is operated when outdoor temperatures cause personal discomfort, and a decorative hearth appliance is operated when the user wishes to enjoy the ambiance created by the flame of the appliance. (Moroz, No. 7 at p. 2) HPBA suggested that patio heaters may produce a combination of heat, lighting, and/or visual appeal. (HPBA, No. 11 at p. 53) As noted above, outdoor products may be outdoor heaters or decorative hearth products, depending on whether

they are designed to provide heat proximate to the unit.

AHRI commented that manufacturers of fixed installation infrared outdoor heating equipment may approve their products to ANSI Z83.19, ANSI Z83.20, and ANSI Z83.26. AHRI further stated that heaters certified to these standards should be excluded from the definition of ''outdoor heaters''. They commented that these standards set minimum radiant energy requirements and that, pursuant to 42 U.S.C. 6295(l), DOE would be required to demonstrate that a substantial improvement in energy efficiency is technologically feasible for such products. (AHRI, No. 16 at pp. 1–2) AHRI commented that the ANSI Z83.19 standard, Gas-Fired High-Intensity Infrared Heaters, is limited in its application to indoor non-residential and outdoor use and sets a minimum requirement for the radiant coefficient, which must be measured. (*Id.*) AHRI also stated that a fixed installation product that has been tested and certified to meet ANSI Z83.19 may in some instances choose to include additional certification to ANSI Z83.26, but that ANSI Z83.26 is not applicable to fixed installation heaters. (*Id.*) AHRI stated that the majority of heaters approved to ANSI Z83.19 are for industrial and commercial indoor use only although it may include coverage for outdoor use. AHRI commented that fixed installation outdoor heaters should be excluded from the proposed coverage determination because they are primarily certified to ANSI Z83.19 and ANSI Z83.20, which have provisions for minimum radiant energy measurement. (*Id.*) Moreover, AHRI commented that any heater primarily certified to ANSI Z83.19 and Z83.20 with additional certification to Z83.26 should be excluded from the scope of this rulemaking. (*Id.*)

AHRI commented that DOE should use industry consensus definitions for these products from appropriate industry standards to avoid products falling in and out of multiple classifications. (*Id.*) Additionally, AHRI commented that the definition of outdoor heaters should specify that their primary purpose is providing proximate heat and that such units are not an otherwise covered product. AHRI stated that without this specification, DOE may risk including otherwise unrelated covered products into the scope of its determination. (*Id.*)

The definition of ''outdoor heater'' proposed in the February 2022 NOPD and adopted in this final determination specifies that these products are ''designed to provide heat proximate to the unit.'' DOE notes that pursuant to 42 U.S.C. 6295(l), as discussed in section I.A, DOE is required to determine substantial improvement in energy efficiency is technologically feasible for any type (or class) of covered products. This coverage determination defines ''miscellaneous gas products'' as a covered product, which includes outdoor heaters, but DOE is not analyzing potential energy conservation standards in this notice. DOE will consider the technical feasibility, energy savings, and economic justification of potential energy conservation standards in a separate standards rulemaking. Furthermore, the requirement in EPCA that substantial energy efficiency improvement is technologically feasible is determined with respect to MGPs as a whole, including all products that would meet the definitions of outdoor heaters and decorative hearth products.

DOE acknowledges that the ANSI Z83.19[6] and ANSI Z83.20[7] standards cover heaters ''intended for installation in and heating outdoor spaces or nonresidential indoor spaces''. However, as discussed in section II.A.3, the definition of ''consumer product'' as defined in 42 U.S.C. 6291(1) does not exclude coverage based on use in commercial applications as long as a product is, ''to any significant extent, distributed in commerce for personal use or consumption by individuals''. Therefore, products that are distributed to a significant extent for residential use are appropriately classified as consumer products under EPCA. Additionally, 42 U.S.C. 6311(2)(A)(iii) specifies that the term ''industrial equipment'' excludes a product which is a ''covered product'' as defined in section 6291(a)(2)''. Thus, outdoor heaters meeting the definition established under this rule will not be subject to both the consumer product and industrial equipment provisions of EPCA. Additionally, 42 U.S.C 6295(l) specifies the criteria that DOE must satisfy in order to set standards for consumer products that the Secretary classifies as covered products, and whether or not such products are subject to industry standards or efficiency metrics is not a listed criterion.

2. Decorative Hearth Products

In response to the definition for ''decorative hearth product'' initially proposed in the February 2022 NOPD (see section II.A of this document), Moroz commented that ''decorative hearth products'' is too broad of a term and that the definitions found in the Canadian Regulation for Gas Fireplaces[8] are more specific and appropriate, and that DOE should align with the Canadian regulations where applicable. (Moroz, No. 7 at p. 1) OGC commented that ''decorative hearth products'' is too broad of a term to use for both indoor and outdoor decorative products that must comply with very different industry standards. OGC also commented that the primary function of outdoor decorative hearth products is the aesthetic qualities of their flame, and not the production of heat. OGC also commented that ''outdoor hearth products,'' as a category of products, was not defined in the scope of coverage in the February 2022 NOPD. (OGC, No. 8 at pp. 1–2) HHT commented that the primary function of the majority of hearth products is to have aesthetically appealing flames, as opposed to heating. (HHT, No. 9 at p. 2) Similarly, HPBA stated that fireplaces and similar products inherently produce heat and are designed ''to be suitable for utilitarian use,'' but they nevertheless state that these products cannot be reasonably regulated as utilitarian heating products. HPBA commented that it is an invalid assumption that products that produce heat are ''heaters'' and would be improved by a higher heating efficiency. HPBA also stated that gas fireplaces or similar products are not ''purely decorative'' because it is incorrect to assume that these products are not intended to provide heat. (HPBA, No. 11 at pp. 46–47)

As noted in the February 2022 NOPD, a variety of products, such as gas log sets, gas fire pits, gas stoves, and gas fireplace inserts (among others) could be considered as decorative hearth products if they meet all the definitional criteria. 87 FR 6786, 6788. DOE further

[6] ANSI Z83.19–2009/CSA 2.35–2009. ''American National Standard/CSA Standard For Gas-Fired High-Intensity Infrared Heaters''. *See webstore.ansi.org/Standards/CSA/ansiz83192009csa35?gclid=Cj0KCQjwtvqVBhCVARIsAFUxcRsxqkjws01RWgDy3QhYg6_OOB3ZZp4c7i-MhH2TrVyV5ohRDdi2rf0aAjjBEALw_wcB.*

[7] ANSI Z83.19–2016/CSA 2.34–2016. ''Gas-fired tubular and low-intensity infrared heaters''. *See webstore.ansi.org/Standards/CSA/ansiz83202016csa34?gclid=Cj0KCQjwtvqVBhCVARIsAFUxcRsB_rkfG6jesgrBeObZDnMIe_wpjP2xq8Z9uvOl0tVHg2ul6cr7JswaAqEXEALw_wcB.*

[8] Natural Resources Canada (NRCan) defines a ''gas fireplace'' as a decorative gas fireplace or a heating gas fireplace. Further, a ''decorative gas fireplace means a vented fireplace that is fuelled by natural gas or propane, is marked for decorative use only and is not equipped with a thermostat or intended for use as a heater'' and a ''heating gas fireplace means a vented fireplace that is fuelled by natural gas or propane and is not a decorative gas fireplace.'' *See www.nrcan.gc.ca/energy-efficiency/energy-efficiency-regulations/guide-canadas-energy-efficiency-regulations/gas-fireplaces/6865.*

notes that the decorative hearth products, as defined, can be marketed for use both indoors and outdoors. However, DOE may consider the relevant differences in indoor and outdoor products in any future analysis of potential test procedures and energy conservation standards for these products.

In response to comments stating that the function of hearth products can include aesthetics as well as heating, DOE notes that under its definition, decorative hearth products are not designed to provide heating to the space in which they are installed (indoor units) or the space proximate the heater (outdoor units). Although decorative hearths may give off some heat as a byproduct of the flame, the aesthetic appeal is what the product is designed to be used for, rather than the heating function.

HPBA commented that vented gas log sets are set apart from vented gas fireplaces by their unmatched realism and design for installation directly into the hearth of existing wood-burning fireplaces. HPBA stated that manufacturers work to minimize the visibility of hardware components to maximize realism in these products. HPBA added that electronic ignition systems require significant additional hardware, some of which is heat-sensitive, and compromise the visual appeal of the product. (HPBA, No. 11 at p. 40) HPBA stated that while gas log sets are the most ''decorative'' of all indoor products and may have little net heating utility in a normally heated home, they provide emergency heating utility when central heating systems are out. HPBA commented that continuous pilot lights, unlike electric ignition, are able to operate in an electrical outage. Further, HPBA stated that battery backup systems require much more vigilance with respect to battery replacement and that they require heat-sensitive hardware which may make them less suitable for emergency situations. (*Id.* at p. 41) HPBA commented that during weather disasters, batteries are often in short supply and a gas log set with a continuous pilot light could be useful. HPBA commented that a continuous pilot ban for vented gas log sets would impose regulatory burdens on products for which there are no regulatory benefits. (*Id.* at p. 42) HPBA commented that vented gas log sets certified to the ANSI Z21.84 standard operate by direct main burner ignition, by definition, cannot have continuous pilot lights. HPBA stated that these products should not be subject to regulation because they do not have continuous pilot lights. (*Id.*)

HPBA also commented that the volume of the flame is important for the fireplace installation to ''look right'' and that this feature is proportional to British thermal units (''Btu'') input. Therefore, HPBA states, important visual considerations effectively define a range of Btu inputs for a given installation. HPBA commented that heat output should not classify whether a product is a ''heater'' or ''purely decorative'' because flame art can have high heat outputs but should not be confused with utilitarian heating appliances. (HPBA, No. 11 at p. 51)

DOE notes that the definition for decorative hearth product does not prescribe a limit on Btu input for fireplaces to distinguish products that are a ''heater'' from those that are ''purely decorative.'' When classifying products, the intended design of the product is the criteria used for categorization, allowing fireplaces with high Btu input rates to continue to be classified as a decorative hearth product if all other definitional elements are met.

In the February 2022 NOPD, DOE tentatively determined that the presence of a thermostat indicates that a product is designed to provide heat rather than being purely decorative. Thus, the proposed definition of decorative hearth products excluded those products equipped with a thermostat. This determination was consistent with the relevant ANSI standard for decorative gas fireplaces (*i.e.,* ANSI Z21.50, ''Vented Decorative Gas Appliances''), which excludes products that are equipped with a thermostat. DOE requested comment on whether the presence of a thermostat would indicate that a hearth product is intended to provide heat to the space in which it is installed rather than being purely decorative. 87 FR 6786, 6790.

In response to the February 2022 NOPD, Moroz commented that it is inappropriate to assume that the presence of a thermostat always indicates that a hearth product is intended to provide heat to the space in which it is installed. Moroz commented that thermostats can provide automatic control of heat balance within the home, and in some cases act as a safety device. Moroz stated that while not currently applicable in the National Fire Protection Association (NFPA) 54, [''National Fuel Gas Code''], which the commenter suggests is the American installation code for gas appliances, CSA B149[.1] [''Natural Gas and Propane Installation Code''], which the commenter suggests is the Canadian installation code for gas appliances, requires that a thermostat be installed on a gas fireplace when used in a bedroom in order to intervene when a user is not conscious of the appliance's operation. (Moroz, No. 7 at p. 1)

Similarly, HHT commented that thermostat allowance and usage is determined by the standard a unit is certified to. HHT added that thermostats are a device for comfort control and does not mean that those products are meant for use as a primary heating source. (HHT, No. 9 at p. 1) OGC also commented that the use of a thermostat on a product is covered by the industry standard that the product is listed to. (OGC, No. 8 at p. 1) NPGA commented that a thermostat feature may be provided by manufacturers to assist consumers in measuring the intensity of the product but without the intention for consumers to utilize the product as a direct heating or space heating appliance. NPGA recommended that DOE consider defining decorative heath products by the purpose(s) and feature(s) present in the product instead of by the absence of a feature, or by disqualifying products according to the presence of a feature. (NPGA, No. 14 at p. 3)

HPBA commented that thermostats on fireplaces and similar products can be used to turn a product on and off in response to heating demands or simply to prevent unintended overheating from non-utilitarian use. HPBA added that thermostats are not permitted on products certified to the ANSI Z21.50 standard but the presence of a thermostat does not indicate that such products are ''heaters'' or that they would be improved by a higher heating efficiency. (HPBA, No. 11 at p. 47)

DOE appreciates this feedback regarding the presence of a thermostat as an indicator that a hearth product is intended to provide heat to the surrounding space. DOE notes that the ANSI Z21.50 for vented gas decorative appliances specifies that the appliances are not for use with a thermostat. Additionally, in its energy efficiency regulations, NRCan defines ''decorative gas fireplace'' as a vented fireplace that is fueled by natural gas or propane, is marked for decorative use only and is not equipped with a thermostat or intended for use as a heater.[9] In an effort to align with industry standards and Canadian regulations, DOE concludes that it is appropriate to use the absence of a thermostat as a criterion for decorative hearth products. However, to fully align with ANSI Z21.50, DOE is

[9] See: *www.nrcan.gc.ca/energy-efficiency/energy-efficiency-regulations/guide-canadas-energy-efficiency-regulations/gas-fireplaces/6865.* (Last accessed July 1, 2022.)

adopting a slight modification to criteria (3) in the definition of ''decorative hearth products'' to read ''is not for use with a thermostat.'' [10] DOE reasons that this slight modification, while not changing the intent of the definition proposed in the February 2022 NOPD, will fully align with the language of the industry standard and further clarify the meaning of the definition to exclude from decorative hearth products those products that are used with a thermostat.

HPBA commented that outdoor gas log sets differ from vented gas log sets because they include ''match-lit'' products (which are not used indoors due to safety concerns), they are operable under the variable conditions encountered outdoors, and they do not necessarily need to be installed in existing fireplaces with functioning flue systems. (HPBA, No. 11 at pp. 43–44) DOE appreciates this feedback regarding vented gas log sets and the distinction from outdoor gas log sets. However, as discussed previously, these products are covered as decorative hearth products if they meet the criteria outlined in the definition. DOE may consider the differences in these products in any future analysis of potential test procedures and/or energy conservation standards for MGPs.

3. Miscellaneous Gas Products Scope

In response to the February 2022 NOPD, HHT stated that the scope of coverage for MGPs is too broad and combines products that are used for aesthetic or decorative purposes with products used for heating. (HHT, No. 9 at p. 2)

Similarly, Moroz commented that ''miscellaneous gas products'' is too vague of a title and should not include decorative hearth products, outdoor gas fireplaces, and outdoor heaters all within the same classification, but rather coverage of products should be more specific. (Moroz, No. 7 at pp. 2–3) OGC similarly commented that ''miscellaneous gas products'' is too broad and mixes products that are primarily aesthetic and provide some comfort and illumination with products whose only utility is to provide heat. OGC suggested that DOE is attempting to cover any gas burning product with a visible flame regardless of its intended purpose. (OGC, No. 8 at p. 2)

HPBA stated that neither ''outdoor heaters'' nor ''decorative hearth products'' are identifiable products; rather, HPBA stated they are a mishmash of products with little resemblance to one another. HPBA suggested that Congress did not intend for DOE to classify new products in this amorphous manner. (HPBA, No. 11 at pp. 22–23) Additionally, HPBA stated that DOE should abandon its definition-based approach to coverage determinations and instead use clear and precise details when describing a product. (HPBA, No. 11 at pp. 17–18) HPBA suggested that a descriptor similar to ''vented gas products certified to the ANSI Z21.88 standard'' would provide appropriate clarity and precision. (*Id.* at pp. 17–18) HPBA also stated that DOE cannot avoid the need for a coverage determination by ''interpreting'' a category of currently regulated products to include previously unregulated products, nor can it justify coverage for one product and assert coverage over another. (*Id.* at pp. 15–16) HPBA also stated that issuing a coverage determination requires product-specific consideration of issues to avoid products not reasonably susceptible to EPCA regulation from being swept into coverage along with other products and the gas usage of different products could be combined to meet EPCA's requirements at 42 U.S.C. 6262(b)(1)(B). (*Id.* at p. 18)

NPGA expressed agreement with the comment submitted by HPBA that a more specific definition of the products potentially subject to the rulemaking and of the efficiency objectives would benefit the current rulemaking. (NPGA, No. 6 at pp. 1–2) NPGA discouraged DOE from including decorative hearth products and outdoor heaters in the same category of MGPs because their primary function and features differ, even though there may be some overlap in their function. NPGA expressed concern for such wide encompassing definitions of MGPs because it may make some products immediately unable to meet a potential standard based solely on design limitations. (*Id.* at p. 2) NPGA commented that the DOE's rationale is difficult to understand and identify the value to be achieved by combining product types with different functionality and design. NPGA further added that, while the notice acknowledges that outdoor heaters and decorative products are different, an explanation for combining them is not offered. (*Id.* at p. 2) NPGA requested that the DOE separate decorative hearth products and outdoor heaters, and provide a narrower definition of the product types such as the differences between an outdoor fire table and an outdoor heater which may have different operating capacities and operating hours. (*Id.* at p. 4) NGPA suggested that DOE should remove outdoor heaters from the definition of MGPs. (*Id.* at p. 2)

AHRI opposed the inclusion of decorative hearths and outdoor heaters in the same rulemaking. (AHRI, No. 16 at p. 3) AHRI commented that if DOE includes these products under the scope of coverage, it should perform separate rulemakings for decorative products covered by ANSI Z21.50, Z21.60, Z21.84, and Z21.97, and for outdoor heaters covered by ANSI Z83.26 to provide better clarity on regulations and simplify test procedures and performance criteria. (*Id.* at p. 5) AHRI added that outdoor heaters and decorative hearths have fundamentally different utility under the proposed definitions for which, they stated, one must provide heating and the other cannot provide heating, as well as differences in terms of market distribution and aggregate national energy use. (*Id.* at pp. 2–3)

The CA IOUs recommended that DOE should carefully develop complementary definitions for ''decorative hearth products'' and ''vented hearth heaters'' to ensure appropriate coverage of products currently on the market. (CA IOUs, No.12 at p. 2) The CA IOUs commented that the shared appearance and performance characteristics of the various MGPs is highlighted by industry testimony (specifically, a comment submitted by HPBA) during the California Energy Commission's Title 20 rulemaking process that indicated that performance standards for vented hearth heaters could result in the reclassification of a ''vast majority'' of heating products as decorative hearth products. The CA IOUs suggested that the ability to recertify products under different test procedures reinforces the need for complementary product definitions that provide appropriate coverage for all hearth products. (*Id.*)

In addition, AHRI stated that MGPs would combine multiple product types across both residential and commercial applications and that it is unclear if the coverage of outdoor heaters is aimed at commercial or residential products. AHRI stated that it is unclear why ''commercial heating equipment'' would be included in a standard for residential decorative hearths. (AHRI, No. 16 at pp. 2–3) They also stated, it appears as though the only motivation to group decorative hearths and outdoor heaters together is because separately, outdoor heaters would not meet the threshold for regulation. *Id.* In addition, AHRI stated that MGPs would combine

[10] The language of criteria (3) proposed in the February 7, 2022 NOPD was ''is not designed to be operated with a thermostat''. 87 FR 6786, 6790.

multiple product types across both residential and commercial applications and that it is unclear if the coverage of outdoor heaters is aimed at commercial or residential products. HPBA similarly commented that while they are not familiar with non-portable infrared patio heaters, the coverage of these products as consumer products is not justified because many of these products are overwhelmingly used by commercial purchasers. HPBA stated that it appears that these products are rarely purchased or used by household consumers. (HPBA, No. 11 at pp. 48–49)

DOE finds that MGPs are similar enough in function and operation that it is appropriate to group them together. Decorative hearth products are gas-fired products that meet the criteria discussed in section II.A of this determination. The definition of decorative hearth products groups together all products that perform the same basic function—simulating a solid-fuel fireplace and/or presenting an aesthetic flame pattern while not being designed to heat the surrounding space—regardless of whether they are described in the marketplace as being a ''gas fireplace insert'', ''gas log set'', or some other term. While products such as gas logs, gas fireplace inserts, gas stoves, or other decorative hearth products may have distinct operational or design characteristics, DOE finds that the products are similar enough in function and operation that it is appropriate to group them all under a single definition of decorative hearth products for the purposes of this final determination because they all serve the same purpose of simulating a solid-fuel fireplace and/or presenting and aesthetic flame pattern while not being designed to heat the surrounding space. As noted previously, decorative hearth products can be designed for indoor or outdoor use (*i.e.,* these products include indoor decorative hearth products and outdoor decorative hearth products).

As noted by commenters, all hearth products, including those that are decorative and are not designed to provide a significant amount of heat to the surrounding space, produce some amount of heat even if it is not their primary function. Grouping indoor decorative hearths and outdoor decorative hearths is appropriate because, as noted, they have similar forms and functions. Outdoor hearths and outdoor heaters are also similar in that they are gas-fired products that are used outdoors and may provide aesthetic value to consumers (in particular, outdoor hearths and outdoor heaters with visible flames may be considered substitute products for many consumers), and therefore grouping these products is also appropriate. Outdoor heaters without flames are very similar to those with flames. DOE's analysis of MGPs as a covered products assessed outdoor heaters, which it defines as products that are gas-fired appliances designed for use in outdoor spaces only, and which are designed to provide heat proximate to the unit. Some outdoor heaters meeting DOE's definition have visible flames and some do not.

Furthermore, DOE disagrees with the assertion that its motivation in grouping these products was related to annual energy use thresholds. As discussed above, DOE believes these products are appropriately grouped based on their function and operation. In the February 2022 NOPD, DOE estimated that both outdoor heaters and decorative hearth products individually meet the energy use threshold under 42 U.S.C. 6292(b)(1)(B). 87 FR 6792. Aggregate annual energy use was not a factor in determining the scope of MGPs. Should DOE proceed with a rulemaking to establish energy conservation standards, DOE would determine if MGPs satisfy the energy use threshold provisions at 42 U.S.C. 6295(*l*)(1) during the course of that rulemaking.

DOE did not include ANSI safety certifications into its definitions of miscellaneous gas products, decorative hearth products, or outdoor heaters because DOE understands that many hearth products could be certified to various or multiple standards, and defining product classifications based on the safety standard could allow products to change classification if their certification standard were changed. Additionally, it could be possible for hearth products to not indicate the ANSI standard to which it is certified.

In response to the suggestion that many outdoor heaters would more appropriately be classified as commercial products, DOE notes that EPCA defines ''consumer product,'' in part, as an article that ''to any significant extent, is distributed in commerce for personal use or consumption by individuals.'' (42 U.S.C. 6291(1)). Standards established for MGPs as a consumer product under EPCA would, therefore apply to any MGP distributed to any significant extent as a consumer product for residential use. Although many outdoor heaters (and other types of MGPs) can be used in commercial settings, they are appropriately classified as consumer products because many of these products are also distributed in commerce for residential use.

4. Propane Products

In response to the February 2022 NOPD, HPBA commented that although the coverage of any MGPs is not warranted; coverage for propane-fueled products would be even harder to justify for many of these products. (HPBA, No. 11 at p. 51) HPBA added that many prefabricated outdoor fireplaces use propane as fuel, and consumers are directed to close the valves on the propane cylinders when the product is not in use and the potential for unnecessary pilot light use would be limited by the volume of the cylinder. (*Id.* at pp. 45, 53)

OGC commented that propane-fueled decorative hearth products and outdoor heaters should not be within the scope of coverage because the relatively high cost of propane and the user understanding that products operated on bottled propane are operated on a limited supply of fuel already encourages users to practice energy conservation and monitor their usage. (OGC, No. 8 at p. 2) AHRI commented that for portable or free-standing propane heaters, it would be unlikely that a standing pilot would be left on as it would drain the propane tank when the heater was not in use. (AHRI, No. 16, p. 5) Similarly, HHT and NPGA commented that propane fuel usage is already regulated by the size of the container it is sold in or used out of. (HHT, No. 9 at p. 2; NPGA, No. 14 at p. 4) Therefore, NPGA concluded that the energy use of propane-fueled decorative hearth products or outdoor heaters is determined by the consumer rather than an efficiency standard. (NPGA, No. 14 at p. 4)

Conversely, Moroz commented that the inclusion of propane-fueled decorative hearth products and outdoor heaters should be done only to harmonize with NRCan regulations for hearth appliances. (Moroz, No. 7 at p. 2) AGH commented that they support the inclusion of propane products within the scope of the proposed coverage determination of MGPs. The commenter stated that stoves and fireplaces that use propane are often nearly identical to ones that use natural gas and are very popular in areas not served by gas pipelines. AGH stated that companies that produce natural gas appliances also produce propane appliances and the regulation of one without the other would create a confusing and artificial distinction. AGH added that the cost of propane is typically higher than natural gas; therefore, consumers could benefit from transparent and minimum efficiency ratings. (AGH, No. 10 at p. 2) The Joint Commenters also expressed

their support for the inclusion of propane products in the scope of proposed coverage determination for MGPs. (Joint Commenters, No. 13 at p. 1) The Joint Commenters referenced a 2017 Lawrence Berkley National Laboratory Hearth Study that showed that 59 percent of hearth products use natural gas and 17 percent use propane and suggested that they expect the proportion of decorative hearth products that use propane to be similar and that the inclusion of propane products may represent significant energy savings. The Joint Commenters also noted their market review findings that one large retailer listed 151 models of propane-fueled units and 23 models of natural gas-fueled outdoor heaters while another large retailer's website listed 352 models of propane-fueled units and 56 models of natural-gas fired outdoor heaters. (*Id.* at pp. 1–2)

DOE defines the term ''gas'' to mean either natural gas or propane in 10 CFR 430.2. Therefore, based on the existing definition of ''gas,'' MGPs would include propane-fueled outdoor heaters and decorative hearth products. However, should test procedures and energy conservation standards for MGPs be considered in the future, DOE may consider whether propane-fueled products warrant different treatment under test procedures and energy conservation standards than natural gas-fueled MGPs.

5. Unvented Hearth Products

OGC commented that unvented indoor products must be certified to ANSI Z21.11.1 and that whether the product is used primarily as heat or for its decorative qualities is determined by the user. (OGC, No. 8 at p. 3) Moroz commented that because the heat from combustion in an unvented gas fireplace is distributed into the surrounding living space, it is appropriate for them to be classified as heaters. (Moroz, No. 7 at p. 2) HHT stated that they are not aware of any unvented hearth product that is solely decorative and that the ability of a product to provide sufficient heat for a space is dependent on the space in which it is installed. HHT stated that it is not aware of any characteristics that differentiate purely decorative unvented indoor hearth products from unvented heaters. (HHT, No. 9 at p. 2) HPBA stated that heating output does not provide a distinction between different categories of vent-free fireplaces or log sets. (HPBA, No. 11 at p. 51) HPBA stated that vent-free gas fireplaces and log sets, which have an inherently high heating efficiency because they release all of their heat to the space, may be chosen because of ease of installation or because they may be the only practical option. (*Id.* at pp. 51–52) DOE is not aware of any purely decorative unvented hearth products and agrees that unvented indoor products are not decorative hearth products as defined in this determination. Hearth heaters, including unvented hearth heaters, are separately regulated products and DOE is in the process of considering standards for these products in a separate rulemaking (see docket EERE–2022–BT–STD–0018).

6. ANSI Standard Certifications

In response to the February 2022 NOPD, HHT commented that the following industry standards should be reviewed for the coverage determination for decorative hearth products and outdoor heaters: ANSI Z21.50, Z21.84, Z21.11, Z83.26, Z21.60, Z21.97, Z83.19. (HHT, No. 9 at p. 1) OGC commented that the industry standards covered in the February 2022 NOPD are adequate to cover the different product types identified. (OGC, No. 8 at p. 1)

DOE reviewed the scope of ANSI Z21.50, ANSI Z21.60, ANSI Z21.84, ANSI Z21.97, and ANSI Z83.26 to inform the proposed scope of coverage of MGPs in the February 2022 NOPD. 87 FR 6786, 6788–6789. DOE has also since identified products certified to ANSI Z21.11 and ANSI Z83.19 and reviewed the scope of these standards as well. As appropriate, DOE used provisions from these ANSI standards to inform its understanding of appropriate product categorizations, but, as discussed in section II.A.3, DOE did not include ANSI safety certifications into its definitions of miscellaneous gas products, decorative hearth products, or outdoor heaters because this could lead to inconsistent classifications.

B. Other Comments Received

1. Indoor Heating Products

HPBA asserted that no gas fireplace products qualify as DHE. The commenter added that fireplace products are not included in any of the 16 DHE product categories, nor do they resemble products that are DHE. Further, HPBA stated that EPCA does not give DOE authority to create additional categories of DHE. (HPBA, No. 11 at pp. 19–21)

DOE notes that MGPs are a separate consumer product category from DHE, and that DHE are not at issue in this coverage determination rulemaking. Indeed, in its decision for *Hearth, Patio & Barbecue Association* v. *Department of Energy, et al.* 706 F.3d 499 (D.C. Cir. 2013), the United States Court of Appeals for the District of Columbia Circuit held that the phrase ''vented hearth heater'' did not encompass decorative fireplaces as that term is traditionally understood. As discussed in the February 2022 NOPD, DOE believes that classifying vented hearth heaters as vented home heating equipment would be consistent with the Court's opinion, in that vented hearth heaters provide space heating. Therefore, DOE concluded that although there are not currently energy conservation standards for vented hearth heaters, these products are appropriately covered as vented home heating equipment (and DHE). 87 FR 6786, 8688. However, MGPs do not include vented hearth heaters. Thus, DOE is not creating an additional category of DHE through this coverage determination, but rather is establishing a new category of separately covered products consistent with its authority under EPCA.

HPBA further commented that heating efficiency standards for vented gas fireplaces would limit the range of available products and leave many consumers without vented gas fireplaces appropriate for their needs but would not make such products better or more efficient gas fireplaces. (HPBA, No. 11 at pp. 27–28) HPBA explained that the core appeal of fireplaces is ''not in their heating utility per se, but in the unique combination of features that make a fireplace a fireplace.'' (*Id.*)

DOE notes that consumer utility impacts of standards for vented gas fireplaces will be considered in any future energy conservation standards rulemaking, including the aesthetic appeal of fireplace features.

HPBA commented that vented gas fireplaces do not produce particulate emissions that are often characteristic of many older solid fuel fireplaces which, they stated, makes them more desirable from an air quality standpoint, particularly in the homes of individuals with respiratory problems such as asthma. (HPBA, No. 11 at p. 29) HPBA stated that, while vented gas fireplaces can have significant heating utility, few consumers regularly use their fireplace heaters for utilitarian heating purposes, and very few do so exclusively. The commenter added that better space heating options exist that are both less costly and better tailored for the purposes of strictly utilitarian heating use. (*Id.* at pp. 29–30)

HPBA stated that the market for fireplaces with very high efficiency is small because there is little or no demand for fireplaces that generate too much heat. HPBA stated that one of their members found it possible to make

fireplaces that utilize condensing technology to reach high heating efficiency but that the market was insufficient to sustain production of condensing gas fireplaces. (HPBA, No. 11 at p. 30)

In response to DOE's request for comments on outdoor hearth products designed to provide a large amount of heat, HPBA commented that a fireplace or similar product does not exist that is designed to provide a large amount of heat as its primary function. HPBA stated that the primary function of a fireplace or similar product is to be a fireplace or similar product. HPBA stated that although it is often part of the appeal that such products produce heat, their purpose is to be enjoyed. HPBA further added that the enjoyment is undermined if too much heat is produced. HPBA also commented that the heat output of fireplaces and similar products does not provide reasonable basis for characterization of such products as ''heaters'' for purposes of efficiency regulation. (HPBA, No. 11 at p. 49).

DOE notes that the definitions for MGPs cover products, in part, depending on whether or not it is designed to provide heating to the space in which it is installed. Regardless of the utilization of the product by the end consumer, the designed intention of the product by the manufacturer can be classified as to whether it is intended to provide heating. It is on this basis that DOE is not excluding vented gas fireplaces from the definition of decorative hearth products, as DOE's market research found that vented gas fireplace products that are not designed to provide space heating are available on the market.

AGH commented that efficiencies of gas stoves are often unavailable and confusing and that the database maintained by the Canadian government is the only reliable source for gas stove efficiencies. (AGH, No. 10 at p. 1) AGH stated that their interactions with retailers and manufacturers yielded contradictory and inaccurate information. AGH concluded that consumers should be cautious of efficiency claims from manufacturers and retailers and suggested that the Canadian database is more reliable. AGH commented that consumers who want to save on heating bills often use their gas stove or fireplace to heat the core of the house instead of the furnace to heat the entire house. AGH stated that gas fireplaces and stoves are often used to provide heat to homes as either a primary or secondary heat source; additionally, they stated, many retailers advertise that gas inserts can easily serve as the primary source of heat for a home and cited a manufacturer's claim that gas inserts can use ''50 [percent] to 90 [percent] less gas than gas logs and up to 75 [percent] less gas than a gas furnace.'' [11] Additionally, AGH stated that gas furnaces can waste up to 30 percent of their heat from leaking ducts. AGH concluded from this information that consumers could save significant amounts of money and gas if gas fireplaces and stoves are regulated under EPCA. (*Id.* at pp. 1–2)

DOE conducted market research through which the DOE identified both gas stove products that are intended to provide space heating and gas stove products that are not intended to provide space heating. Therefore, DOE is not excluding all gas stoves from coverage as MGPs. DOE notes that any indoor gas stove that is designed to heat the space in which it is installed does not meet the criteria outlined in the definition of a decorative hearth product and will thereby not be covered as MGP.

2. Shipments

AGH raised concerns that DOE may have underestimated the annual shipments of MGPs by relying on data from HPBA. AGH commented that HPBA's estimates only include appliance shipments by their member companies. They further suggested that even member companies may choose not to provide data and that some of the largest gas appliance manufacturers have dropped their HPBA membership in recent years. (AGH, No. 10 at p. 2) The Joint Commenters stated their belief that the DOE may be underestimating the annual shipments of MGPs because although it was stated in the February 2022 NOPD that the hearth product shipments were scaled from the technical support document (''TSD'') that accompanied a notice of proposed rulemaking (NOPR) proposing energy conservation standards for hearth products published on February 9, 2015 (80 FR 7082) (''the February 2015 NOPR'') [12] (''the February 2015 NOPR TSD''), they stated that it was unclear what the scaling factor was intended to represent and that the hearth product shipments reported by HPBA appear to be significantly higher than those in Table 9.3.1 of the February 2015 NOPR TSD. (Joint Commenters, No. 13 at p. 2) Further, the Joint Commenters stated that shipments of MGPs may have increased significantly due to the COVID–19 pandemic, and it is therefore, believed by the commenters that the number of annual shipments is underestimated by DOE. (*Id.*)

The CA IOUs added that the use of hearth products is continuing to increase in California and is anticipated to do so through the year 2035. (CA IOUs, No. 12 at p. 1)

DOE notes that it used the shipment data available at the time of the February 2022 NOPD to develop the estimates of energy consumption. In the Request for Information on Energy Conservation Standards for Miscellaneous Gas Products published on June 14, 2022 (''June 2022 RFI''),[13] DOE requested updated shipment figures for decorative hearth products and outdoor heaters. 87 FR 35925. In response to the Joint Commenters, DOE notes that the shipment data for gas appliances reported by HPBA comprise more products than only decorative hearths, therefore some of the HPBA shipments are excluded from DOE's estimates for decorative hearths. HPBA provided DOE with shipments of hearth products for the February 2015 NOPR, which are available in Chapter 9 of the February 2015 NOPR TSD. These shipments reflect the number of decorative hearths and hearth heaters shipped by HPBA members from 2005 to 2013. DOE took these shipments and compared them to overall gas appliance shipments reported by HPBA [14] during that time and, on average, decorative hearths and hearth heaters accounted for 68 percent the HPBA reported total annual hearth industry shipments. DOE applied this 68 percent to HPBA shipments of gas appliances beyond 2013 [15] to develop a stock of hearth heaters and decorative hearths in 2022. To develop a stock of decorative hearths for the February 2022 NOPD, DOE assumed that 39 percent of total decorative hearths and hearth heater shipments were decorative. This is the same percentage that was used to estimate decorative shipments in the analysis supporting the February 2015 NOPR. DOE understands that the COVID–19 pandemic may have increased the demand for MGP products including outdoor heaters and DOE may

[11] AGH cited a blog post by Karen Duke titled ''Is a Gas Fireplace Worth It?'' See *www.victorianfireplaceshop.com/is-a-gas-fireplace-worth-it.*

[12] On March 31, 2017, DOE withdrew a proposed determination of coverage for hearth products that was published on December 31, 2013 (78 FR 79638) in the bi-annual publication of the DOE Regulatory Agenda. (82 FR 40270, 40274 (August 24, 2017)) This withdrawal, in effect, revoked the February 2015 NOPR.

[13] See: *www.regulations.gov/document/EERE-2022-BT-STD-0017-0001.*

[14] U.S Hearth Industry Shipments: 1998–2021. *www.hpba.org/Resources/Annual-Historical-Hearth-Shipments.*

[15] U.S Hearth Industry Shipments: 1998–2021. *www.hpba.org/Resources/Annual-Historical-Hearth-Shipments.*

consider future growth of product shipments in a standards analysis.

3. Energy Use Analysis

OGC commented that DOE needs to demonstrate that an improvement in efficiency is feasible to conserve energy resources in order to cover a product, which OGC stated had not been done in the proposed determination. (OGC, No. 8 at p. 2) NPGA stated that they were unable to evaluate the potential benefits, energy savings, or improvements for consumers because the scope of products potentially subject to the February 2022 NOPD is overly broad. (NPGA, No. 14 at pp. 2, 3, and 5)

HPBA commented that the ''outdoor heater'' and ''decorative hearth'' definitions are not clear enough to know which product operating hours should be compared. HPBA added that the operative hours of ''decorative hearths'' should not be compared to anything because the products which are included are too diverse and that the estimate of operating hours of ''decorative hearths'' would not be representative of any particular product included. (HPBA, No. 11 at pp. 52–53) Specifically, HPBA commented that fireplaces are architectural features that add to the appeal and market value of a home whether or not they are used. HPBA added that a substantial percentage of fireplaces see little or no active use. (HPBA, No. 11 at pp. 29, 31) The CA IOUs commented that the performance standards for MGPs can deliver cost-effective savings for Californians and contribute to a significant reduction of greenhouse gas emissions nationally. The CA IOUs commented that MGPs can operate for many years and stated that DOE's assumption that the lifetime of these products is fifteen years is supported by analysis and interviews in both California and Canada; therefore, they stated, DOE should begin regulation of these products as soon as possible. (CA IOUs, No. 12 at p. 1)

a. Ignition Systems

In response to the February 2022 NOPD, NPGA cautioned the DOE against defining scope or standards according to the presence of a standing pilot light. NPGA commented that for propane-powered outdoor heaters, a push-button or dial control connected to a pilot are designed for consumer safety and ease of ignition. NPGA added that unlike indoor products powered by natural gas, propane-powered outdoor heaters are not designed for pilot lights to remain on indefinitely. NPGA stated that clarification is needed as to why the DOE would find the ignition system breakdowns for outdoor heaters or standing pilot operating hours data for outdoor heaters to be useful information or impactful upon energy conservation standards. (NPGA, No. 14 at p. 4)

OGC commented that ignition systems and operation for outdoor products differs from that of indoor products and that DOE's energy usage calculations for these products are therefore incorrect. OGC stated that outdoor heaters use either an electronic ignition or a thermo-electric safety valve. The commenter stated that electronic ignition systems either ignite the main burner directly or may ignite a pilot burner that ignites the main burner, but the pilot is extinguished once the main burner is shut off, and that thermo-electric systems typically ignite the main burner directly and use heat from the main burner to activate the thermo-electric safety valve. (OGC, No. 8 at p. 3) HPBA commented that many outdoor gas fireplaces have open combustion chambers in which continuous pilot lights have a tendency to blow out. HPBA also commented that many prefabricated outdoor fireplaces have simple dial and push-button pilot light that is designed to be turned on and off manually to facilitate safe main burner ignition and pilot light controls that make it easy for consumers to avoid unnecessary pilot light use. (HPBA, No. 11 at pp. 45, 53) HPBA further stated that the potential for such continuous pilot lights to be left burning is unknown but likely to be limited. (*Id.* at p. 45) HPBA commented that the pilot lights for these products are not designed to be left on indefinitely and would likely burn out if they were left burning for an extended period of time. HPBA stated that they are not aware of any pilot light operating hours data and added that this data serves no purpose for products that are not designed to be left with their pilot lights burning indefinitely. (*Id.* at pp. 53–54)

AHRI commented generally that standing pilots are a practical and beneficial solution for units without an outside power source. (AHRI, No. 16 at p. 5) Similarly, HPBA commented that, for gas log sets, there are physical and mechanical challenges that limit the potential for electronic alternatives and the market for these products would likely be damaged by a continuous pilot ban. (HPBA, No. 11 at pp. 36–37)

HPBA stated that outdoor gas log sets are designed to be installed in the hearths of existing wood-burning fireplaces and face similar challenges as vented gas log sets in transitioning to electronic ignition, in that electronic ignition would negatively impact aesthetics and the added hardware would be difficult to conceal or shield from excessive heat. HPBA added that an increase in cost or decrease of appeal in outdoor gas log sets could cause consumers to leave conventional wood-burning fireplaces in operation, thereby causing adverse environmental impacts. (*Id.* at p. 43) HPBA also commented that a ban on continuous pilot lights for these products could have adverse safety impacts because, for outdoor fire pits that use continuous pilots, the pilot provides a means to minimize the risk of delayed main burner ignition involving the sudden ignition of a significant amount of gas. (*Id.*)

HPBA commented that when outside temperatures are low, the heat from a vented gas fireplace must initially overcome a column of cold air in the vent system. HPBA stated that this can present significant challenges with longer-vent installations and particularly with more heat-efficient designs that employ heat exchangers or flue restrictors to raise thermal efficiency and control excess air. HPBA stated that a cold-start-up can cause serious operational problems such as start-up lag, flame lift, burner outage, draft reversal, and delayed main burner ignition. HPBA added that any of these issues would be immediately observable by the consumer and can be quite alarming. HPBA stated that a pilot light warms the flue and establishes proper draw prior to main burner ignition to address all of the listed issues. HPBA commented that intermittent pilot ignition (''IPI'') systems with a continuous pilot ignition (''CPI'') function were created to address these concerns and that in some installations a continuous pilot flame is needed to ensure proper product operation. HPBA added that CPI functions are used to prevent or resolve operational problems. (*Id.* at pp. 38–39) HPBA stated that the development of ''on demand'' systems has made it possible for CPI functions on IPI systems to be converted into ''on demand'' functions. (*Id.* at p. 39) HPBA stated that DOE did not include ''on demand'' pilots which were developed to eliminate standing pilots in gas fireplace products. HPBA added that these on-demand ignition systems are currently one of the most common of the relevant ignition systems. (*Id.* at pp. 24–25)

HPBA commented that gas fireplace products are different in every relevant aspect from products such as residential furnaces for which it was relatively easy to convert the pilot ignition. HPBA cited the following as major the differences: gas fireplaces are typically prominently displayed so that the glow of a pilot light is visible when the lights are out,

gas fireplaces are generally ''attended appliances'' for which the main burners are used only through the conscious action of the consumer, gas fireplaces usually have user-friendly dial and push-button continuous pilot light controls, continuous pilot lights provide unique utility for gas fireplace consumers, and they have inherent characteristics that make the use of IPI technology particularly challenging. (*Id.* at p. 35) HPBA stated that frequent user operation of pilot lights is not necessary and that the elimination of pilot lights would affect consumer utility. (*Id.* at p. 36)

HPBA commented that the industry recognized that the elimination of continuous pilot lights could potentially result in energy savings and have invested considerable resources to develop alternatives. HPBA stated that these efforts have resulted in a dramatic trend away from the use of continuous pilots on vented gas fireplaces. (*Id.*)

HPBA stated that the use of continuous pilot lights on vented gas fireplaces is already being phased out; therefore, HPBA commented that the imposition of regulatory burden to hasten market developments is unnecessary. (*Id.* at p. 37) HPBA commented that DOE should consider why there hasn't already been widespread adoption of IPI technology (without CPI functionality) in the gas fireplace industry, why IPI systems with a CPI function and ''on-demand'' ignition systems were developed by the gas fireplace industry exclusively to provide an alternative to IPI-only systems for vented gas fireplaces, and why some retailers have reported that they choose to activate the CPI function on IPI products they sell. (*Id.* at p. 37) HPBA stated that it is difficult to ensure that vented gas fireplaces with IPI-only ignition systems will not experience potentially significant operational problems in some installations. HPBA added that the specific technical issues that may occur are related to the differences between vented gas fireplaces and the types of products for which IPI systems were designed. (*Id.* at pp. 37–38)

HPBA stated that gas fireplaces and log sets are so materially different from each other that combined data on the proportion of ignition system types for both products would be wildly inaccurate as applied to either. (*Id.* at p. 19)

HPBA stated that they explored an initiative to eliminate continuous pilot lights on a wide range of outdoor gas products and determined that it would have little potential to conserve energy and would have undesirable collateral safety impacts. (*Id.* at p. 45)

The CA IOUs stated that the California Energy Commission (''CEC'') determined that, using an assumption of 1,000 Btu/hour for gas burners and annual standing pilot operating hours of 4,612 hours per product, decorative hearth products and outdoor gas fireplaces will provide cost effective energy savings that will exceed the thresholds set by 42 U.S.C. 6292 (b)(1) and 42 U.S.C. 6295(l). The CA IOUs stated that using the CEC's assumptions, standing pilots used 4,161,569 Btu/year per unit which is equivalent to 1,219 kWh and exceeds the requirements to set standards under EPCA. (CA IOUs, No. 12 at p. 2) The CA IOUs stated that a CEC analysis determined that decorative hearth products with an on-demand pilot light used 1,747,755 Btu/year while decorative hearths with intermittent pilot energy used only 188,882 Btu/year. The CA IOUs also stated that the CEC determined that intermittent pilot light technologies are readily available. The CA IOUs stated the feasibility and savings that were demonstrated support that federal regulation of these products is consistent with the purposes of EPCA. (*Id.*)

In response to concerns about potential standards that could eliminate the use of continuous pilot lights or regulate other ignition systems in the future, DOE notes that the current coverage rulemaking is only to determine whether coverage of MGPs is necessary or appropriate to carry out the purposes of EPCA, as discussed in section I.A. DOE maintains that patio heaters fall under the proposed definition of outdoor heaters and, by extension, MGPs, regardless of the type of ignition used in the product. DOE is not proposing standards for MGPs in this final determination of coverage. Comments regarding the benefits and obstacles for potential standards for MGPs will be considered in a separate energy conservation standards rulemaking.[16]

In response to comments on the energy use estimates, DOE notes that it did not use the same operating characteristics for indoor decorative hearth pilot operation and outdoor heater pilot operation. DOE understands that a large percentage of outdoor heaters are propane, however, there are fixed outdoor heaters on the market. DOE adjusted the standing pilot hours and the percentage of standing pilots of decorative hearths to make an estimate of ignition energy use for outdoor heaters. In DOE's energy consumption estimate, it was assumed that only around 10 percent of outdoor heaters kept the pilot on when the main burner was not operating and the standing pilot hours were reduced to account for the fact that outdoor heaters are likely more seasonal than decorative hearths. In the February 2022 NOPD, DOE requested comment on the breakdown of ignition systems and standing pilot operating hours for outdoor heaters, and received no data. 87 FR 6786, 6792.

In response to the CA IOUs, DOE notes that the energy consumption analysis in the February 2022 NOPD was developed to determine if coverage of MGPs was warranted under 42 U.S.C. 6292(b). DOE will consider the technical feasibility, energy savings, and economic justification of various technologies in a standards rulemaking.

b. Main Burner Operation

OGC and HHT stated that outdoor conditions vary greatly from season to season as well as by location and climate. (OGC, No. 8 at p. 3; HHT No. 9 at p. 3) OGC expressed concerns that DOE assumes outdoor decorative products are operated regardless of the outdoor ambient temperature without data to substantiate that assumption. (OGC, No. 8 at p. 3) Moroz stated that they are not aware of any data representing the operating hours of either outdoor heaters or decorative hearth appliances. (Moroz, No. 7 at p. 2) OGC added that they are unaware of available data on outdoor usage or energy consumption and that the operating characteristics for outdoor heaters, indoor decorative products, and outdoor decorative products are likely to be different. (OGC, No. 8 at p. 3)

NPGA stated in response to the February 2022 NOPD, that energy usage was estimated according to outdated survey information. NPGA also stated that decorative hearth products and outdoor heaters are intrinsically produced for different uses by consumers. NPGA commented that the data and surveys collected in past years were not administered according to the proposed product definition presented in the current notice and therefore, urged the DOE to issue an RFI for more data and present the data and proposed definitions for stakeholders in a new notice. (NPGA, No. 14 at pp. 2–3) NPGA commented that the DOE should pursue the most recent and up-to-date data on energy usage and manufacturing production because this information is crucial to determining if these products

[16] Docket for Miscellaneous Gas Products Energy Conservation Standards: *www.regulations.gov/docket/EERE-2022-BT-STD-0017.*

use enough energy to meet the threshold for regulation under EPCA. (*Id.* at p. 2)

AHRI also stated that they do not view the prescription of decorate hearth usage data to outdoor heaters to be a valid assumption. AHRI further added that the consumer survey used to estimate decorative hearth usage may be questionable because all of the estimates were derived from a single survey. AHRI noted that the survey (although published in June of 2017) was conducted in February of 2016, there was no mechanism for respondents to confirm ownership of the equipment in question, and it was not confirmed that the respondents ''subjective answers'' reflected the manufacturers' design for decorative hearth equipment. (AHRI, No. 16 at pp. 3–4)

The Joint Commenters stated that it is not clear in the February 2022 NOPD whether match-lit units were included in the national energy use calculation. (The Joint Commenters, No. 13 at p. 2)

HPBA suggested that heating standards would be problematic because increasing heating efficiency and thus heat output can lead to more heat output than is desired. HPBA further suggested that even moderately high heating efficiency standards could substantially reduce the number of fireplaces appropriate to a given installation. Additionally, HPBA stated that an increase in heating efficiency cannot be expected to produce energy savings by reducing the burner operating hours required to satisfy heating needs. (HPBA, No. 11 at pp. 31–34)

DOE notes that the average operating hours for decorative hearths from the February 2022 NOPD was based on operating data for both indoor decorative hearths and outdoor decorative hearths from a 2017 survey by the Lawrence Berkeley National Laboratory (''2017 hearth survey'').[17] There was no assumption that outdoor decorative hearths operate the same regardless of outdoor air temperatures; the national average was creating by averaging the operating hours for decorative products (both indoor and outdoor) by region. DOE lacked data on the operation of outdoor heaters at the time of the February 2022 NOPD. The 2017 Hearth Survey provided estimates of main burner hours for decorative hearths and hearth heaters and noted a positive correlation between the main burner operating hours and utility for heat. DOE used the decorative hearth burner operating hours for outdoor heaters as those were the smallest amount of operating hours in the survey and therefore constitutes a conservative estimate. While DOE understands that the operating characteristics of decorative hearths and outdoor heaters may vary, given that large portions of the U.S. have long periods of cooler temperatures, it is unlikely that outdoor heaters would operate significantly less than what was assumed in the February 2022 NOPD. As DOE did not receive any data on the operating hours of decorative hearths or outdoor heaters, DOE did not change its estimates of national and household energy consumption.

DOE also notes that the 2017 Hearth Survey is the most comprehensive study of hearth products in the United States. While the respondent's answers were subjective, DOE has confidence in the survey because the percentage of products identified as decorative or mostly decorative (38 percent) is consistent with the percentage of total hearth shipments that were decorative (39 percent) from the February 2015 NOPR.

In response to the Joint Commenters, the main burner energy consumption of match-lit products was included in the national energy use calculation.

This coverage determination rulemaking is only to determine whether coverage of MGPs is necessary or appropriate to carry out the purposes of EPCA, as discussed in section I.A. DOE is not proposing standards for MGPs in this final determination of coverage. DOE may consider the impacts of standards on consumer utility in a future energy conservation standards rulemaking.

4. Economic Analysis

The Gas Associations commented that it is important that the DOE implement the recommendations from the recent National Academies of Sciences, Engineering, and Medicine (''NASEM'') report[18] into all of its appliance rulemakings. In particular, the Gas Associations recommended, based on the NASEM report, that DOE should pay greater attention to economic justification for the standards as required by EPCA and, to conclude that standards are economically justified, DOE should attempt to find significant failures of private markets or irrational behavior by consumers in the no-standards case. Additionally, the Gas Associations recommended that the DOE expand the Cost Analysis segment of the Engineering Analysis to include ranges of costs, patterns of consumption, diversity factors, energy peak demand, and variance regarding environmental factors. The Gas Associations also recommended that the DOE give greater weight to ex post and market-based evidence of markups in order to project more accurate effects of a standard on prices. (Gas Associations, No. 15 at p. 2)

The Gas Associations recommended that DOE provide an argument for the plausibility and magnitude of potential market failure related to the energy efficiency gap in its analysis. They added that there should be a presumption that the market actors behave rationally, unless DOE can provide evidence to the contrary. The Gas Associations also recommended that DOE should give greater attention to a broader set of potential market failures on the supply side. They stated that this should include how standards might reduce the number of competing firms and how they might impact price discrimination, technological diffusion, and collusion. (*Id.*)

In response to the Gas Associations recommendations for the economic analysis, DOE notes that the current coverage rulemaking is only to determine whether coverage of MGPs is necessary or appropriate to carry out the purposes of EPCA. Economic considerations would be analyzed as part of an energy conservation standard rulemaking.

5. Process-Related Comments

In response to the February 2022 NOPD, the CA IOUs agreed with DOE's tentative finding that the coverage of MGPs is necessary and appropriate to carry out the purposes of EPCA. (CA IOUs, No. 12 at p. 1) The Joint Commenters also indicated their support of DOE's determination that decorative hearths and outdoor heaters qualify as MGPs covered under EPCA. However, the Joint Commenters encouraged DOE to not finalize the proposed determination until energy conservation standards have been finalized, since information that is learned during the rulemaking process for both test procedures and energy conservation standards can ultimately inform the coverage determination. (Joint Commenters, No. 13 at p. 1)

HPBA and APGA requested that DOE further explain its proposal with specific regard to the identification of the specific product for which coverage is proposed, and why (and how) DOE

[17] Siap, David. Willem, Henry. Price, Sarah. Yang, Hung-Chia. Lekov, Alex. Survey of Hearth Products in U.S. Homes. Energy Analysis and Environmental Impacts Division, Lawrence Berkeley National Laboratory. June 2017. *eta.lbl.gov/publications/survey-hearth-products-us-homes.*

[18] Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards. NASEM (2021). Available at: *nap.nationalacademies.org/read/25992/chapter/1.*

believes that it would be appropriate to regulate each of those products. (HPBA, No. 2 at pp. 1–2; APGA, No. 5 at pp. 1–2)

HPBA and AGA requested that DOE hold a public meeting to clarify its current proposal. (HPBA, No. 2 at p. 1; AGA, No. 4 at p 2) HPBA requested the opportunity to present specific recommendations concerning DOE's basic regulatory approach to facilitate a constructive exchange of information and ideas. (HPBA, No. 2 at pp. 2–3) Additionally, HPBA included in their comments a resubmission of the comments they submitted on May 11, 2015, in response to the February 2015 NOPR as evidence to support their claim of inadequate informational exchange. (*Id.* at p. 10) HPBA also added that DOE is behind on statutory deadlines for regulatory actions on numerous products that it has a mandatory duty to complete and therefore it is not ''necessary'' or ''appropriate'' for DOE to regulate MGPs. (*Id.* at p. 54) AGA commented that the rulemaking history in this proposal and the unaddressed concerns of stakeholders makes a public meeting appropriate. AGA added that the meeting should address concerns including outstanding coverage determinations, whether there is a justifiable basis for regulating covered products, and how covered products may be regulated. (AGA, No. 4 at pp. 1–2)

In response, DOE notes that although the scope of the February 2015 NOPR differed from the current coverage determination, many insights from that rulemaking (for example, information about technology options that are also relevant to MGPs) informed the current coverage determination. Additionally, DOE responds that stakeholders were given the opportunity to provide written comments in response to the proposed coverage determination, which DOE determines to be a sufficient opportunity to provide feedback. Moreover, as noted above, this rulemaking only establishes coverage for MGPs. DOE's authority and responsibility to determine the coverage of MGPs is distinct from its authority under EPCA. Prior to the adoption of any energy conservation standards or test procedures for these products, stakeholders will have additional opportunities for comment, including a public meeting(s).

The Gas Associations commented that the proposed coverage determination of MGPs is neither necessary nor appropriate within the meaning of 42 U.S.C. 6292(b)(1)(A). They added that DOE has not provided sufficient evidence to demonstrate economic justification or significant energy savings for an efficiency standard for MGPs. (Gas Associations, No. 15 at pp 2–3) They stated that the February 2022 NOPD treated broad categories of different products as though they are a single product and recommended the withdrawal of the proposed coverage determination for reconsideration. (*Id.* at p. 3) OGC commented that the coverage of ''miscellaneous gas products'' is not necessary or appropriate to carry out the purposes of EPCA and that it is too broad to justify coverage under EPCA. (OGC, No. 8 at p. 3) OGC and HHT further commented that the information and analysis in the February 2022 NOPD are inadequate to support the issuance of a determination for MGPs. Consequently, OGC recommended that the proposed determination be withdrawn and treated as an RFI to allow for more collaboration with industry to properly determine what is considered a covered product. (OGC, No. 8 at p. 1; HHT, No. 9 at pp. 1, 3)

Similarly, HPBA requested that the DOE withdraw the February 2022 NOPD and discontinue any further regulatory efforts with respect to gas fireplaces, fireplace inserts, freestanding stoves, gas log sets, outdoor gas products designed to have visual appeal (fire pits, fire tables, tiki torches, patio heaters that double as outdoor lighting or flame art, and pure objects of flame art), and strictly utilitarian portable patio heaters. HPBA added that coverage for the listed products is neither ''necessary'' nor ''appropriate'' within the meaning of 42 U.S.C. 6292(b)(1)(A) and was not proven otherwise by the February 2022 NOPD. HPBA stated that there is no potential for energy savings or economic justification that could be provided by efficiency standards for these products and that these products are unsuitable targets for efficiency regulation. (HPBA, No. 11 at p. 1) HPBA commented that the DOE's attempt to establish coverage of MGPs is not supported by EPCA and stated that the February 2022 NOPD did not provide a reasonable basis to conclude that MGPs are worth regulating. (*Id.* at pp. 13–15) HPBA stated that DOE should follow the direction of Executive Order 13563 and ensure that it has incorporated information and perspectives from those who are likely to be affected by the proposal. (*Id.* at p. 12) HPBA stated that coverage determinations must be product-specific and that to establish that coverage is warranted, DOE must demonstrate that the product is not a ''gnat'' and explain why regulation of that product is ''necessary'' or ''appropriate'' to carry out EPCA's purposes. HPBA also stated that there is insufficient data and information used for the analysis. They added that data collection should be the first step in the development of a rule. HPBA stated that the pace of technological and market changes has made it so information concerning the prevalence of continuous pilot lights becomes quickly outdated. HPBA commented that while they have not had sufficient opportunity to review the basis of the DOE's claims, they stated that the February 2022 NOPD is based on inaccurate information, inadequate data, and arbitrary assumptions. (*Id.* at pp. 24–25)

DOE notes that Part A of Title III of EPCA, 42 U.S.C. 6291 *et seq.,* authorizes DOE to classify additional types of consumer products as covered products upon determining that: (1) classifying the product as a covered product is necessary or appropriate for the purposes of EPCA; and (2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours per year (kWh/yr). (42 U.S.C. 6292(b)(1)). DOE's evaluation of MGPs under this standard is discussed in section II.C of this determination.

C. Evaluation of Miscellaneous Gas Products as Covered Products

DOE evaluated whether MGPs, which are comprised of decorative hearth products and outdoor heaters, are ''consumer products'' under EPCA. As discussed in section I of this document, a consumer product is any article (other than an automobile) of a type—(A) which in operation consumes, or is designed to consume energy; and (B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual. (42 U.S.C. 6291(a)(1)) MGPs consume energy during operation and are distributed in commerce for personal use by individuals. Therefore, DOE has determined that MGPs are consumer products within the scope of EPCA.

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

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

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

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

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

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

To provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. (42 U.S.C. 6291(4)–(5))

DOE estimates that annual shipments of MGPs have averaged approximately 190,000 units per year from 2016 to 2020.[19] DOE estimates that the aggregate national energy use of decorative hearth products is 0.0135 quadrillion British thermal units (''quads'') (4.0 Terawatt-hours (''TWh'')),[20] and that the aggregate national energy use of outdoor heaters is estimated to be 0.0007 quads (0.2 TWh).[21] DOE estimates that the aggregate national energy use of decorative hearth products and outdoor heaters, comprising MGPs, is 0.0143 quads (4.2 TWh). Coverage of MGPs would result in the conservation of energy supplies through the regulation of energy efficiency. Therefore, DOE has determined that coverage of MGPs is necessary and appropriate to carrying out the purposes of EPCA, thereby satisfying the provisions of 42 U.S.C. 6292(b)(1)(A).

2. Average Annual Per-Household Energy Use

DOE estimates that decorative hearths account for 93 percent of the MGP market and that outdoor heaters account for 7 percent. DOE calculated the weighted average per-household energy use of an MGP to be 4.1 MMbtu/yr (1,211 kWh/yr).[22] Therefore, DOE estimates that the average annual per-household energy use for MGPs is likely to exceed 100 kWh/yr, thereby satisfying the provisions of 42 U.S.C. 6292(b)(1)(B).

III. Final Determination

Based on the foregoing discussion, DOE concludes that including MGPs, as defined in this final determination, as covered products is necessary and appropriate to carry out the purposes of EPCA, and the average annual per-household energy use by products of such type is likely to exceed 100 kWh/yr. Based on the information discussed in section II of this final determination, DOE is classifying MGPs as a covered product. This final determination does not establish test procedures or energy conservation standards for MGPs. DOE will address test procedures and energy conservation standards through its normal rulemaking process.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE

[19] This estimate was developed by scaling the average hearth product shipments from 2010–2013 on page 9–2 of Chapter 9 in the February 2015 NOPR Technical Support Document to the total HPBA gas appliance shipments from 2010 to 2013 and applying that average to the total gas appliance shipments to the 2016 through 2020 shipments from HPBA (*www.hpba.org/Resources/Annual-Historical-Hearth-Shipments*). Manufacturer interviews conducted for the February 2015 NOPR analysis were used to develop the market share of decorative hearths (39%) and outdoor heaters (3%) from total shipments. The market shares were assumed to remain constant from 2016–2020.

[20] The aggregate national energy use of decorative hearths is based on energy use estimates developed in section V.B of this document, along with historical shipments from HPBA (*www.hpba.org/Resources/Annual-Historical-Hearth-Shipments*) and the February 2015 NOPR National Impact Analysis, of which 39 percent are assumed to be decorative hearths, and a 15-year hearth lifetime which was used for all products in the February 2015 NOPR for hearth products (U.S. Department of Energy. Technical Support Document: Energy Conservation Programs for Consumer Products, Energy Conservation Standards for Hearth Products. Chapter 8: Life-Cycle-Cost Analysis. January 30, 2015. Available at: *www.regulations.gov/document/EERE-2014-BT-STD-0036-0002*.).

[21] The aggregate national energy use of outdoor heaters is based on energy use estimates developed in section V.B of this document, along with historical shipments from the February 2015 NOPR National Impact Analysis, which assumed that ratio of patio heaters shipments to HPBA hearth shipments was 3 percent, and a 15-year hearth lifetime which was used for all products in the February 2015 NOPR for hearth products (U.S. Department of Energy. Technical Support Document: Energy Conservation Programs for Consumer Products, Energy Conservation Standards for Hearth Products. Chapter 8: Life-Cycle-Cost Analysis. January 30, 2015. Available at: *www.regulations.gov/document/EERE-2014-BT-STD-0036-0002*.).

[22] For more detail on the energy use calculations, please refer to the February 2022 NOPD, available at: *www.regulations.gov/document/EERE-2021-BT-DET-0034-0001*.

has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this final determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This final determination does not establish test procedures or standards for MGPs. On the basis of the foregoing, DOE certifies that this final determination has no significant economic impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

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

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this final determination in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this final determination qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A6, because it is strictly procedural and meets the requirements for application of a categorial exclusion. 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this final determination is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an Environmental Assessment or an Environmental Impact Statement.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. This final determination does not establish energy conservation standards for MGPs. DOE has examined this final determination and concludes that it does not preempt State law or have substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

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

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this final determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

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

K. Review Under Executive Order 13211

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

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

L. Information Quality

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

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.[23] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[24]

M. Congressional Notification

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

V. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 430

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

Signing Authority

This document of the Department of Energy was signed on August 26, 2022, by, Dr. Geraldine L. Richmond, Under Secretary for Science and Innovation, 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 26, 2022.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

[23] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at the following website: *energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (last accessed July 1, 2022).

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

■ 2. Section 430.2 is amended by adding, in alphabetical order, definitions of ''Decorative hearth product'', ''Miscellaneous gas products'', and ''Outdoor heater'' to read as follows:

§ 430.2 Definitions.

* * * * *

Decorative hearth product means a gas-fired appliance that—

(1) Simulates a solid-fueled fireplace or presents a flame pattern;

(2) Includes products designed for indoor use, outdoor use, or either indoor or outdoor use;

(3) Is not for use with a thermostat;

(4) For products designed for indoor use, is not designed to provide space heating to the space in which it is installed; and

(5) For products designed for outdoor use, is not designed to provide heat proximate to the unit.

* * * * *

Miscellaneous gas products mean decorative hearth products and outdoor heaters.

* * * * *

Outdoor heater means a gas-fired appliance designed for use in outdoor spaces only, and which is designed to provide heat proximate to the unit.

* * * * *

[FR Doc. 2022–18856 Filed 9–2–22; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Consumer Financial Protection Circular 2022–04: Insufficient Data Protection or Security for Sensitive Consumer Information

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Consumer Financial Protection Circular.

SUMMARY: The Consumer Financial Protection Bureau (Bureau or CFPB) has issued Consumer Financial Protection Circular 2022–04, titled, ''Insufficient Data Protection or Security for Sensitive Consumer Information.'' In this circular, the Bureau responds to the question, ''Can entities violate the prohibition on unfair acts or practices in the Consumer Financial Protection Act (CFPA) when they have insufficient data protection or information security?''

DATES: The Bureau released this circular on its website on August 11, 2022.

ADDRESSES: Enforcers, and the broader public, can provide feedback and comments to *Circulars@cfpb.gov.*

FOR FURTHER INFORMATION CONTACT: Jaclyn Sellers, Senior Counsel, Office of Supervision, Fair Lending and Enforcement, at (202) 435–2661. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

Question Presented

Can entities violate the prohibition on unfair acts or practices in the Consumer Financial Protection Act (CFPA) when they have insufficient data protection or information security?

Response

Yes. In addition to other Federal laws governing data security for financial institutions, including the Safeguards Rules issued under the Gramm-Leach-Bliley Act (GLBA), ''covered persons'' and ''service providers'' must comply with the prohibition on unfair acts or practices in the CFPA. Inadequate security for the sensitive consumer information collected, processed, maintained, or stored by the company can constitute an unfair practice in violation of 12 U.S.C. 5536(a)(1)(B). While these requirements often overlap, they are not coextensive.

Acts or practices are unfair when they cause or are likely to cause substantial injury that is not reasonably avoidable or outweighed by countervailing benefits to consumers or competition. Inadequate authentication, password management, or software update policies or practices are likely to cause substantial injury to consumers that is not reasonably avoidable by consumers, and financial institutions are unlikely to successfully justify weak data security practices based on countervailing benefits to consumers or competition. Inadequate data security can be an unfair practice in the absence of a breach or intrusion.

Analysis

Widespread data breaches and cyberattacks have resulted in significant harms to consumers, including monetary loss, identity theft, significant time and money spent dealing with the impacts of the breach, and other forms of financial distress. Providers of consumer financial services are subject to specific requirements to protect consumer data. In 2021, the Federal Trade Commission (FTC) updated its Safeguards Rule implementing section 501(b) of GLBA, to set forth specific criteria relating to the safeguards that certain nonbank financial institutions must implement as a part of their information security programs.[1] These safeguards, among other things, limit who can access customer information, require the use of encryption to secure such information, and require the designation of a single qualified individual to oversee an institution's information security program and report at least annually to the institution's board of directors or equivalent governing body. The Federal banking agencies also have issued interagency guidelines to implement section 501 of GLBA.[2]

In certain circumstances, failure to comply with these specific requirements may also violate the CFPA's prohibition on unfair acts or practices. The CFPA defines an unfair act or practice as an act or practice: (1) that causes or is likely to cause substantial injury to consumers, (2) which is not reasonably avoidable by consumers, and (3) is not outweighed by countervailing benefits to consumers or competition.[3]

A practice causes substantial injury to consumers when it causes significant harm to a few consumers or a small amount of harm to many consumers. For example, inadequate data security measures can cause significant harm to a few consumers who become victims of targeted identity theft as a result, or it can cause harm to potentially millions of consumers when there are large customer-base-wide data breaches. Information security weaknesses can result in data breaches, cyberattacks, exploits, ransomware attacks, and other exposure of consumer data.[4]

Further, actual injury is not required to satisfy this prong in every case. A significant risk of harm is also sufficient. In other words, this prong of unfairness is met even in the absence of a data breach. Practices that ''are likely to cause'' substantial injury, including inadequate data security measures that have not yet resulted in a breach, nonetheless satisfy this prong of unfairness.[5]

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[1] 86 FR 70272 (Dec. 9, 2021).

[2] *See* 66 FR 8616 (Feb. 1, 2001). These guidelines are currently codified at 12 CFR pt. 30, appendix B (OCC); Regulation H, 12 CFR 208, appendix D–2 (Board); Regulation Y, 12 CFR 225, appendix F (Board); 12 CFR pt. 364, appendix B (FDIC).

[3] 12 U.S.C. 5531(c). The unfairness standard in the CFPA is similar to the unfairness standard in section 5 of the Federal Trade Commission Act.

[4] *Compliance Management Review—Information Technology,* CFPB Examination Procedures (Sept. 2021), *https://files.consumerfinance.gov/f/documents/cfpb_compliance-management-review-information-technology_examination-procedures.pdf.*

[5] *See, e.g., FTC* v. *Wyndham Worldwide Corp.,* 799 F.3d 236, 246 (3d Cir. 2015) (''Although unfairness claims 'usually involve actual and completed harms,' 'they may also be brought on the

Consumers cannot reasonably avoid the harms caused by a firm's data security failures. They typically have no way of knowing whether appropriate security measures are properly implemented, irrespective of disclosures provided. They do not control the creation or implementation of an entity's security measures, including an entity's information security program. And consumers lack the practical means to reasonably avoid harms resulting from data security failures.[6]

Where companies forgo reasonable cost-efficient measures to protect consumer data, like those measures identified below, the CFPB expects the risk of substantial injury to consumers will outweigh any purported countervailing benefits to consumers or competition. The CFPB is unaware of any instance in which a court applying an unfairness standard has found that the substantial injury caused or likely to have been caused by a company's poor data security practices was outweighed by countervailing benefits to consumers or competition.[7] Given the harms to consumers from breaches involving sensitive financial information, this is not surprising.

Relevant Precedent

On July 22, 2019, the CFPB alleged that Equifax violated the CFPA's prohibition on unfair acts or practices.[8] The FTC also alleged that Equifax violated the FTC Act and the FTC's Safeguards Rule, which implements section 501 of GLBA and establishes certain requirements that nonbank financial institutions must adhere to in order to protect financial information.[9]

In its complaint against Equifax, the CFPB alleged an unfairness violation based on Equifax's failure to provide reasonable security for sensitive personal information it collected, processed, maintained, or stored within computer networks.[10] In particular, Equifax violated the prohibition on unfairness (as well as the FTC's Safeguards Rule) by using software that contained a known vulnerability and failing to patch the vulnerability for more than four months. Hackers exploited the vulnerability to steal over 140 million names, dates of birth, and SSNs, as well as millions of telephone numbers, email addresses, and physical addresses, and hundreds of thousands of credit card numbers and expiration dates.[11]

Before the Equifax matter, law enforcement actions related to inadequate authentication triggered liability under the FTC Act's prohibition on unfair practices. In 2006, the FTC sued online check processor Qchex and related entities for violating the FTC Act. The FTC alleged that it was an unfair practice to create and deliver checks without verifying that the person requesting the check was authorized to draw checks on the associated bank account.[12] Qchex created checks ''even when the customer's name differed from the name on the bank account listed on the checks or from the name on the credit card account the customer used to pay for [Qchex's] services.'' [13]

Even after setting up certain identity verification procedures, Qchex bypassed those procedures for some customers.[14] Ultimately, a court observed, ''it was a simple matter for unscrupulous opportunists to obtain identity information and draw checks from accounts that were not their own.'' [15] That court confirmed that Qchex injured consumers by creating and delivering unverified checks, in violation of section 5 of the FTC Act.[16] Implementation of common-sense practices—including those that are now required under the FTC's Safeguards Rule—protects consumers from injury and that, in turn, mitigates potential liability for businesses.

Liability for unfair acts or practices has also been triggered in the context of password management and routine software updates. In 2012, the FTC sued multiple entities associated with the Wyndham hospitality company for their failures ''to employ reasonable and appropriate measures to protect personal information against unauthorized access'' in violation of the FTC Act's prohibitions on deceptive and unfair acts and practices.[17] The inadequate data security practices included ''using outdated operating systems that could not receive security updates or patches to address known security vulnerabilities,'' servers that used ''well-known default user IDs and passwords . . . which were easily available to hackers through simple internet searches,'' and password management policies that did not require ''the use of complex passwords for access to the Wyndham-branded hotels' property management systems and allow[ing] the use of easily guessed passwords.'' [18]

The FTC alleged that, due to these and other deficient security measures, ''intruders were able to gain unauthorized access to [Wyndham's] computer network . . . on three separate occasions'' and retrieved ''customers' payment card account numbers, expiration dates, and security codes.'' [19] One such incident led to ''the compromise of more than 500,000 payment card accounts, and the export of hundreds of thousands of consumers' payment card account numbers to a domain registered in Russia.'' [20] When Wyndham argued that data security issues were outside the bounds of the FTC's unfairness authority, the courts confirmed that ''the FTC has authority to regulate cybersecurity under the unfairness prong of'' section 5(a) of the FTC Act and that regulated entities have adequate notice that cybersecurity issues could lead to violations of that provision.[21]

In March 2022, the FTC announced an administrative complaint and proposed consent orders against Residual Pumpkin Entity, LLC and PlanetArt, LLC, respectively the former and current operators of CafePress, a customized

basis of likely rather than actual injury,' '[and] the FTC Act expressly contemplates the possibility that conduct can be unfair before actual injury occurs.' '') (interpreting unfairness standard in the FTC Act, for which precedent is often used in interpreting the similar CFPA standard) (citations omitted).

[6] *FTC* v. *Neovi, Inc.,* 598 F. Supp. 2d 1104, 1115 (S.D. Cal. 2008) (''[C]onsumers who had their bank accounts accessed without authorization had no chance whatsoever to avoid the injury before it occurred.'').

[7] *FTC* v. *Neovi,* 604 F.3d 1150, 1158 (9th Cir. 2010) (''The FTC also met its burden of showing that consumer injury was not outweighed by countervailing benefits to consumers or to competition.''); *FTC* v. *Wyndham Worldwide Corp.,* 10 F. Supp. 3d 602 (D.N.J. 2014) (defendant challenged first two elements, but not the countervailing benefits finding).

[8] Complaint at 39–53, *BCFP* v. *Equifax, Inc.,* 1:19–cv–03300 (N.D. Ga. July 22, 2019), *https://files.consumerfinance.gov/f/documents/cfpb_equifax-inc_complaint_2019-07.pdf.* The FTC also alleged that Equifax violated the FTC Act's prohibition on unfair acts or practices.

[9] Complaint at 45–46, *FTC* v. *Equifax, Inc.,* 1:19–mi–99999–UNA (N.D. Ga. July 22, 2019), *https://www.ftc.gov/system/files/documents/cases/172_3203_equifax_complaint_7-22-19.pdf.*

[10] Complaint at 40–42, *BCFP* v. *Equifax, Inc., https://files.consumerfinance.gov/f/documents/cfpb_equifax-inc_complaint_2019-07.pdf.*

[11] The CFPB, FTC, and state Attorneys General imposed $700 million in relief and penalties against Equifax.

[12] *See* Complaint at 10, *FTC* v. *Neovi, Inc.,* 598 F. Supp. 2d 1104 (S.D. Cal. 2008) (No. 06 Civ. 1952), *aff'd,* 604 F.3d 1150 (9th Cir. 2010).

[13] *Id.* at 5.

[14] *Id.* at 6.

[15] *Neovi, Inc.,* 604 F.3d at 1154.

[16] *Id.* at 1157.

[17] First Amended Complaint at 19, *FTC* v. *Wyndham Worldwide Corp.,* 10 F. Supp. 3d 602 (D.N.J. 2014) (No. 13 Civ. 1887), *aff'd,* 799 F.3d 236 (3d Cir. 2015).

[18] *Id.* at 11.

[19] *Id.* at 12–13.

[20] *Id.* at 15.

[21] *Wyndham Worldwide Corp.,* 799 F.3d at 240.

merchandise e-commerce platform.[22] The FTC's complaint documented several inadequate data security practices, including the failure to ''implement patch management policies and procedures to ensure timely remediation of critical security vulnerabilities,'' the failure to ''establish or enforce rules sufficient to make user credentials (such as username and password) hard to guess,'' the failure to disclose security incidents to relevant parties, and inadequate ''measures to prevent account takeovers through password resets using data known to have been obtained by hackers.'' [23]

While the prohibition on unfair practices is fact-specific, the experience of the agencies suggests that failure to implement common data security practices will significantly increase the likelihood that a firm may be violating the prohibition. In the examples below, the Circular describes conduct that will typically meet the first two elements of an unfairness claim (likely to cause substantial injury to consumers that is not reasonably avoidable by consumers), and thus increase the likelihood that an entity's conduct triggers liability under the CFPA's prohibition of unfair practices.

1. Multi-Factor Authentication

Multi-factor authentication (MFA) is a security enhancement that requires multiple credentials (factors) before an account can be accessed.[24] Factors fall into three categories: something you know, like a password; something you have, like a token; and something you are, like your fingerprint. A common MFA setup is supplying both a password and a temporary numeric code in order to log in. Another MFA factor is the use of hardware identification devices. MFA greatly increases the level of difficulty for adversaries to compromise enterprise user accounts, and thus gain access to sensitive customer data. MFA solutions that protect against credential phishing, such as those using the Web Authentication standard supported by web browsers, are especially important.

If a covered person or service provider does not require MFA for its employees or offer multi-factor authentication as an option for consumers accessing systems and accounts, or has not implemented a reasonably secure equivalent, it is unlikely that the entity could demonstrate that countervailing benefits to consumers or competition outweigh the potential harms, thus triggering liability.[25]

2. Password Management

Unauthorized use of passwords is a common data security issue. Username and password combinations can be sold on the dark web or posted for free on the internet, which can be used to access not just the accounts in question, but other accounts held by the consumer or employee.

If a covered person or service provider does not have adequate password management policies and practices, it is unlikely they would succeed in showing countervailing benefits to consumers or competition that outweigh the potential harms, thus triggering liability.[26] This includes failing to have processes in place to monitor for breaches at other entities where employees may be re-using logins and passwords (including notifying users when a password reset is required as a result) and includes use of default enterprise logins or passwords.

3. Timely Software Updates

Software vendors regularly update software to address security vulnerabilities within a program or product. When patches are released, the public, including hackers, become aware of the prior vulnerabilities. Therefore, when companies use commonly available software, including open-source software and open-source libraries,[27] and do not install a patch that has been released for that software or take other mitigating steps if patching is not possible, they neglect to fix a security vulnerability that has become widely known. As noted in the CFPB's complaint against Equifax, Equifax's 2017 failure to patch a known vulnerability resulted in hackers gaining access to Equifax's systems that exposed the personal information of nearly 148 million consumers.[28]

If covered persons or service providers do not routinely update systems, software, and code (including those utilized by contractors) or fail to update them when notified of a critical vulnerability, it is unlikely they would succeed in showing countervailing benefits to consumers or competition that outweigh the potential harms, thus triggering liability. This includes not having asset inventories of which systems contain dependencies on certain software to make sure software is up to date and highlight needs for patches and updates. It also includes the use of versions of software that are no longer actively maintained by their vendors.

About Consumer Financial Protection Circulars

Consumer Financial Protection Circulars are issued to all parties with authority to enforce Federal consumer financial law. The CFPB is the principal Federal regulator responsible for administering Federal consumer financial law, *see* 12 U.S.C. 5511, including the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices, 12 U.S.C. 5536(a)(1)(B), and 18 other ''enumerated consumer laws,'' 12 U.S.C. 5481(12). However, these laws are also enforced by State attorneys general and State regulators, 12 U.S.C. 5552, and prudential regulators including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration. *See, e.g.,* 12 U.S.C. 5516(d), 5581(c)(2) (exclusive enforcement authority for banks and credit unions with $10 billion or less in assets). Some Federal consumer financial laws are also enforceable by other Federal agencies, including the Department of Justice and the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

Consumer Financial Protection Circulars are intended to promote

[22] CafePress, 87 FR 16187 (FTC Mar. 22, 2022) (analysis of proposed consent orders to aid public comment).

[23] Complaint at 4–5, *In re Residual Pumpkin Entity, LLC and PlanetArt, LLC,* No. 1923209, (FTC June 23, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/1923209CafePressComplaint.pdf.*

[24] *Back to Basics: What's multi-factor authentication—and why should I care?,* National Institute of Standards and Technology, *https://www.nist.gov/blogs/cybersecurity-insights/back-basics-whats-multi-factor-authentication-and-why-should-i-care.*

[25] For a more thorough discussion of MFA, please refer to Cybersecurity & Infrastructure Security Agency's (CISA's) Multi-Factor Authentication page, or the National Institute of Standards and Technology's (NIST's) Digital Identity Guidelines. *Multi-Factor Authentication,* CISA, *https://www.cisa.gov/mfa; Digital Identity Guidelines: Authentication and Lifecycle Management; Authenticator Assurance Level 2,* NIST, (June 2017), *https://pages.nist.gov/800-63-3/sp800-63b.html.*

[26] *Good Security Habits,* CISA, (Feb. 1, 2021), *Good Security Habits | CISA.*

[27] *FTC warns companies to remediate Log4j security vulnerability* (Jan. 4, 2022), *https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2022/01/ftc-warns-companies-remediate-log4j-security-vulnerability.* (''Log4j is a ubiquitous piece of software used to record activities in a wide range of systems found in consumer-facing products and services. Recently, a serious vulnerability in the popular Java logging package, Log4j (CVE–2021–44228) was disclosed, posing a severe risk to millions of consumer products to enterprise software and web applications.'')

[28] Complaint at 13, *BCFP* v. *Equifax, Inc., https://files.consumerfinance.gov/f/documents/cfpb_equifax-inc_complaint_2019-07.pdf.*

consistency in approach across the various enforcement agencies and parties, pursuant to the CFPB's statutory objective to ensure Federal consumer financial law is enforced consistently. 12 U.S.C. 5511(b)(4).

Consumer Financial Protection Circulars are also intended to provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions. *See, e.g.,* 12 U.S.C. 5552(b) (consultation with CFPB by State attorneys general and regulators); 12 U.S.C. 5562(a) (joint investigatory work between CFPB and other agencies).

Consumer Financial Protection Circulars are general statements of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). They provide background information about applicable law, articulate considerations relevant to the Bureau's exercise of its authorities, and, in the interest of maintaining consistency, advise other parties with authority to enforce Federal consumer financial law. They do not restrict the Bureau's exercise of its authorities, impose any legal requirements on external parties, or create or confer any rights on external parties that could be enforceable in any administrative or civil proceeding. The CFPB Director is instructing CFPB staff as described herein, and the CFPB will then make final decisions on individual matters based on an assessment of the factual record, applicable law, and factors relevant to prosecutorial discretion.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–19075 Filed 9–2–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2022–1147; Special Conditions No. 25–829–SC]

Special Conditions: L2 Consulting Services, Inc., Bombardier Model BD–700–1A10 and BD–700–1A11 Airplanes; Electronic System Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. These airplanes, as modified by L2 Consulting Services, Inc., will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for airplanes. This design feature is associated with the installation of an electronic network system architecture that will allow increased connectivity to and access from external network sources, (*e.g.,* operator networks, wireless devices, internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated electronic assets (networks, systems, and databases). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on L2 Consulting Services, Inc., on September 6, 2022. Send comments on or before October 21, 2022.

ADDRESSES: Send comments identified by Docket No. FAA–2022–1147 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to Thuan T. Nguyen, Aircraft Information Systems, AIR–622, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone; 206–231–3365; email *Thuan.T.Nguyen@faa.gov.* Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Docket: Background documents or comments received may be read at *https://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thuan T. Nguyen, Aircraft Information Systems, AIR–622, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone; 206–231–3365; email *Thuan.T.Nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On October 1, 2021, L2 Consulting Services, Inc., applied for a supplemental type certificate for the installation of an electronic network system architecture that will allow increased connectivity to and access from external network sources, (*e.g.,* operator networks, wireless devices, internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated electronic assets (networks, systems, and databases). The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes are twin-engine, transport category airplanes, executive-interior business jets with a maximum takeoff weight of 93,500 pounds (42,410 Kg) and a maximum seating capacity of seventeen passengers and two crew members.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, L2 Consulting Services Inc., must show that the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes will incorporate a novel or unusual design feature, which is the installation of an electronic network system architecture that will allow increased connectivity to and access from external network sources, (*e.g.,* operator networks, wireless devices, internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated electronic assets (networks, systems, and databases).

Discussion

The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes electronic system architecture and network configuration is novel or unusual for commercial transport airplanes because it may allow increased connectivity to and access from aircraft external network sources, airline operations, and maintenance networks, to the airplane's control domain and airline information services domain. The airplane's control domain and airline information services domain perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with external network sources. This data network and design integration creates a potential for unauthorized persons to access the aircraft control domain and airline information services domain, and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane-system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, databuses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems is not compromised by unauthorized wired or wireless electronic connections. This includes ensuring that the security of the airplane's systems is not compromised during maintenance of the airplane's electronic systems. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or introduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. Should L2 Consulting Services, Inc., apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00003NY to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes, as modified by L2 Consulting Services,

Inc., for airplane electronic-unauthorized external access.

1. The applicant must ensure airplane electronic system security protection from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system security threats are identified and assessed, and that effective electronic system security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post type certification modifications that may have an impact on the approved electronic system security safeguards.

Issued in Kansas City, Missouri, on August 30, 2022.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–19106 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2022–1146; Special Conditions No. 25–828–SC]

Special Conditions: L2 Consulting Services, Inc., Bombardier Model BD–700–1A10 and BD–700–1A11 Airplanes; Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. These airplanes, as modified by L2 Consulting Services, Inc., will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is associated with the installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on L2 Consulting Services, Inc., on September 6, 2022. Send comments on or before October 21, 2022.

ADDRESSES: Send comments identified by Docket No. FAA–2022–1146 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to Thuan T. Nguyen, Aircraft Information Systems, AIR–622, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone; 206–231–3365; email *Thuan.T.Nguyen@faa.gov*. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Docket: Background documents or comments received may be read at *https://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thuan T. Nguyen, Aircraft Information Systems, AIR–622, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone; 206–231–3365; email *Thuan.T.Nguyen@faa.gov*.

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On October 1, 2021, L2 Consulting Services, Inc., applied for a supplemental type certificate for the installation of a digital system that

contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components. The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes are twin-engine business jets with a maximum takeoff weight of 93,500 pounds (42,410 Kg) and a maximum seating capacity of seventeen passengers and two crew members.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, L2 Consulting Services Inc., must show that the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14CFR part25) do not contain adequate or appropriate safety standards for the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes will incorporate the following novel or unusual design feature, which is the installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components.

Discussion

The Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes electronic system architecture and network configuration change is novel or unusual for commercial transport airplanes because it is composed of several connected wireless and hardwired networks. This proposed system and network architecture is used for a diverse set of airplane functions, including:

- flight-safety related control and navigation systems,
- airline business and administrative support, and
- passenger entertainment.

The airplane's control domain and airline information services domain of these networks perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with other network sources. This network architecture creates a potential for unauthorized persons to access the aircraft control domain and airline information services domain from sources internal to the airplane, and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane-system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems will not be compromised by unauthorized hardwired or wireless electronic connections from within the airplane. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or reintroduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. Should L2 Consulting Services, Inc., apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00003NY to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes for airplane electronic-system internal access.

1. The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, and other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Kansas City, Missouri, on August 30, 2022.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–19107 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0592; Project Identifier MCAI–2021–01023–T; Amendment 39–22168; AD 2022–18–17]

RIN 2120–AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a report of a manufacturing error that can create dents on the lower wing plank, close to the flap arm locations at certain wing stations; as a result, cracks could develop and weaken the structural integrity of the wings before being detected by any existing required inspections. This AD requires an inspection for damage (including dents, cracks, discoloration, gouges, scratches, or other surface damage) of the lower wing plank in the flap arm areas at certain wing stations, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 11, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0592; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833–990–7272 or direct-dial telephone 450–990–7272; fax 514–855–8501; email *thd.crj@mhirj.com*; website *mhirj.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–0592.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain MHI RJ Aviation ULC Model CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on June 2, 2022 (87 FR 33454). The NPRM was prompted by AD CF–2021–31, dated September 14, 2021, issued by Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that a manufacturing error may have resulted in dents on the lower wing plank, close to the five flap arm locations at wing station (WS) 54.55, WS 128.00, WS 179.00, WS 220.00, and WS 264.00. These dents could lead to cracks that could weaken the structural integrity of the wings before being detected by any existing required inspection.

In the NPRM, the FAA proposed to require an inspection for damage (including dents, cracks, discoloration, gouges, scratches, or other surface damage) of the lower wing plank in the flap arm areas at certain wing stations, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0592.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed MHI RJ Aviation Service Bulletin 670BA–57–029, dated February 2, 2021. This service information specifies procedures for, among other actions, doing a detailed visual inspection for damage (including dents, cracks, discoloration, gouges, scratches, or other surface damage) of the outer aft lower skin at WS 54.55, WS 128.00, WS 179.00, WS 220.00, and WS 264.00, and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 14 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$2,380

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–18–17 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22168; Docket No. FAA–2022–0592; Project Identifier MCAI–2021–01023–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC (type certificate previously held by Bombardier, Inc.) Model CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, having serial number 15462 through 15475 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a manufacturing error that can create dents on the lower wing plank, close to the flap arm locations at certain wing stations; as a result, cracks could develop and weaken the structural integrity of the wings before being detected by any existing required inspections. The FAA is issuing this AD to address dents, cracks, and other damage, that, if not detected and corrected, could lead to reduced structural integrity of the wings.

(f) Compliance

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

(g) Inspection and Corrective Action

Prior to the accumulation of 8,800 total flight hours or within 30 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection for damage (including dents, cracks, discoloration, gouges, scratches, or other surface damage) of the outer aft lower skin at wing stations (WS) 54.55, WS 128.00, WS 179.00, WS 220.00, and WS 264.00 in accordance with paragraph B., ''Procedure,'' of the Accomplishment Instructions of MHI RJ Aviation Service Bulletin 670BA–57–029, dated February 2, 2021. Do all applicable corrective actions before further flight. If any damage is found during the inspection, before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(h) No Reporting Requirement

Although MHI RJ Aviation Service Bulletin 670BA–57–029, dated February 2, 2021, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the inspection can be done, provided the flight is a non-revenue flight.

(j) Other FAA Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(k) Additional Information

(1) Refer to TCCA AD CF–2021–31, dated September 14, 2021, for related information. This TCCA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–0592.

(2) For more information about this AD, contact Deep Gaurav, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone

516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) MHI RJ Aviation Service Bulletin 670BA–57–029, dated February 2, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833–990–7272 or direct-dial telephone 450–990–7272; fax 514–855–8501; email *thd.crj@mhirj.com*; website *mhirj.com.*

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

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

Issued on August 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–19117 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0601; Project Identifier MCAI–2021–01286–T; Amendment 39–22152; AD 2022–18–01]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–10–24, which applied to certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes; AD 2018–23–14, which applied to certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes; and AD 2021–05–12, which applied to certain Airbus SAS Model A330–200 Freighter series airplanes. AD 2017–10–24, AD 2018–23–14, and AD 2021–05–12 require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD revises the applicability by adding airplanes. This AD continues to require the actions in AD 2018–23–14 and AD 2021–05–12, and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 11, 2022.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of January 2, 2019 (83 FR 60754, November 27, 2018).

The Director of the Federal Register also approved the incorporation by reference of a certain other publication listed in this AD as of April 26, 2021 (86 FR 15092, March 22, 2021).

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *https://www.airbus.com.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at regulations.gov by searching for and locating Docket No. FAA–2022–0601.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0601; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0246, dated November 17, 2021 (EASA AD 2021–0246) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–201, –202, –203, –223, and –243 airplanes; Model A330–223F and –243F airplanes; Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; Model A330–841 airplanes; and Model A330–941 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–10–24, Amendment 39–18898 (82 FR 24035, May 25, 2017) (AD 2017–10–24); AD 2018–23–14, Amendment 39–19501 (83 FR 60754, November 27, 2018) (AD 2018–23–14); and AD 2021–05–12, Amendment 39–21455 (86 FR 15092, March 22, 2021) (AD 2021–05–12). AD 2017–10–24 applied to certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes; AD 2018–23–14 applied to certain Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes; and AD 2021–05–12 applied to certain Airbus SAS Model A330–200 Freighter series airplanes. The NPRM published in the **Federal Register** on June 9, 2022 (87 FR 35118). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to revise the applicability by adding

airplanes. The NPRM also proposed to continue to require the actions in AD 2018–23–14 and AD 2021–05–12, and proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0246.

The FAA is issuing this AD to address fatigue cracking, accidental damage, or corrosion in principal structural elements, and possible failure of certain life limited parts, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0246 specifies procedures for new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires the following service information.

- Airbus A330 Airworthiness Limitations Section (ALS) Part 1, Safe Life Airworthiness Limitation Items (SL–ALI), Revision 09, dated September 18, 2017, which the Director of the Federal Register approved for incorporation by reference as of January 2, 2019 (83 FR 60754, November 27, 2018).
- Airbus A330 ALS Part 1, SL–ALI, Variation 9.2, dated November 28, 2017, which the Director of the Federal Register approved for incorporation by reference as of January 2, 2019 (83 FR 60754, November 27, 2018).
- Airbus A330 ALS Part 1, SL–ALI, Variation 9.3, dated November 29, 2017, which the Director of the Federal Register approved for incorporation by reference as of January 2, 2019 (83 FR 60754, November 27, 2018).
- EASA AD 2020–0190, dated August 27, 2020, which the Director of the Federal Register approved for incorporation by reference as of April 26, 2021 (86 FR 15092, March 22, 2021).

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

Costs of Compliance

The FAA estimates that this AD affects 138 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2018–23–14 and AD 2021–05–12 to be $7,650 (90 work-hours × $85 per work-hour) per AD.

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

The FAA estimates the total cost per operator for the new actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–10–24, Amendment 39–18898 (82 FR 24035, May 25, 2017); AD 2018–23–14, Amendment 39–19501 (83 FR 60754, November 27, 2018); and AD 2021–05–12, Amendment 39–21455 (86 FR 15092, March 22, 2021); and

■ b. Adding the following new AD:

2022–18–01 Airbus SAS: Amendment 39–22152; Docket No. FAA–2022–0601; Project Identifier MCAI–2021–01286–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 11, 2022.

(b) Affected ADs

This AD replaces the ADs specified in paragraphs (b)(1) through (3) of this AD.

(1) AD 2017–10–24, Amendment 39–18898 (82 FR 24035, May 25, 2017) (AD 2017–10–24).

(2) AD 2018–23–14, Amendment 39–19501 (83 FR 60754, November 27, 2018) (AD 2018–23–14).

(3) AD 2021–05–12, Amendment 39–21455 (86 FR 15092, March 22, 2021) (AD 2021–05–12).

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (5) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 1, 2021.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.
(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.
(4) Model A330–841 airplanes.
(5) Model A330–941 airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, accidental damage, or corrosion in principal structural elements, and possible failure of certain life limited parts, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program for AD 2018–23–14, With a New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2018–23–14, with a new terminating action. For Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 29, 2017: Within 90 days after January 2, 2019 (the effective date of AD 2018–23–14), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the service information identified in paragraphs (g)(1) through (3) of this AD. The initial compliance times for accomplishing the tasks are at the applicable times specified in the service information identified in paragraphs (g)(1) through (3) of this AD, or within 90 days after January 2, 2019, whichever occurs later. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (l) of this AD terminates the requirements of this paragraph.

(1) Airbus A330 Airworthiness Limitations Section (ALS) Part 1, Safe Life Airworthiness Limitation Items (SL–ALI), Revision 09, dated September 18, 2017.

(2) Airbus A330 ALS Part 1, SL–ALI, Variation 9.2, dated November 28, 2017.

(3) Airbus A330 ALS Part 1, SL–ALI, Variation 9.3, dated November 29, 2017.

(h) Retained Restrictions on Alternative Actions and Intervals for AD 2018–23–14, With a New Exception

This paragraph restates the requirements of paragraph (i) of AD 2018–23–14, with a new exception. Except as required by paragraphs (i) and (l) of this AD, after the existing maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p)(1) of this AD.

(i) Retained Revision of the Existing Maintenance or Inspection Program for AD 2021–05–12, With a New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2021–05–12, with a new terminating action. For Airbus SAS Model A330–223F and –243F airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 29, 2020, except as specified in paragraph (j) of this AD, comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0190, dated August 27, 2020 (EASA AD 2020–0190). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (l) of this AD terminates the requirements of this paragraph.

(j) For AD 2021–05–12: Retained Exceptions to EASA AD 2020–0190 With No Changes

This paragraph restates the exceptions specified in paragraph (h) of AD 2021–05–12, with no changes.

(1) The requirements specified in paragraph (1) of EASA AD 2020–0190 do not apply to this AD.

(2) Paragraph (2) of EASA AD 2020–0190 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations'' specified in paragraph (2) of EASA AD 2020–0190 within 90 days after April 26, 2021 (the effective date of AD 2021–05–12).

(3) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2020–0190 is on or before the applicable ''limitations'' specified in paragraph (2) of EASA AD 2020–0190, or within 90 days after April 26, 2021 (the effective date of AD 2021–05–12), whichever occurs later.

(4) The provision specified in paragraph (3) of EASA AD 2020–0190 does not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0190 does not apply to this AD.

(k) Retained Restrictions on Alternative Actions and Intervals for AD 2021–05–12, With a New Exception

This paragraph restates the requirements of paragraph (i) of AD 2021–05–12, with a new exception. Except as required by paragraph (l) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0190.

(l) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (m) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0246, dated November 17, 2021 (EASA AD 2021–0246). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraphs (g) and (i) of this AD.

(m) Exceptions to EASA AD 2021–0246

(1) Where EASA AD 2021–0246 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraph (1) of EASA AD 2021–0246 do not apply to this AD.

(3) Paragraph (2) of EASA AD 2021–0246 specifies revising ''the AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (2) of EASA 2021–0246 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2021–0246, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (3) and (4) of EASA AD 2021–0246 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2021–0246 does not apply to this AD.

(n) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (l) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0246.

(o) Terminating Action for Certain Requirements of Paragraph (g) of This AD

Accomplishing the actions required by paragraph (i) of this AD terminates the limitation for the nose landing gear lower torque link having part number D64001, as required by paragraph (g) of AD 2018–23–14, for Model A330–223F and –243F airplanes only.

(p) Additional FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions

from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(q) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

(r) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on October 11, 2022.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0246, dated November 17, 2021.

(ii) [Reserved]

(4) The following service information was approved for IBR on January 2, 2019 (83 FR 60754, November 27, 2018).

(i) Airbus A330 Airworthiness Limitations Section (ALS) Part 1, Safe Life Airworthiness Limitation Items (SL–ALI), Revision 09, dated September 18, 2017.

(ii) Airbus A330 ALS Part 1, SL–ALI, Variation 9.2, dated November 28, 2017.

(iii) Airbus A330 ALS Part 1, SL–ALI, Variation 9.3, dated November 29, 2017.

(5) The following service information was approved for IBR on April 26, 2021 (86 FR 15092, March 22, 2021).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0190, dated August 27, 2020.

(ii) [Reserved]

(6) For EASA AD 2020–0190 and EASA AD 2021–0246, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *https://www.airbus.com.*

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

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

Issued on August 16, 2022.

Christina Underwood,

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

[FR Doc. 2022–19098 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0397; Project Identifier MCAI–2021–01354–A; Amendment 39–22151; AD 2022–17–13]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Piaggio Aero Industries S.p.A. (Piaggio) Model P–180 airplanes. This AD is prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as altimetry system errors in the air data computers (ADCs) and stand-by instrument systems. This AD requires amending the existing airplane flight manual (AFM), installing improved ADCs and a detachable configuration module (DCM), and revising the existing instructions for continued airworthiness. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 11, 2022.

ADDRESSES: For service information identified in this final rule, contact Piaggio Aero Industries S.p.A., P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: (+39) 331 679 74 93; email: *technicalsupport@piaggioaerospace.it.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0397.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0397; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4144; email: *mike.kiesov@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Piaggio Model P–180 airplanes. The NPRM published in the **Federal Register** on April 8, 2022 (87 FR 20790). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2019–0269, dated October 29, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on Piaggio Model P.180 Avanti II airplanes. The MCAI states:

> During monitoring of P.180 Avanti II fleet by EUROCONTROL (checks performed by Air Traffic Control stations) a mean altimetry system error and some singular measurement exceedances were reported being outside of limits defined by rules applicable to Reduced Vertical Separation Minimum (RVSM) airworthiness standards. Subsequent investigation determined that the static source error correction curves embedded in the ADC of pilot and co-pilot, as well as in the stand-by instrument system, did not ensure the required RVSM performance of the aeroplane.
>
> This condition, if not corrected, could lead to delivery [of] erroneous air data information and consequent impairment of aeroplane altitude-keeping capability, possibly resulting in a mid-air collision within RVSM airspace.
>
> To address this potential unsafe condition, Piaggio issued the AFM TC [Temporary

Change No. 107] introducing additional limitations for operation within RVSM airspace and issued the SB [Piaggio Aerospace Service Bulletin 80–0467] providing instructions to modify the aeroplane.

For the reasons described above, this [EASA] AD requires amendment of the AFM and modification of the aeroplane by installing improved ADCs and DCM.

You may examine the MCAI in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0397.

In the NPRM, the FAA proposed to require amending the existing AFM, installing improved ADCs and a DCM, and revising the existing instructions for continued airworthiness. The FAA is issuing this AD to prevent a mean altimetry system error measurement from exceeding the limits defined for operations within airspace designed as RVSM airspace. The unsafe condition, if not addressed, could result in a potential mid-air collision within RVSM airspace.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Piaggio. The following presents the comment received on the NPRM and the FAA's response to the comment.

Request To Update Obsolete Contact Information for Piaggio

Piaggio requested that the FAA revise the NPRM to update their contact information for service information.

The FAA agrees and has updated the contact information for Piaggio accordingly.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for the changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Piaggio Aero Industries S.p.A. A.S. Service Bulletin No. 80–0467, Revision 2, dated March 6, 2020, which specifies procedures for replacing the two ADCs and the DCM with improved parts.

The FAA also reviewed Piaggio Aviation P.180 Avanti II/EVO Temporary Change No. 107, dated September 17, 2019, which updates the limitations section of the AFM by prohibiting operations in RVSM airspace if the ADCs and DCM have not been replaced.

In addition, the FAA reviewed Piaggio Aviation P.180 Avanti EVO Maintenance Manual Temporary Revision No. 126, dated June 6, 2019, which updates and adds certain tasks for the navigation system.

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

Differences Between This AD and the MCAI

The MCAI requires informing all flight crews of the AFM revision and operating accordingly thereafter, and this AD does not because those actions are already required by FAA operating regulations.

Costs of Compliance

The FAA estimates that this AD will affect 101 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Revise AFM	1 work-hour × $85 per hour = $85	Not Applicable	$85	$8,585
Update AFM	1 work-hour × $85 per hour = $85	Not Applicable	85	8,585
Replace two ADCs and one DCM	16 work-hours × $85 per hour = $1,360	$21,900	23,260	2,349,260

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–17–13 Piaggio Aero Industries S.p.A.: Amendment 39–22151; Docket No. FAA–2022–0397; Project Identifier MCAI–2021–01354–A.

(a) Effective Date

This airworthiness directive (AD) is effective October 11, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Piaggio Aero Industries S.p.A. Model P–180 airplanes, serial number (S/N) 1002 and S/Ns 1105 through 3010 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 3417, Air Data Computer.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as altimetry system errors in the air data computers (ADCs) and stand-by instrument systems. The FAA is issuing this AD to prevent a mean altimetry system error measurement from exceeding the limits defined for operations within airspace designed as reduced vertical separation minimum (RVSM) airspace. The unsafe condition, if not addressed, could result in a potential mid-air collision within RVSM airspace.

(f) Compliance

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

(g) Required Actions

(1) Within 24 months after the effective date of this AD, revise the Limitations section of the existing airplane flight manual (AFM) for your airplane by adding the information in Piaggio Aviation P.180 Avanti II/EVO Temporary Change No. 107, dated September 17, 2019. Using a different document with language identical to that on page 2–33–bis or 2–33.C–bis (as applicable to the S/N of your airplane) of Piaggio Aviation P.180 Avanti II/EVO Temporary Change No. 107, dated September 17, 2019, is acceptable for compliance with this requirement.

(2) Within 660 hours time-in-service after the effective date of this AD or 24 months after the effective date of this AD, whichever occurs first, modify the airplane by replacing the ADCs and detachable configuration module (DCM) in accordance with the Accomplishment Instructions, paragraphs (5) through (14), of Piaggio Aero Industries S.p.A. A.S. Service Bulletin No. 80–0467, Revision 2, dated March 6, 2020, and revise the instructions for continued airworthiness for your airplane by incorporating the information in Piaggio Aviation P.180 Avanti EVO Maintenance Manual Temporary Revision No. 126, dated June 6, 2019.

(3) The AFM revision required by paragraph (g)(1) of this AD, if included, may be removed after completing the actions required by paragraph (g)(2) of this AD.

(4) As of the effective date of this AD, do not install on any airplane an ADC part number (P/N) 822–1109–018, DCM P/N 501–1870–31, or DCM P/N 501–1870–51.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Mike Kiesov, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4144; email: *mike.kiesov@faa.gov.*

(2) Refer to MCAI European Union Aviation Safety Agency (EASA) AD 2019–0269, dated October 29, 2019, for related information. You may examine the EASA AD at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0397.

(j) Material Incorporated by Reference

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

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

(i) Piaggio Aero Industries S.p.A. A.S. Service Bulletin No. 80–0467, Revision 2, dated March 6, 2020.

(ii) Piaggio Aviation P.180 Avanti EVO Maintenance Manual Temporary Revision No. 126, dated June 6, 2019.

(iii) Piaggio Aviation P.180 Avanti II/EVO Temporary Change No. 107, dated September 17, 2019.

(3) For service information identified in this AD, contact Piaggio Aero Industries S.p.A., P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: (+39) 331 679 74 93; email: *technicalsupport@piaggioaerospace.it.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on August 12, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–19055 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0475; Airspace Docket No. 21–AEA–16]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes three low altitude United States Area Navigation (RNAV) routes (T-routes) in the northeast United States to support the VHF Omnidirectional Range (VOR) Minimum Operational Network (MON) Program. The purpose is to enhance the efficiency of the National Airspace System (NAS) by transitioning from a ground-based to a satellite-based navigation system.

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

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

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence

Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2022–0475, in the **Federal Register** (87 FR 27956; May 10, 2022) establishing six RNAV T-routes in the northeast United States to support the VOR MON Program. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States RNAV T-routes are published in paragraph 6011 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be subsequently published in FAA Order JO 7400.11.

Difference From the NPRM

The FAA proposed to establish six RNAV T routes. However, subsequent to the NPRM, the FAA determined that further coordination is required on routes T–428, T–434, and T–436 before they can be implemented. Therefore, those three routes are removed from this rule and will be implemented at a later date under a separate docket. This rule establishes only T–416, T–430, and T–438 as proposed.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by establishing three low altitude RNAV T-routes, designated T–416, T–430, and T–438, in the northeast United States to support the VOR MON Program.

T–416: T–416 extends between the Smyrna, DE (ENO), VHF Omnidirectional Range and Tactical Air Navigational System (VORTAC) and the PREPI, OA, Fix (OA means ''Offshore Atlantic''). The route overlays VOR Federal airway V–312 between the ALBEK, NJ, Fix, and the PREPI Fix. At the PREPI Fix, T–416 connects with the oceanic route structure.

T–430: T–430 extends between the Philipsburg, PA (PSB), VORTAC, and the Solberg, NJ (SBJ), VOR/DME. The route overlays airway V–30 between the Philipsburg VORTAC and the Solberg VOR/DME.

T–438: T–438 extends between the RASHE, PA, Fix, and the PREPI, OA, Fix. It overlays airway V–276 between the RASHE Fix and the PREPI Fix.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of establishing three low altitude RNAV T-routes, designated T–416, T–430, and T–438, in the northeast United States, in support of efforts transitioning the NAS from ground-based to satellite-based navigation, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–416 Smyrna, DE (ENO) to PREPI, OA [New]		
Smyrna, DE (ENO)	VORTAC	(Lat. 39°13′53.93″ N, long. 075°30′57.49″ W)
TEBEE, NJ	FIX	(Lat. 39°30′13.97″ N, long. 075°19′37.19″ W)
LULOO, NJ	WP	(Lat. 39°36′35.96″ N, long. 075°12′57.43″ W)
RIDNG, NJ	WP	(Lat. 39°45′30.23″ N, long. 075°05′59.95″ W)
ALBEK, NJ	FIX	(Lat. 39°46′39.92″ N, long. 074°54′25.99″ W)
Coyle, NJ (CYN)	VORTAC	(Lat. 39°49′02.42″ N, long. 074°25′53.85″ W)
PREPI, OA	FIX	(Lat. 39°48′41.06″ N, long. 073°15′40.70″ W)

* * * * * * *

T–430 Philipsburg, PA (PSB) to Solberg, NJ (SBJ) [New]		
Philipsburg, PA (PSB)	VORTAC	(Lat. 40°54′58.53″ N, long. 077°59′33.78″ W)
Selinsgrove, PA (SEG)	VOR/DME	(Lat. 40°47′27.09″ N, long. 076°53′02.55″ W)
East Texas, PA (ETX)	VOR/DME	(Lat. 40°34′51.74″ N, long. 075°41′02.51″ W)
BOPLY, PA	FIX	(Lat. 40°32′47.79″ N, long. 075°11′07.06″ W)
Solberg, NJ (SBJ)	VOR/DME	(Lat. 40°34′58.96″ N, long. 074°44′30.45″ W)

* * * * * * *

T–438 RASHE, PA to PREPI, OA [New]		
RASHE, PA	FIX	(Lat. 40°40′36.04″ N, long. 077°38′38.94″ W)
Ravine, PA (RAV)	VORTAC	(Lat. 40°33′12.21″ N, long. 076°35′57.77″ W)
HIKES, PA	FIX	(Lat. 40°22′55.93″ N, long. 075°36′54.90″ W)
MAZIE, PA	FIX	(Lat. 40°19′19.55″ N, long. 075°06′35.28″ W)
Yardley, PA (ARD)	VOR/DME	(Lat. 40°15′12.03″ N, long. 074°54′27.41″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)
PREPI, OA	FIX	(Lat. 39°48′41.06″ N, long. 073°15′40.70″ W)

* * * * *

Issued in Washington, DC, on August 30, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–19101 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1229

[Docket No. CPSC–2015–0028]

Safety Standard for Infant Bouncer Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In September 2017, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for infant bouncer seats under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the ASTM voluntary standard for infant bouncer seats that had been adopted earlier in 2017 and was in effect at the time. ASTM updated the mandatory standard for infant bouncer seats in 2019 and again in 2022. Consistent with the CPSIA's process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when the voluntary standards organization revises the standard, this direct final rule updates the mandatory standard for infant bouncer seats to incorporate by reference ASTM's 2022 version of the voluntary standard.

DATES: The rule is effective on December 19, 2022, unless CPSC receives a significant adverse comment by October 6, 2022. If CPSC receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of December 19, 2022.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2015–0028, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number, CPSC–2015–0028, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–6820; email: *KWalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). A mandatory standard must be ''substantially the same as'' the corresponding voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the

Commission's rules when a voluntary standards organization revises a standard that the Commission previously incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

2. Safety Standard for Infant Bouncer Seats

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for infant bouncer seats, codified in 16 CFR part 1229. The rule incorporated by reference ASTM F2167–17, *Standard Consumer Safety Specification for Infant Bouncer Seats,* with no modifications. 82 FR 43470 (Sep. 18, 2017). At the time the Commission published the final rule, ASTM F2167–17 was the current version of the voluntary standard. ASTM revised the voluntary standard in May 2019. In September 2019, the Commission revised the mandatory standard to incorporate by reference ASTM F2167–19. 84 FR 46878 (Sep. 6, 2019).

On June 22, 2022, ASTM notified CPSC that it has once more revised the voluntary standard for infant bouncer seats, by approving ASTM F2167–22 on May 1, 2022. On June 30, 2022, the Commission published a notice of availability in the **Federal Register** regarding the revised voluntary standard and sought comments on the effect of the revisions on the safety of the standard for infant bouncer seats. 87 FR 39068 (Jun. 30, 2022). No comments were submitted.

As discussed in section B. Revisions to ASTM F2167, based on CPSC staff's review of ASTM F2167–22,[1] the Commission will allow the revised voluntary standard to become the mandatory standard because it improves the safety of infant bouncer seats.[2] Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F2167–22 will become the mandatory consumer product safety standard for infant bouncer seats on December 19, 2022. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1229 to incorporate by reference the revised voluntary standard, ASTM F2167–22.

B. Revisions to ASTM F2167

The ASTM standard for infant bouncer seats includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to children associated with infant bouncer seats. ASTM F2167–22 contains substantive revisions as well as editorial, non-substantive revisions. These revisions from ASTM F2167–19 to ASTM F2167–22 consist of changes to the infant bouncer seat warning label language, as well as changes that do not impact safety because they do not change the meaning of the standard and are editorial in nature. The Commission concludes that these changes collectively improve the safety of infant bouncer seats, and none has an adverse effect on safety. Below is a detailed discussion of the substantive and non-substantive changes made to ASTM F2167–19.

Substantive Changes in ASTM F2167–22

ASTM F2167–22 revised the suffocation-related warnings to clarify that the product is not intended or safe for sleep and directs consumers to move the baby to a flat sleep surface if the baby falls asleep in the product. Specifically, in section 8.5.2 of ASTM F2167–19, the suffocation hazard warning language stated:

Suffocation hazard: Babies have suffocated when bouncers have tipped over on soft surfaces.

- NEVER use product on a bed, sofa, cushion, or other soft surface.
- NEVER leave baby unattended.

To prevent falls and suffocation:

- ALWAYS use restraints and adjust to fit snugly, even if baby falls asleep.

ASTM F2167–22 revised the suffocation hazard warning section to the following:

Suffocation hazard: Babies have suffocated when bouncers tipped over on soft surfaces and/or when bouncers have been used as a sleep product.

- NEVER use on a bed, sofa, cushion, or other soft surface.
- Stay near and watch baby during use. This product is not safe for sleep or unsupervised use. If baby falls asleep, remove baby as soon as possible and place baby on a firm, flat sleep surface such as a crib or bassinet.

To prevent falls and suffocation:

- ALWAYS use restraints and adjust to fit snugly.

The statements advising caregivers to always use restraints and adjust to fit snugly, which is on both the fall hazard and suffocation hazard warnings, have now been updated by removing the statement: ''even if baby falls asleep.'' Specifically, in sections 8.5.1.1 and 8.5.2.1 of ASTM F2167–19, the contained the statement:

- ALWAYS use restraints and adjust to fit snugly, even if baby falls asleep.

ASTM F2167–22 revised the statement to the following:

- ALWAYS use restraints and adjust to fit snugly.

The warning language in the 2019 version that recommended using and adjusting the restraints includes the phrase: ''even if baby falls asleep,'' which may suggest to users that using bouncers for infant sleep is acceptable. The ASTM subcommittee has since concluded that bouncers should not be used for sleep. Thus, the 2022 revision deletes this phrase and adds clarifying language to communicate clearly to consumers that: ''This product is not safe for sleep or unsupervised use,'' while reinforcing the message that babies should sleep in cribs, bassinets, or other firm, flat sleep surfaces. These changes improve safety.

The Commission also considers the change from ''NEVER leave child unattended'' to ''Stay near and watch baby during use'' to be an improvement in safety. Consumers are more likely to understand a message directly instructing them on what to do to avoid the hazard. A user study conducted for CPSC to assess this language concluded that caregivers prefer clear and straight-to-the-point phrases. The researchers further concluded that many caregivers misinterpret the words ''unattended'' and ''unsupervised,'' and these terms should be replaced with less ambiguous phrases.

[1] CPSC staff's briefing package regarding ASTM F2167–22 is available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Revised-Safety-Standard-for-Infant-Bouncer-Seats.pdf?VersionId=cQ1Dr6X0fNVW4jNlbFGhkwy9bwU1FcZX.*

[2] The Commission voted 4–1 to approve this notice. Chair Hoehn-Saric and Commissioners Baiocco, Feldman and Boyle voted to approve publication of the notice as drafted. Commissioner Trumka voted to determine that the proposed revision does not improve the safety of infant bouncer seats and therefore not approve publication of the notice in the **Federal Register**. Commissioner Trumka issued a statement in connection with his vote.

The Commission considers the modified suffocation warnings an improvement to safety because they provide clear and concise instructions for safe use of an infant bouncer. The new warning statement provides concise guidance to the caregiver that infant bouncer seats are not safe for sleep, and it provides guidance that is consistent with CPSC messaging about the importance of placing sleeping babies on firm, flat sleep surfaces, such as a crib or bassinet.

Finally, changes were made to the wording in the corresponding Figures indicated below to reflect the current Ad-Hoc Recommendations: [3]

- Figure.11 Fall Hazard Warnings;
- Figure.12 Suffocation Hazard Warnings; and
- Figure. 13, Instruction Warnings Statements.

The Commission considers these changes to be an improvement to safety because the changes are consistent with revisions to language made to *Subsection 8.5.1.1 and 8.5.2.1,* and thus may avoid consumer confusion, and because they discourage caregivers from using the product for sleep.

Non-Substantive Changes in ASTM F2167–22

ASTM F2167–22 makes several non-substantive changes to the standard. The following has been added to the Appendix:

X1.9 Subsection 8.5.2.1—Change in the form of an added statement to explain the non-relevance and removal of ''*even if baby is sleeping*'' from the Appendix Rationale in the new standard. This change does not impact safety because it does not affect the information available to consumers.

Finally, several minor editorial changes adding hyphens to language in the standard were made. The Commission finds that the non-substantive changes made in ASTM F2167–22 regarding safety for infant bouncer seats do not impact safety.

C. Incorporation by Reference

Section 1229.2 of the direct final rule incorporates by reference ASTM F2167–22. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section B. Revisions to ASTM F2167 of this preamble summarizes the major provisions of ASTM F2167–22 that the Commission incorporates by reference into 16 CFR part 1229. The standard is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F2167–22 is available for viewing, at no cost, on ASTM's website at: *www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F2167–22 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; telephone: (610) 832–9585; *www.astm.org.*

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because infant bouncer seats are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1229 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[4] the tracking label requirements in section 14(a)(5) of the CPSA,[5] and the consumer registration form requirements in section 104(d) of the CPSIA.[6] ASTM F2167–22 makes no changes that would impact any of these existing requirements.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing infant bouncer seats. 82 FR 43470 (Sep. 18, 2017). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing infant bouncer seats to 16 CFR part 1229. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' codified in 16 CFR part 1112. *Id.* CPSC-accepted testing laboratories that have ASTM F2167–19 in their scope of accreditation are competent to conduct testing to ASTM F2167–22. None of the changes to the standard would affect a CPSC-accepted laboratory's ability to conduct testing to the revised standard.

Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2167–19 to be capable of testing to ASTM F2167–22 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations. Thus, laboratories will begin testing to the new standard when ASTM F2167–22 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable,

[3] ASTM Ad Hoc Wording Task Group (Ad Hoc TG) consists of members of various durable nursery product voluntary standards committees, including CPSC staff. The Ad Hoc TG's purpose is to harmonize the wording of common sections (*e.g.,* introduction, scope, protective components) and warning label requirements across durable infant and toddler product voluntary standards.

[4] 15 U.S.C. 1278a.

[5] 15 U.S.C. 2063(a)(5).

[6] 15 U.S.C. 2056a(d).

unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F2167–22 to become CPSC's new standard because its provisions improve product safety. The purpose of this direct final rule is to update the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2167–22 takes effect as the new CPSC standard for infant bouncer seats, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on December 19, 2022. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach,'' or a claim that the rule ''would be ineffective or unacceptable without a change.'' 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section F. Direct Final Rule Process of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for infant bouncer seats includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). While the revised mandatory standard revises existing marking and labeling, and instructional literature language for infant bouncer seats, the revisions would not add to the burden hours because the products already require marking, labeling, and instructional literature. The new requirements merely require new words or wording changes to language already required by the standard for infant bouncer seats. Therefore, the new requirements are not materially more burdensome than the existing requirements. Conforming the mandatory standard for infant bouncer seats to ASTM's revision of the voluntary standard also reduces burdens on manufacturers who would follow the updated voluntary standard and thus, in the absence of this rule, be subject to partially inconsistent requirements.

The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1229, and the marking, labeling, and instructional literature for infant bouncer seats are currently approved under OMB Control Number 3041–0159. Because the information collection burden is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission timely notifies the standards organization that it has determined that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for infant bouncer seats. Therefore, ASTM F2167–22 will take effect as the new mandatory standard for infant bouncer seats on December 19, 2022, 180 days after June 22, 2022, when the Commission received notice of the revision.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Environmental Considerations

Commission rules are categorically excluded from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential

for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1229

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1229—SAFETY STANDARD FOR INFANT BOUNCER SEATS

■ 1. The authority citation for part 1229 continues to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a).

■ 2. Revise § 1229.2 to read as follows:

§ 1229.2 Requirements for infant bouncer seats.

Each infant bouncer seat must comply with all applicable provisions of ASTM F2167–22, *Standard Consumer Safety Specification for Infant Bouncer Seats,* approved on approved May 1, 2022. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at *www.astm.org/READINGLIBRARY/.* You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9585; *www.astm.org.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–19179 Filed 9–2–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 514

RIN 3141–AA77

Annual Fee Calculation

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission is amending agency procedures for calculating the amount of annual fee a gaming operation owes the National Indian Gaming Commission. The amendment excludes certain promotional credits from the calculation of the annual fee a gaming operation owes.

DATES: Effective October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Austin Badger, National Indian Gaming Commission; 1849 C Street NW, MS 1621, Washington, DC 20240. Telephone: 202–632–7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (NIGC or Commission) and sets out a comprehensive framework for the regulation of gaming on Indian lands. The IGRA established an agency funding framework whereby gaming operations licensed by tribes pay a fee to the Commission for each gaming operation that conducts Class II or Class III gaming activity that is regulated pursuant to IGRA. 25 U.S.C. 2717(a)(1). These fees are used to fund the Commission in carrying out its regulatory authority. On August 15 1991, the NIGC published a final rule in the **Federal Register** called Annual Fees Payable By Class II Gaming Operations. 58 FR 5831. The rule added a new part to the Commission's regulations to provide direction and guidance to Class II gaming operations to enable them to compute and pay the annual fees as authorized by the Indian Gaming Regulatory Act. The Commission has substantively amended them numerous times, most recently in 2018 (83 FR 2903).

II. Development of the Rule

On, June 9, 2021, the National Indian Gaming Commission sent a Notice of Consultation announcing that the Commission intended to consult on a number of topics, including proposed changes to the fee regulations. Prior to consultation, the Commission released proposed discussion drafts of the regulations for review. The proposed amendment to the fee regulations were intended to provide clarity as to whether a tribal gaming operation must include certain promotional credits, commonly referred to as ''free play,'' as ''money wagered'' for purposes of calculating the annual fee. The Commission held two virtual consultation sessions in July of 2021 to receive tribal input on the possible changes.

The Commission reviewed all comments received as part of the consultation process. After considering the comments received from the public and through tribal consultations, the Commission published a notice of proposed rulemaking on December 2, 2021. 86 FR 68445.

III. Review of Public Comments

The Commission received the following comments in response to our notice of proposed rulemaking.

Comment: Commenters recommended that the exclusion for promotional credits be mandatory rather than at the discretion of the tribal gaming operation. Commenters believe that the exclusion must be mandatory to prevent tribal gaming operations from paying fees on revenues that are not recognized under Generally Accepted Accounting Principles. Commenters also believe that discretionary language permits the NIGC to determine whether to accept the exclusion of promotional credits from the calculation of assessable gross revenues by tribal gaming operations on a discretionary basis. Finally, commenters believe that discretionary language may prompt reconsideration of promotional credit treatment in tribal-state compacts.

Response: The Commission accepts this recommendation to provide a uniform calculation of the annual fee. The Commission initially made the deduction discretionary because it noted that a sizeable percentage of tribe

gaming operations were not deducting promotional credits from the calculation of fees. The Commission had hoped that through consultation it would gain insight into those tribes' reasons for including free play in the calculation of fees. When the subject was not addressed by any tribes during consultation, the Commission drafted a notice of proposed rulemaking that maintained the discretionary nature of the withholding. Again, Commenters unanimously called for the deduction to be made mandatory. The Commission agrees that promotional credits should not be included in the calculation of fees. To ensure that fees are calculated uniformly across the Tribal gaming industry, it has adopted language as set forth below. The Commission further clarifies, however, that this regulation is limited to NIGC fee calculations and is not intended to affect revenue calculations for any other purposes.

Comment: Commenters are concerned that the phrase ''can demonstrate'' does not provide a clear standard for the deduction.

Response: The Commission agrees that the phrase ''can demonstrate'' is redundant and has removed the phrase. The Commission notes that ''promotional gaming credits'' means Gaming credits issued to patrons for wagering that have no cash redemption value; typically used as ''Free Play'' for gaming machine, table games, and other gaming activity promotions. The Commission further notes that all fee calculations must continue to be reconciled with a tribe's audited or reviewed financial statements pursuant to 25 CFR 514.6.

Comment: Commenters recommended incorporating the promotional credit exclusion provision within the text of 25 CFR 514.4(c) rather than as a new paragraph.

Response: The Commission agrees that the simplified promotional credit exclusion provision may be included within 25 CFR 514.4(c).

Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 3141–0007.

Tribal Consultation

The National Indian Gaming Commission is committed to fulfilling its tribal consultation obligations—whether directed by statute or administrative action such as Executive Order (E.O.) 13175 (Consultation and Coordination with Indian Tribal Governments)—by adhering to the consultation framework described in its Consultation Policy published July 15, 2013. The NIGC's consultation policy specifies that it will consult with tribes on Commission Action with Tribal Implications, which is defined as: Any Commission regulation, rulemaking, policy, guidance, legislative proposal, or operational activity that may have a substantial direct effect on an Indian tribe on matters including, but not limited to the ability of an Indian tribe to regulate its Indian gaming; an Indian Tribe's formal relationship with the Commission; or the consideration of the Commission's trust responsibilities to Indian tribes. As discussed above, the NIGC engaged in extensive consultation on this topic and received and considered comments in developing this rule.

List of Subjects in 25 CFR Part 514

Gambling, Indian—lands, Indian—tribal government, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commission amends 25 CFR part 514 as follows:

PART 514—FEES

■ 1. The authority citation for part 514 continues to read:

Authority: 25 U.S.C. 2706, 2710, 2717, 2717a.

■ 2. Amend § 514.4 by revising paragraph (c) to read as follows:

§ 514.4 How does a gaming operation calculate the amount of the annual fee it owes?

* * * * *

(c) For purposes of computing fees, assessable gross revenues for each gaming operation are the total amount of money wagered on class II and III games, plus entry fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded, less any amounts wagered that the gaming operation issued as promotional credits, and less an allowance for capital expenditures for structures as reflected in the gaming operation's audited financial statements.

* * * * *

Dated: August 31, 2022, Washington, DC.

E. Sequoyah Simermeyer,

Chairman.

Jeannie Hovland,

Vice Chair.

[FR Doc. 2022–19217 Filed 9–2–22; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2509

RIN 1210–AC15

Interpretive Bulletin Relating to the Independence of Employee Benefit Plan Accountants

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document contains an Interpretive Bulletin (IB) setting forth guidelines for determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial statements required to be included in the annual report filed with the Department of Labor (Department) under the Employee Retirement Income Security Act of 1974, as amended (ERISA). Under ERISA, a plan administrator is generally required to retain, on behalf of all plan participants, an ''independent qualified public accountant'' to conduct an annual examination of the plan's financial statements and to render an opinion as to whether the financial statements are presented fairly in conformity with generally accepted accounting principles (GAAP) and whether the schedules required to be included in the plan's annual report present fairly, and in all material respects the information contained therein when considered in conjunction with the financial statements taken as a whole. The purpose of this document is to revise and restate an IB the Department issued in 1975 on accountant independence in order to remove certain outdated and unnecessarily restrictive provisions and reorganize its provisions for clarity while continuing to ensure that the Department's interpretations foster proper auditor independence and access of employee benefit plan to highly qualified auditors and audit firms.

DATES: Effective on September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Suzanne Adelman, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500. This is not a toll-free number.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning ERISA and employee benefit plans may call the EBSA Toll-Free Hotline, at 1–866–444–EBSA (3272) or visit the Department of Labor's website (*www.dol.gov/ebsa*).

SUPPLEMENTARY INFORMATION:

Background

The Employee Retirement Income Security Act of 1974, as amended (ERISA), contains provisions designed to protect the interests of plan participants and beneficiaries by requiring the establishment of effective mechanisms to detect and deter abusive practices. This includes requiring annual reporting of financial information and activities of employee benefit plans to the Department of Labor (Department). Sections 101, 103 and 104 of ERISA impose annual reporting and filing obligations on pension and welfare benefit plans. Plan administrators, employers, and others generally satisfy these annual reporting obligations pursuant to the Department's implementing regulations by filing a Form 5500 (Annual Return/Report of Employee Benefit Plan) together with any required schedules and attachments. An integral component of ERISA's annual reporting provisions is the requirement that employee benefit plans, unless otherwise exempt, be subjected to an annual audit performed by an independent qualified public accountant (IQPA), and that the accountant's report be included as part of the plan's Form 5500 annual report filed with the Department.[1] The IQPA requirements in ERISA were intended to protect the assets and the financial integrity of employee benefit plans, and provide participants, beneficiaries, plan administrators, other plan fiduciaries, and the Department with reliable information about an employee benefit plan and its financial soundness.

Section 103(a)(3)(A) of ERISA, codified at 29 U.S.C. 1023(a)(3)(A), sets forth the requirements governing the IQPA's annual audit. The administrator of an employee benefit plan is required to engage, on behalf of all plan participants, an IQPA to conduct an examination of the plan's financial statements, and other books and records of the plan, as the accountant deems necessary to form an opinion on whether the financial statements required to be included in the plan's annual report are presented fairly in accordance with generally accepted accounting principles (GAAP) applied on a basis consistent with that of the preceding year and whether the schedules required to be included in the plan's annual report present fairly, and in all material respects the information contained therein when considered in conjunction with the financial statements taken as a whole. Section 103(a)(3)(A) of ERISA further requires that the accountant's examination must be conducted ''in accordance with generally accepted auditing standards [(GAAS)], and shall involve such tests of the books and records of the plan as are considered necessary by the independent qualified public accountant.'' [2] The accountant's report must contain certain opinions with respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected in such report. Further, the accountant's report must identify any matters to which the accountant takes exception, whether the matters to which the accountant takes exception are the result of the Department's regulations and, to the extent practicable, the effect on the financial statements of the matters to which the accountant has taken exception. If the auditor's independence is considered to have been impaired after the audit is completed, a new audit by another accountant may be required.[3]

Section 103(a)(3)(D) of ERISA, codified at 29 U.S.C. 1023(a)(3)(D),

[1] Certain employee benefit plans are eligible for waivers or limited exemptions from the IQPA audit requirements under regulations issued by the Department. For example, 29 CFR 2520.104–44 provides a limited exemption for welfare plans which are either unfunded, insured or partly unfunded-partly insured, and 29 CFR 2520.104–46 provides a conditional waiver of the examination and report of an IQPA for employee benefit plans with fewer than 100 participants.

[2] Under ERISA, the Department plays no role in setting GAAP and GAAS standards. Such standards are set by institutions closely related to the accounting industry—the Financial Accounting Standards Board (FASB) and the American Institute of Certified Public Accountants (AICPA). The Public Company Accounting Oversight Board (PCAOB) is responsible for setting auditing standards for audits of public companies. In July 2019, the AICPA Auditing Standards Board (ASB) issued Statement on Auditing Standards (SAS) No. 136, Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA. Codified in new AU–C section 703 of the AICPA Professional Standards, the standard addresses the auditor's responsibility to form an opinion and report on the audit of financial statements of employee benefit plans subject to ERISA, and the form and content of the auditor's report issued as a result of an audit of ERISA plan financial statements. SAS No. 141 deferred the effective date of SAS No. 136 to audits of ERISA plan financial statements for periods ending on or after December 15, 2021, with early implementation permitted. Information on the Auditing Standards Board and AU–C Section 703 is available on the AICPA website at *https://us.aicpa.org.*

[3] If a plan does not comply with ERISA's annual reporting requirements, including failing to satisfy the requirements relating to an audit report and opinion of an IQPA, the Department may reject the plan's annual report. If a satisfactorily revised report is not submitted, the Department may, under section 104(a)(5) of ERISA, retain an independent qualified public accountant on behalf of the participants to perform a sufficient audit, bring a civil suit for legal or equitable relief that may be appropriate, or take any other enforcement action authorized under Title I.

states that the term ''qualified public accountant'' means—(i) a person who is a certified public accountant, certified by a regulatory authority of a State; (ii) a person who is a licensed public accountant, licensed by a regulatory authority of a State; or (iii) a person certified by the Secretary as a qualified public accountant in accordance with regulations published by the Secretary for a person who practices in States where there is no certification or licensing procedure for accountants. Although section 103 of ERISA does not include a definition of the term ''independent'' for purposes of the audit requirement, in the Department's view, an accountant's independence is at least of equal importance to the professional competence an accountant brings to an engagement in rendering an opinion and issuing a report on the financial statements of an employee benefit plan and the schedules required to be included in the plan's annual report. Thus, pursuant to the Department's authority to interpret and enforce section 103(a)(3)(A) of ERISA, the Department issued Interpretive Bulletin 75–9 in 1975 to provide guidelines for determining when an accountant is independent for purposes of ERISA's annual reporting requirements.[4]

No explanatory preamble accompanied the 1975 IB when it was published,[5] but its structure and provisions were largely predicated on specific principles that generally parallel the Securities and Exchange Commission's (SEC) independence requirements for auditing publicly traded companies. Specifically, the auditor (1) cannot function in the role of management, (2) cannot audit his or her own work, (3) cannot serve in roles or have relationships that create mutual or conflicting financial interests, and (4) cannot be in a position of being an advocate for the audit client.[6] The 1975 IB reflected these principles by setting forth three specific sets of circumstances that would conclusively render the accountant to not be independent—the first is based on certain roles and statuses, the second is based on financial interests, and the third is based on engaging in management functions related to financial records that would be the subject of the audit—and by setting forth a general facts and circumstances approach that would govern in all other cases.

The Department has periodically been asked to clarify and update its guidelines on the independence of accountants to adjust to changes in the accounting industry and to address differences that have developed as other regulatory authorities have adopted changes to their auditor independence requirements. Accountants and accounting firms have pointed to the challenges of monitoring compliance with different independence standards that apply to different business sectors for which they provide audit services. They have also noted that the nature and complexity of the business environment in which accountants perform services has changed in ways that have led many accounting firms to develop expertise in an array of activities in addition to audit services that may be provided to audit clients. For example, accountants may engage in business consulting, valuation and appraisal services, applications programming, electronic data processing, and recordkeeping.

In the years following the 1975 IB, other regulatory authorities have addressed and revisited issues relating to accountant independence. For example, on January 28, 2003, the SEC adopted final rules regarding independence for auditors that file financial statements with the SEC implementing Title II of the Sarbanes-Oxley Act of 2002.[7] The SEC further amended its auditor independence rules in 2019 and 2020.[8] The Sarbanes-Oxley Act also authorized the establishment of the Public Company Accounting Oversight Board (PCAOB), which requires that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[9] The United States Government Accountability Office (GAO) has similarly published auditor independence requirements under Government Auditing Standards that cover federal entities and organizations receiving federal funds. *See* GAO, The Yellow Book, *www.gao.gov/yellowbook/overview.* The AICPA, although a private membership organization, sets GAAS requirements for non-PCAOB audits, which, ERISA 103(a)(3)(A) expressly adopted for plan audits, and GAAS includes standards by which the auditor must abide to avoid impairment of independence. *See* AICPA, *www.aicpa.org.* Many states have also included an independence component in their requirements for licensed public accountants. Some have specifically adopted the AICPA's Code of Professional Conduct, including its independence guidelines, while others have adopted state-specific rules.

In 2006, the Department issued a Request for Information (RFI) on Independence of Employee Benefit Plan Accountants which sought information from the public to assist the Department in evaluating whether the guidelines in the 1975 IB provided adequate guidance for plan officials, participants and beneficiaries, accountants, and other affected parties.[10] The Department solicited public input on a broad range of issues, including fifteen separate questions on particular areas. After reviewing the public comments submitted in response to the RFI, the Department did not undertake a rulemaking project on accountant independence or otherwise change the Department's interpretive stance on accountant independence generally. The Department also concluded that suggestions from some commenters that the Department simply adopt the SEC's current rules or guidelines on accountant independence or the ethics-based independence guidelines of the AICPA would have required a significant departure from the Department's largely facts and circumstances approach, to a more detailed and prescriptive approach to independence determinations.[11] The Department also concluded that it was not necessary to formally incorporate all or part of the AICPA independence guidelines into an updated IB. Compliance with the AICPA independence guidelines is already part of the GAAS audit requirement incorporated into statute by ERISA section 103(a)(3)(A) and also part of the

[4] Codified at 29 CFR 2509.75–9. See 40 FR 53998 (Nov. 20, 1975), as amended at 40 FR 59728 (Dec. 30, 1975), and redesignated as IB 75–9 at 41 FR 1906 (Jan. 13, 1976).

[5] *Id.*

[6] The SEC's requirements for auditor independence are described in the preamble to the final rule on the Revision of the Commission's Auditor Independence Requirements, 65 FR 76008 (Dec. 5, 2000).

[7] 68 FR 6005 (Feb. 5, 2003), as corrected by 68 FR 15354 (Mar. 31, 2003).

[8] See Auditor Independence with Respect to Certain Loans or Debtor-Creditor Relationships, 84 FR 32040 (July 5, 2019); Qualifications of Accountants, Release No. 33–10876 (Oct. 16, 2020), *www.sec.gov/rules/final/2020/33-10876.pdf.* (published in the **Federal Register** at 85 FR 80508 (Dec. 11, 2020)).

[9] See *https://pcaobus.org/oversight/standards/ethics-independence-rules.*

[10] 71 FR 53348 (Sept. 11, 2006).

[11] For example, the AICPA publishes ''The Plain English Guide to Independence'' that cites a wide range of ''further assistance'' documents, including the AICPA Code of Professional Conduct; Background and Basis for Conclusions: Revisions to Interpretations and Rulings Under Rule 101—Independence; a Conceptual Framework for Independence and a related Toolkit; and the 2011 Yellow Book Independence—Nonaudit Services Documentation Practice Aid. The Guide including links to the ''further assistance'' documents are available at *https://us.aicpa.org/interestareas/professionalethics/resources.html.*

Department's general relevant facts and circumstances approach to the accountant independence requirement. Further, the Department was concerned that expressly adopting either the AICPA or another regulator's requirements as the ERISA standard could result in unintended and undesirable outcomes to the extent that aspects of those other standards or future changes to those standards departed from ERISA policies and purposes.

Although not directly related to the accountant independence requirement, the Employee Benefit Security Administration (EBSA) Office of the Chief Accountant (OCA) actively engages in an ongoing assessment of the level and quality of audit work performed by IQPAs with respect to financial statement audits of employee benefit plans covered by ERISA.[12] This assessment began as a follow-up to a 1989 report issued by the Office of Inspector General (OIG) in which the OIG concluded that 23% of employee benefit plan audits failed to comply with one or more established professional standards. In addition, the OIG found that 65% of IQPA reports on employee benefit plans did not meet the reporting and disclosure requirements of ERISA and the regulations thereunder. The primary objective of EBSA's ongoing review has been to assess whether the level and quality of audit work performed by IQPAs with respect to audits of employee benefit plans covered by ERISA had improved as a result of actions taken by the Department and the accounting and auditing profession since the issuance of the OIG's 1989 report.

EBSA also implemented an Audit Quality Inspection Program in 2005 that significantly expanded OCA's inspection of IQPAs' work as compared to OCA's former on-site audit work paper reviews and ''mini'' inspections. The expanded program has two main components: (1) inspections of IQPAs' employee benefit plan audit practices and (2) reviews of a sample of the IQPAs' employee benefit plan audit work papers. EBSA has published two reports on the results of its assessments and recommendations for improvements, one in 2004 and another in 2015. Work on a third report is underway. One important report finding is that there is a clear link between the number of employee benefit plan audits performed by a certified public accountant (CPA) and the quality of the audit work performed. As set out in the May 2015 Report, the Department's analysis of the data from this audit quality survey indicated a wide disparity in deficiency rates between those CPAs who perform the fewest plan audits and those firms that perform the largest number of plan audits. CPAs who performed the fewest number of employee benefit plan audits annually had a 76% deficiency rate for the audits, meaning that the audit contained deficiencies with respect to one or more relevant GAAS requirements. In contrast, accountants in firms performing the most plan audits had a deficiency rate of 12% for the audits.[13] As noted above, the Department did not open a rulemaking project after its 2006 RFI, but it has continued to engage with accounting industry stakeholders, including efforts to encourage plan fiduciaries to engage auditors who perform high-quality employee benefit plan audits.[14] That engagement more recently has focused on whether the Department can adjust the 1975 IB to remove outdated or unnecessarily restrictive provisions with the goal of fostering greater plan access to high-quality auditors for ERISA plans and better aligning the Department's independence guidelines with those of other accounting regulatory bodies. Based on that continuing engagement, the Department is persuaded that certain changes to the 1975 IB independence guidelines can be implemented that would be consistent with the goal of expanding employee benefit plan access to the most qualified accountants and accounting firms while ensuring that the guidelines continue to foster proper auditor independence. In addition to making the adjustments described in more detail below, the Department has reorganized the interpretive bulletin for clarity.

1. Time Period During Which Accountants Are Prohibited From Holding Financial Interests in the Plan or Plan Sponsor

The 1975 IB set out the Department's view that an accountant cannot conduct the ERISA-required audit of a plan's financial statements if the accountant, the accountant's firm, or a ''member'' of the firm has a ''direct financial interest or material indirect financial interest'' in the plan or plan sponsor ''during the period covered by the financial statements'' or ''[d]uring the period of professional engagement.'' For example, assume a calendar-year publicly traded sponsor of an employee benefit plan decides to change its accountant in March 2021 to perform the audit of the benefit plan's calendar year 2020 Form 5500 financial statements, which must be filed with the Department for calendar year plans no later than the maximum extended due date of October 15, 2021. Under the 1975 IB, the new accountant would be ineligible to audit the benefit plan's financial statements if even one partner of the firm held a single share of the publicly traded stock of the sponsor at any time during 2020, the year under audit. The AICPA, in the context of our ongoing engagement on independence issues and in a letter to EBSA dated March 15, 2019, advised that the requirement that the accountant not have such an interest ''during the period covered by the financial statements'' departs from the rules of other accounting regulatory bodies because it prevents auditors from avoiding disqualification by disposing of the financial interest prior to the period of the professional engagement (*i.e.,* before signing the initial audit engagement letter or commencing audit procedures).[15]

The Department is persuaded that the absence of a divestiture provision for certain financial interests in the 1975 IB makes it unnecessarily restrictive and may serve to unduly limit ERISA plans' access to the best qualified auditors. In the Department's view, requiring that an accountant (or a member of the accountant's firm) not have such a financial interest in the publicly traded securities of the plan sponsor during the period covered by the financial statements (in contrast to the period of the engagement) is not necessary to ensure an accountant's independence.

[12] OCA enforces the annual reporting and audit requirements applicable to ERISA-covered employee benefit plans through the imposition of civil penalties against a plan administrator whose annual report is rejected, as provided in Part 1, Sections 103 and 104, and Part 5, Section 502, of Title I of ERISA. OCA also operates under the broad authority to conduct investigations and to inspect records, under Part 5, Section 504 of Title I of ERISA.

[13] Report of the U.S. Department of Labor, Employee Benefits Security Administration, Office of the Chief Accountant, *Assessing the Quality of Employee Benefit Plan Audits* (May 2015) (*www.dol.gov/agencies/ebsa/key-topics/reporting-and-filing/audit-quality*).

[14] In September 2018, the Department published a guidebook on selecting an auditor, reviewing the audit work and auditor's report, and maximizing the value of the audit process. The guidebook is entitled *Selecting an Auditor for Your Employee Benefit Plan,* and it is available at *www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/selecting-an-auditor-for-your-employee-benefit-plan.pdf.* A copy can also be ordered by calling 1–866–444–3272. The publication is part of the Department's efforts to educate employee benefit plan fiduciaries that selecting an auditor is a fiduciary responsibility and that a well performed audit is a vital protection for the plan.

[15] AICPA Letter to Joe Canary, Director, Office of Regulations and Interpretations, Employee Benefits Security Administration, from James W. Brackens, Jr., CPA, CGMA, Vice President—Ethics & Practice Quality, dated March 15, 2019.

By disposing of such publicly traded securities prior to the engagement, firms and accountants can readily eliminate concern about independence and give plans access to their audit services.

Therefore, subject to a limitation described below, the Department is revising its independence guidelines to provide an exception for new audit engagements from the otherwise applicable condition on holding disqualifying financial interests during the period covered by the financial statements being audited. Under this approach, an accountant or firm is not disqualified from accepting a new audit engagement merely because of holding publicly traded securities of a plan sponsor during the period covered by the financial statements as long as the accountant, accounting firm, partners, shareholder employees, and professional employees of the accountant's accounting firm, and their immediate family, have disposed of any holdings of such publicly traded securities prior to the period of professional engagement. The updated IB also includes a definition of the ''period of professional engagement'' that provides the term means the period beginning when an accountant either signs an initial engagement letter or other agreement to perform the audit or begins to perform any audit, review or attest procedures (including planning the audit of the plan's financial statements), whichever is earlier, and ending with the formal notification, either by the member or client, of the termination of the professional relationship or the issuance of the audit report for which the accountant was engaged, whichever is later. This exception provides accountants with a divestiture window between the time when there is an oral agreement or understanding that a new client has selected them to perform the plan audit and the time an initial engagement letter or other written agreement is signed or audit procedures commence, whichever is sooner.[16]

The new audit engagement exception is limited to publicly traded securities. For purposes of the exception, publicly traded securities are securities listed on a registered stock exchange in which quotations are published on a daily basis, securities regularly traded in a national or regional over-the-counter market for which published quotations are available, or securities traded on a foreign national securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority and where the security is deemed by the SEC as having a ready market under applicable SEC rules. The ERISA auditor independence rules often apply to private and closely held organizations that sponsor plans. In the Department's view, incentives for an auditor to apply less robust audit procedures or to be less transparent in reporting audit results could carry over from other financial interests in the sponsor held during the period covered by the financial statements being audited. Accordingly, in order to maintain the important protections and public confidence that auditor independence provides, the updated IB continues to provide that other financial interests in the plan sponsor during the period covered by the financial statements categorically impair the accountant's independence even if divested before commencing a new audit engagement.

Furthermore, the Department is of the view that it is appropriate that an accountant's relative's ownership interest in a plan sponsor be attributed to the accountant in appropriate circumstances in order to preserve the accountant's and the firm's independence.[17] Although not expressly incorporated into the other examples in the 1975 IB, the Department has and will continue generally to treat the attribution rules in the AICPA independence standard as a relevant fact and circumstance, and, accordingly, has and will continue to consider spouse and dependent ownership and roles in our enforcement of the ERISA section 103(a)(3)(A) requirements governing IQPA audits.

The updated IB continues the current guideline under which an independent, qualified public accountant may permissibly engage in or have members of the accountant's accounting firm engage in certain professional services to the plan or plan sponsor that are not connected to an audit or review of a plan's financial statements without being deemed to have failed the independence requirement. Specifically, the updated IB continues the provisions in the current guidelines under which an accountant will not be treated as failing the independence requirement solely by reason of rendering actuarial services by an actuary associated with the accountant or the accountant's firm, or retention or engagement of the accountant or the accountant's firm on a professional basis by the plan sponsor, provided that the specific examples of prohibitions on recognition of independence in the updated IB are not violated. As with the 1975 IB, the updated IB provides as a general principle that in determining whether an accountant or accounting firm is not, in fact, independent with respect to a particular plan, the Department will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant or accounting firm and that of the plan sponsor or any affiliate thereof. The IB also continues the caution from the 1975 IB that multiple services arrangements may involve prohibited transactions under ERISA, and notes the requirements to comply with conditions in prohibited transaction exemptions, such as the prohibited transaction exemption in ERISA section 408(b)(2) for ERISA section 406(a)(1)(C) service provider transactions.[18]

2. Definition of ''Office'' for Purpose of Determining Who Is a ''Member'' of the Firm

The 1975 IB defines ''member'' as ''all partners or shareholder employees in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit.'' In the years since the 1975 IB was published, the concept of an ''office'' for workplace purposes has changed to focus more on workgroups than on physical locations. The Department is persuaded that its definition of ''member'' would be improved by including a definition of ''office'' for purposes of determining when an individual is ''located in an office'' of the firm participating in a significant portion of the audit. In the Department's view, substance should govern the office classification, and the expected regular personnel interactions and assigned reporting channels of an individual may well be more important than an individual's physical location.

[16] Compare with the SEC rule on ''Qualifications of accountants'' at 17 CFR 210.2–01, including paragraphs (c)(1)(iii)(B) (financial relationships exception for new audit engagements) and (f)(13) (defining ''immediate family'' as meaning a person's spouse, spousal equivalent, and dependents).

[17] Attribution provisions are also part of the SEC and PCAOB independence requirements. See 17 CFR 210.2–01(c)(1)(i) (investments in audit clients) and ET Section 101.02, Interpretation 101–1B at *https://pcaobus.org/Standards/EI/Pages/ET101.aspx.*

[18] The 1975 IB includes the following sentences: ''It should be noted that the rendering of services to a plan by an actuary and accountant employed by the same firm may constitute a prohibited transaction under section 406(a)(1)(C) of the Act. The rendering of such multiple services to a plan by a firm will be the subject of a later interpretive bulletin that will be issued by the Department of Labor.'' Section 406(a)(1)(C) sets forth a prohibited transaction restriction arising from the furnishing of goods, services, or facilities between a plan and a party in interest. Subsequent to the issuance of the 1975 IB, regulations and guidance on prohibited transactions in general (*e.g.,* 29 CFR 2550.408b–2) were issued, rendering the reference to a ''later interpretive bulletin'' obsolete and unnecessary.

Accordingly, the updated IB defines the term ''office'' to mean a reasonably distinct subgroup within a firm, whether constituted by formal organization or informal practice, in which personnel who make up the subgroup generally serve the same group of clients or work on the same categories of matters regardless of the physical location of the individual. This definition of the term ''office'' is modeled on the definition used in the AICPA independence standard. See AICPA Code of Professional Conduct, 0.400.36 (Effective December 15, 2014, and updated for official releases through August 31, 2016) (available at *www.aicpa.org*). See also SEC rules on independence of accountants at 17 CFR 210.2–01(f)(15) (definition of ''office'').

List of Subjects in 29 CFR Part 2509

Employee benefit plans, Employee Retirement Income Security Act, Fiduciaries, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department is amending part 2509 of title 29 of the Code of Federal Regulations as follows:

Subchapter A—General

PART 2509—INTERPRETIVE BULLETINS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

■ 1. The authority citation for part 2509 continues to read as follows:

Authority: 29 U.S.C. 1135. Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003). Sections 2509.75–10 and 2509.75–2 issued under 29 U.S.C. 1052, 1053, 1054. Sec. 2509.75–5 also issued under 29 U.S.C. 1002. Sec. 2509.95–1 also issued under sec. 625, Pub. L. 109–280, 120 Stat. 780.

§ 2509.75–9 [Removed]

■ 2. Remove § 2509.75–9.

■ 3. Add § 2509.2022–01 to read as follows:

§ 2509.2022–01 Interpretive bulletin relating to guidance on independence of accountant retained by employee benefit plan.

This section provides guidance for determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial information required to be included in the annual report (Form 5500 Annual Return/Report of Employee Benefit Plan) filed with the Department of Labor (Department).

(a) *In general.* Section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (ERISA) and 29 CFR 2520.103–1(b)(5) of the Department's implementing regulations require that the accountant retained by an employee benefit plan be ''independent'' for purposes of examining plan financial information and rendering an opinion on the financial statements and schedules required to be contained in the annual report. Under section 103(a)(3)(A) of ERISA the Department will not recognize any person as an independent qualified public accountant who is in fact not independent with respect to the employee benefit plan upon which that accountant renders an opinion in the annual report filed with the Department. In determining whether an accountant or accounting firm is not independent, the Department will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant or accounting firm and that of the plan sponsor or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of annual reports with the Department of Labor.

(b) *Examples.* The following examples are intended to illustrate how the Department would apply paragraph (a) of this section in certain common financial and business relationships. The Department in enforcing the Form 5500 annual reporting requirements will not consider an accountant to be independent with respect to a plan if:

(1)(i) During the period of professional engagement to examine the financial statements being reported, at the date of the opinion, or during the period covered by the financial statements, the accountant, the accountant's firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest in such plan, or the plan sponsor as that term is defined in section 3(16)(B) of ERISA;

(ii) An accountant will not be deemed to have failed the independence requirement under paragraph (b)(1)(i) of this section as a result of any holding of publicly traded securities of the plan sponsor during the period covered by the financial statements if:

(A) The accountant did not audit the client's financial statements for the immediately preceding fiscal year; and

(B) The accountant, the accounting firm, a partner, shareholder employee, or professional employee of the accounting firm, and their immediate family disposed of any holding of publicly traded securities of the plan sponsor before the earlier of:

(*1*) Signing an initial engagement letter or other agreement to provide audit, review, or attest services to the audit client; or

(*2*) Commencing any audit, review, or attest procedures (including planning the audit of the client's financial statements); and

(iii) For purposes of paragraph (b)(1)(ii) of this section, publicly traded securities are securities listed on a registered stock exchange in which quotations are published on a daily basis, securities regularly traded in a national or regional over-the-counter market for which published quotations are available, or securities traded on a foreign national securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority and where the security is deemed by the U.S. Securities and Exchange Commission (SEC) as having a ready market under applicable SEC rules;

(2) During the period of professional engagement to examine the financial statements being reported, at the date of the opinion, or during the period covered by the financial statements, the accountant, the accountant's firm, or a member thereof was connected as a promoter, underwriter, investment advisor, voting trustee, director, officer, or employee of the plan or plan sponsor, except that a firm will not be deemed not independent in regard to a particular plan if a former officer or employee of such plan or plan sponsor is employed by the firm and such individual has completely disassociated himself from the plan or plan sponsor and does not participate in auditing financial statements of the plan covering any period of his or her employment by the plan or plan sponsor; or

(3) An accountant or a member of an accounting firm maintains financial records for the employee benefit plan.

(c) *Effect of certain other services to the plan or plan sponsors.* (1) Subject to paragraph (c)(2) of this section, an accountant will not fail to be recognized as independent solely on the basis that at or during the period of the accountant's professional engagement with the employee benefit plan:

(i) The accountant or the accountant's firm is retained or engaged on a professional basis by the plan sponsor, as that term is defined in section 3(16)(B) of ERISA; or

(ii) An actuary associated with the accountant or accounting firm renders actuarial services to the plan or plan sponsor.

(2) However, to retain recognition of independence, the prohibitions against recognition of independence in paragraph (b)(1), (2), or (3) of this section must not be violated. Further, the rendering of multiple services to a

plan by a firm may give rise to circumstances indicating a lack of independence with respect to the employee benefit plan (*e.g.,* result in the accountant or firm providing services that are subject to audit procedures as part of the plan's audit), and, in accordance with paragraph (a) of this section, in determining whether an accountant or accounting firm is not, in fact, independent with respect to a particular plan, the Department will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant or accounting firm and that of the plan sponsor or any affiliate thereof.

(3) Rendering multiple services to a plan by a firm also may involve prohibited transactions under ERISA and requirements to comply with conditions in prohibited transaction exemptions such as prohibited transaction exemption in ERISA section 408(b)(2) for ERISA section 406(a)(1)(C) service provider transactions.

(d) *Definitions.* For purposes of this section:

(1) *Member* means all partners or shareholder employees in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit; the firm's employee benefit plans; or an entity whose operating, financial, or accounting policies can be controlled by any of the individuals or entities described in this paragraph (d)(1) or by two or more such individuals or entities acting together.

(2) *Office* means a reasonably distinct subgroup within a firm, whether constituted by formal organization or informal practice, in which personnel who make up the subgroup generally serve the same group of clients or work on the same categories of matters regardless of the physical location of the individuals who comprise such subgroup. Substance should govern the office classification, and the expected regular personnel interactions and assigned reporting channels of an individual may well be more important than an individual's physical location.

(3) *Period of professional engagement* means the period beginning when an accountant either signs an initial engagement letter or other agreement to perform the audit or begins to perform any audit, review or attest procedures (including planning the audit of the plan's financial statements), whichever is earlier, and ending with the formal notification, either by the member or client, of the termination of the professional relationship or the issuance of the audit report for which the accountant was engaged, whichever is later. In the case of an auditor that performs a plan's audit for two or more years, in evaluating independence, the Department would not view the period of professional engagement as ending with the issuance of each year's audit report and recommencing with the beginning of the following year's audit engagement.

Signed at Washington, DC, this 26th day of August, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2022–18898 Filed 9–2–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 578

Cyber-Related Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Cyber-Related Sanctions Regulations and reissuing them in their entirety to further implement an April 1, 2015 cyber-related Executive order, as amended by a December 28, 2016 cyber-related Executive order, as well as certain provisions of the Countering America's Adversaries Through Sanctions Act. This final rule replaces the regulations that were published in abbreviated form on December 31, 2015, and includes additional interpretive guidance and definitions, general licenses, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Cyber-Related Sanctions Regulations in their entirety.

DATES: This rule is effective September 6, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On December 31, 2015, OFAC issued the Cyber-Related Sanctions Regulations, 31 CFR part 578 (80 FR 81752, December 31, 2015) (the ''Regulations'') to implement Executive Order (E.O.) 13694 of April 1, 2015, ''Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities'' (80 FR 18077, April 2, 2015), pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13694. The Regulations were initially issued in abbreviated form for the purpose of providing immediate guidance to the public. OFAC is revising the Regulations to further implement E.O. 13694, as amended by E.O. 13757 of December 28, 2016, ''Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities'' (82 FR 1, January 3, 2017), as well as certain provisions of title II of the Countering America's Adversaries Through Sanctions Act (Pub. L. 115–44, 131 Stat. 886 (codified in scattered sections of 22 U.S.C.)) (CAATSA). OFAC is amending and reissuing the Regulations as a more comprehensive set of regulations that includes additional interpretive guidance and definitions, general licenses, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Regulations in their entirety.

E.O. 13694, as Amended by E.O. 13757

On April 1, 2015, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued E.O. 13694. In E.O. 13694, the President determined that the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and declared a national emergency to deal with that threat.

On December 28, 2016, the President issued E.O. 13757 to take additional steps to deal with the national emergency with respect to significant malicious cyber-enabled activities declared in E.O. 13694. E.O. 13757 added an Annex to E.O. 13694 and amended section 1 of E.O. 13694 by replacing section 1(a) in its entirety.

New subsection 1(a) of E.O. 13694, as amended by E.O. 13757 (''amended E.O. 13694''), blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of: (i) the persons listed in the Annex to amended E.O. 13694; (ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be responsible for or complicit in, or to have engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of: (A) harming, or otherwise significantly compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector; (B) significantly compromising the provision of services by one or more entities in a critical infrastructure sector; (C) causing a significant disruption to the availability of a computer or network of computers; (D) causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain; or (E) tampering with, altering, or causing a misappropriation of information with the purpose or effect of interfering with or undermining election processes or institutions; and (iii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State: (A) to be responsible for or complicit in, or to have engaged in, the receipt or use for commercial or competitive advantage or private financial gain, or by a commercial entity, outside the United States of trade secrets misappropriated through cyber-enabled means, knowing they have been misappropriated, where the misappropriation of such trade secrets is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economy of the United States; (B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in subsections (1)(a)(ii) or (iii)(A) of amended E.O. 13694, or any person whose property and interests in property are blocked pursuant to amended E.O. 13694; (C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to amended E.O. 13694; or (D) to have attempted to engage in any of the activities described in subsections (1)(a)(ii) and (iii)(A)–(C) of amended E.O. 13694.

In section 2 of amended E.O. 13694, the President determined that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of amended E.O. 13694 would seriously impair the President's ability to deal with the national emergency declared in amended E.O. 13694. The President therefore prohibited the donation of such items except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to amended E.O. 13694.

Section 3 of amended E.O. 13694 provides that the prohibition on any transaction or dealing in blocked property or interests in property includes the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to amended E.O. 13694, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 5 of amended E.O. 13694 prohibits any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in amended E.O. 13694, as well as any conspiracy formed to violate such prohibitions.

Section 8 of amended E.O. 13694 authorizes the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out the purposes of amended E.O. 13694. Section 8 of amended E.O. 13694 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government.

Cyber-Related CAATSA Provisions

CAATSA, which was signed into law on August 2, 2017, established new sanctions authorities and exceptions, in addition to amending, modifying, or otherwise affecting certain Ukraine-/Russia-related Executive orders and directives, the Ukraine Freedom Support Act of 2014 (22 U.S.C. 8921–8930) (UFSA), and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (22 U.S.C. 8901–8910) (SSIDES).

Title II of CAATSA also required the imposition of sanctions with respect to, among others, activities of the Russian Federation that undermine cybersecurity and persons who knowingly provide financial services in support of activities that undermine cybersecurity. Section 224(a)(1) of CAATSA requires the President, on or after 60 days after the enactment of CAATSA, to block all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of any person that the President determines: (A) knowingly engages in significant activities undermining cybersecurity against any person, including a democratic institution, or government on behalf of the Government of the Russian Federation; or (B) is owned or controlled by, or acts or purports to act for or on behalf of, directly or indirectly, such a person.

Section 224(a)(2) of CAATSA imposes menu-based sanctions described in section 235 of CAATSA with respect to any person that the President determines knowingly materially assists, sponsors, or provides financial, material, or technological support for, or goods or services (except financial services) in support of, significant activities undermining cybersecurity against any person, including a democratic institution, or government on behalf of the Government of the Russian Federation. Section 228 of CAATSA added section 10 to SSIDES, which requires the imposition of sanctions on, among others, foreign persons that the President determines, on or after August 2, 2017, knowingly materially violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition contained in or issued pursuant to E.O. 13694, relating to the Russian Federation, or E.O. 13757, relating to the Russian Federation.

OFAC is incorporating the prohibitions in section 224(a)(1) of CAATSA, as well as the exceptions listed in section 236 of CAATSA, into

the Regulations. OFAC has already implemented section 10 of SSIDES, as amended by section 228 of CAATSA, in 31 CFR part 589. OFAC anticipates incorporating the menu-based provisions of section 224(a)(2) of CAATSA into 31 CFR chapter V at a later date.

Current Regulatory Action

In furtherance of the purposes of amended E.O. 13694, E.O. 13757, and the provisions of CAATSA described above, OFAC is reissuing the Regulations. The Regulations implement targeted sanctions that are directed at persons determined to meet the criteria set forth in § 578.201 of the Regulations, as well as sanctions that may be set forth in any future Executive orders issued pursuant to the national emergency declared in E.O. 13694. The sanctions in amended E.O. 13694 and CAATSA apply where the transaction or service in question involves property or interests in property that are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in sections 1 and 2 of amended E.O. 13694, as well as the prohibitions contained in any further Executive orders issued pursuant to the national emergency declared in E.O. 13694. *See, e.g.,* §§ 578.201 and 578.205. Persons identified in the Annex to amended E.O. 13694, designated by or under the authority of the Secretary of the Treasury pursuant to amended E.O. 13694, or otherwise subject to the blocking provisions of amended E.O. 13694, or the blocking provisions of section 224 of CAATSA, as well as persons who are blocked pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13694, are referred to throughout the Regulations as ''persons whose property and interests in property are blocked pursuant to § 578.201.'' The names of such persons are published on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), which is accessible via OFAC's website. Those names also are published in the **Federal Register** as they are added to the SDN List.

Sections 578.202 and 578.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 578.204 of subpart B provides that all expenses incident to the maintenance of blocked tangible property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC's discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 578.205 of subpart B prohibits any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in § 578.201 of the Regulations, and any conspiracy formed to violate such prohibitions. Section 578.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to section 203(b)(1) of IEEPA (50 U.S.C. 1702(b)(1)), which relates to personal communications; section 236 of CAATSA (22 U.S.C. 9530), which relates to U.S. intelligence activities; and section 237 of CAATSA (22 U.S.C. 9531), which relates to activities of the National Aeronautics and Space Administration.

In subpart C of the Regulations, new definitions are being added to other key terms used throughout the Regulations. Because these new definitions were inserted in alphabetical order, the definitions that were in the prior abbreviated set of regulations have been renumbered. Subpart D contains interpretive sections regarding the Regulations. OFAC is redesignating the interpretive on setoffs previously at § 578.405 as § 578.410. New § 578.405 explains that the prohibition on transactions with blocked persons in § 578.201 applies to services performed by U.S. persons on behalf of a person whose property and interests in property are blocked pursuant to § 578.201, as well as to services received by U.S. persons where the service is performed by, or at the direction of, a person whose property and interests in property are blocked pursuant to § 578.201. OFAC is redesignating the section previously at § 578.406, regarding entities owned by persons whose property and interests in property are blocked, as § 578.411. New § 578.411 explains that the property and interests in property of an entity are blocked if the entity is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked, whether or not the entity itself is incorporated into OFAC's SDN List. New § 578.406 discusses offshore transactions. New §§ 578.407, 578.408, and 578.409 discuss payments from blocked accounts to satisfy obligations, charitable contributions, and credit extended by financial institutions to a person whose property and interests in property are blocked, respectively.

Transactions otherwise prohibited by the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. OFAC is redesignating the authorization for the provision of certain legal services previously in § 578.506 as § 578.507, redesignating the authorization for payments for legal services from funds originating outside the United States previously in § 578.507 as § 578.508, and redesignating the authorization for emergency medical services previously in § 578.508 as § 578.509. OFAC is adding three new general licenses to the Regulations: a general license authorizing the investment and reinvestment of certain funds in new § 578.506, a general license authorizing the official business of the U.S. government in § 578.510, and a general license authorizing certain official business of international entities and organizations in § 578.511. General licenses and statements of licensing policy relating to this part also may be available through the Sanctions Related to Significant Malicious Cyber-Enabled Activities page on OFAC's website: *www.treas.gov/ofac.*

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty or issuance of a Finding of Violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of certain authorities of the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), and the

Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. 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 control number.

List of Subjects in 31 CFR Part 578

Administrative practice and procedure, Banks, Banking, Blocking of assets, Critical infrastructure, Cyber, Cybersecurity, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Services.

■ For the reasons set forth in the preamble, OFAC revises 31 CFR part 578 to read as follows:

PART 578—CYBER-RELATED SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); Pub. L. 115–44, 131 Stat. 886 (codified in scattered sections of 22 U.S.C.); E.O. 13694, 80 FR 18077, 3 CFR 2015 Comp., p. 297; E.O. 13757, 82 FR 1, 3 CFR 2016 Comp., p. 659.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 578.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 578.201 Prohibited transactions.

(a) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) *Annex to E.O. 13694, as amended by E.O. 13757 (''amended E.O. 13694'').* The persons listed in the Annex to amended E.O. 13694;

(2) *Amended E.O. 13694.* Any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(i) To be responsible for or complicit in, or to have engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant

threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of:

(A) Harming, or otherwise significantly compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector;

(B) Significantly compromising the provision of services by one or more entities in a critical infrastructure sector;

(C) Causing a significant disruption to the availability of a computer or network of computers;

(D) Causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain; or

(E) Tampering with, altering, or causing a misappropriation of information with the purpose or effect of interfering with or undermining election processes or institutions;

(ii) To be responsible for or complicit in, or to have engaged in, the receipt or use for commercial or competitive advantage or private financial gain, or by a commercial entity, outside the United States of trade secrets misappropriated through cyber-enabled means, knowing they have been misappropriated, where the misappropriation of such trade secrets is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economy of the United States;

(iii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in paragraph (a)(2)(i) or (ii) of this section or any person whose property and interests in property are blocked pursuant to paragraph (a)(1) of this section or this paragraph (a)(2);

(iv) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(1) of this section or this paragraph (a)(2); or

(v) To have attempted to engage in any of the activities described in paragraphs (a)(2)(i) through (iv) of this section; and

(3) *Section 224(a)(1) of the Countering America's Adversaries Through Sanctions Act (22 U.S.C. 9524) (CAATSA).* Any person that the Secretary of the Treasury, in consultation with the Secretary of State, determines:

(i) Knowingly engages in significant activities undermining cybersecurity against any person, including a democratic institution, or government on behalf of the Government of the Russian Federation; or

(ii) Is owned or controlled by, or acts or purports to act for or on behalf of, directly or indirectly, a person described in paragraph (a)(3)(i) of this section.

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this part, any dealing in securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(e) All transactions prohibited pursuant to any Executive order issued after December 28, 2016, pursuant to the national emergency declared in E.O. 13694 of April 1, 2015, are prohibited pursuant to this part.

Note 1 to § 578.201. The names of persons designated or identified as blocked pursuant to amended E.O. 13694, or any further Executive orders issued pursuant to the national emergency declared therein, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifiers: for amended E.O. 13694: ''[CYBER2]''; and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13694: using the identifier formulation ''[CYBER–E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]].'' Persons designated pursuant to Section 224(a)(1) of CAATSA will have the identifier ''[CAATSA–RUSSIA]''. Certain transactions with persons blocked pursuant to paragraph (a) of this section relating to the Russian Federation may result in the imposition of secondary sanctions, and therefore such blocked persons' entries on the SDN List will include the descriptive prefix text ''Secondary sanctions risk:'' followed by information about the applicable secondary sanctions authority. The SDN List is accessible through the following page on OFAC's website: *www.treas.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 578.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 578.201. The International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) in section 203 (50 U.S.C. 1702) authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List using the following identifiers: for amended E.O. 13694: ''[BPI–CYBER2]''; for CAATSA: ''[BPI–CAATSA–RUSSIA]''; and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13694: ''[BPI–CYBER–E.O.[E.O. number pursuant to which the person's property and interests in property are blocked pending investigation]].''

Note 3 to § 578.201. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

Note 4 to § 578.201. Section 216 of CAATSA (22 U.S.C. 9511) requires congressional review prior to the termination of sanctions imposed pursuant to amended E.O. 13694. Section 222 of CAATSA (22 U.S.C. 9522) describes the congressional notification required prior to the termination of sanctions imposed pursuant to amended E.O. 13694 and CAATSA section 224.

§ 578.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 578.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 578.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 578.201.

§ 578.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 578.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For the purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For the purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For the purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 578.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 578.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds blocked pursuant to § 578.201 may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 578.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 578.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 578.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 578.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 578.205 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 578.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *U.S. intelligence activities.* The prohibitions contained in this part do not apply to activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 *et seq.*), or any authorized intelligence activities of the United States.

(c) *Activities of the National Aeronautics and Space Administration.* The prohibitions contained in this part do not apply to activities of the National Aeronautics and Space Administration (NASA), including the supply by any entity of the Russian Federation of any product or service, or the procurement of such product or service by any contractor or subcontractor of the United States or any other entity, relating to or in connection with any space launch conducted for NASA or any other non-Department of Defense customer.

Subpart C—General Definitions

§ 578.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 578.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 578.201 held in the name of a person whose property and interests in property are blocked pursuant to § 578.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 578.301. *See* § 578.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 578.201.

§ 578.302 Critical infrastructure sector.

The term *critical infrastructure sector* means any of the designated critical infrastructure sectors identified in Presidential Policy Directive 21 of February 12, 2013.

§ 578.303 Cyber-enabled activities.

The term *cyber-enabled activities* includes any act that is primarily accomplished through or facilitated by computers or other electronic devices.

§ 578.304 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(1) With respect to a person listed in the Annex to E.O. 13694, as amended by E.O. 13757, 12:01 eastern standard time, December 29, 2016.

(2) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 578.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

(b) For the purposes of this section, c*onstructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

§ 578.305 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 578.306 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in this part, means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. *Technologies* as used in this section means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 578.307 Foreign person.

The term *foreign person* means any person that is not a U.S. person.

§ 578.308 [Reserved]

§ 578.309 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 578.310 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treas.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: *www.treas.gov/ofac.*

Note 1 to § 578.310. *See* § 501.801 of this chapter on licensing procedures.

§ 578.311 Misappropriation.

The term *misappropriation* includes any taking or obtaining by improper means, without permission or consent, or under false pretenses.

§ 578.312 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 578.313 Person.

The term *person* means an individual or entity.

§ 578.314 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their

contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 578.315 Significant activities undermining cybersecurity.

The term *significant activities undermining cybersecurity* includes: significant efforts to deny access to or degrade, disrupt, or destroy an information and communications technology system or network; or to exfiltrate, degrade, corrupt, destroy, or release information from such a system or network without authorization for purposes of conducting influence operations; or causing a significant misappropriation of funds, economic resources, trade secrets, personal identifications, or financial information for commercial or competitive advantage or private financial gain; significant destructive malware attacks; and significant denial of service activities.

§ 578.316 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 578.317 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 578.318 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 578.319 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 578.401 Reference to amended sections.

(a) Reference to any section in this part is a reference to the same as currently amended, unless the reference includes a specific date. *See* 44 U.S.C. 1510.

(b) Reference to any ruling, order, instruction, direction, or license issued pursuant to this part is a reference to the same as currently amended unless otherwise so specified.

§ 578.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 578.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 578.201, such property shall no longer be deemed to be property blocked pursuant to § 578.201, unless there exists in the property another interest that is blocked pursuant to § 578.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 578.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 578.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 578.201; or

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(b) For example, a license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 578.201, also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 578.201.

§ 578.405 Provision and receipt of services.

(a) The prohibitions contained in § 578.201 apply to services performed in the United States or by U.S. persons, wherever located:

(1) On behalf of or for the benefit of any person whose property and interests in property are blocked pursuant to § 578.201; or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 578.201.

(b) The prohibitions on transactions contained in § 578.201 apply to services received in the United States or by U.S. persons, wherever located, where the service is performed by, or at the direction of, a person whose property and interests in property are blocked pursuant to § 578.201.

(c) For example, U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to any person whose property and interests in property are blocked pursuant to § 578.201, or negotiate with or enter into contracts signed by a person whose property and interests in property are blocked pursuant to § 578.201.

Note 1 to § 578.405. *See* §§ 578.507 and 578.509 for general licenses authorizing the provision of certain legal and emergency medical services.

§ 578.406 Offshore transactions involving blocked property.

The prohibitions in § 578.201 on transactions or dealings involving blocked property, as defined in § 578.301, apply to transactions by any U.S. person in a location outside the United States.

§ 578.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 578.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

Note 1 to § 578.407. *See also* § 578.502(e), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

§ 578.408 Charitable contributions.

Unless specifically authorized by OFAC pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 578.201. For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 578.201 if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from such a person.

§ 578.409 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 578.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to a person whose property and interests in property are blocked pursuant to § 578.201.

§ 578.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 578.201 if effected after the effective date.

§ 578.411 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 578.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 578.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 578.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Sanctions Related to Significant Malicious Cyber-Enabled Activities page on OFAC's website: *www.treas.gov/ofac.*

Note 1 to § 578.501. Section 216 of the Countering America's Adversaries Through Sanctions Act (22 U.S.C. 9511) requires congressional review prior to the issuance of a license that significantly alters the United States' foreign policy with regard to the Russian Federation.

§ 578.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with

applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 578.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 578.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 578.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 578.504. *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 578.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 578.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 578.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 578.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 578.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.,* through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 578.201.

§ 578.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 578.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 578.508, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. Federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, state, or local court or agency;

(4) Representation of persons before any U.S. Federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 578.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by paragraph (a) of this section. Additionally, U.S. persons who provide services authorized by paragraph (a) of this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 578.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 578.201 is prohibited unless licensed pursuant to this part.

Note 1 to § 578.507. Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such

legal services where alternative funding sources are not available.

§ 578.508 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 578.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 578.201, is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 578.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in this paragraph (a) authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 578.201, any other part of this chapter, or any Executive order or statute has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) *Email (preferred method): OFACReport@treasury.gov;* or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 578.509 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are prohibited by this part are authorized.

§ 578.510 Official business of the United States Government.

All transactions prohibited by this part that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

§ 578.511 Official business of certain international organizations and entities.

All transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:

(a) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;

(b) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);

(c) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and

(d) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies.

Subpart F—Reports

§ 578.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 578.701 Penalties.

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

(2) IEEPA provides for a maximum civil penalty not to exceed the greater of $311,562 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(3) A person who willfully commits, willfully attempts to commit, willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b)(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to other applicable laws.

§ 578.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary

penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed or date the Pre-Penalty Notice was emailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof (electronic signature is acceptable), contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC identification number listed on the Pre-Penalty Notice. The response must be sent to OFAC's Office of Compliance and Enforcement by mail or courier or email and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 578.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

§ 578.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

§ 578.705 Findings of Violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*);

(ii) Considers it important to document the occurrence of a violation; and

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(i) *Computation of time for response.* A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served or date the Finding of Violation was sent by email. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof (electronic signature is acceptable), contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. The response must be sent to OFAC's Office

of Compliance and Enforcement by mail or courier or email and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501 of this chapter. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

Note 1 to paragraph (c)(2). A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart H—Procedures

§ 578.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 578.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to E.O. 13694 of April 1, 2015, as amended by E.O. 13757 of December 28, 2016, and any further Executive orders relating to the national emergency declared therein, and any action that the Secretary of the Treasury is authorized to take pursuant to Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 578.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–19138 Filed 9–2–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 83

[Docket No. USCG–2022–0071]

RIN 1625–AC81

State Enforcement of Inland Navigation Rules

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comment.

SUMMARY: The Coast Guard is issuing this interim rule to remove an incorrect statement about field preemption of State or local regulations regarding inland navigation. The incorrect language was added in a 2014 rulemaking, and the error was recently discovered. By removing the language, this rule clarifies the ability of States to regulate inland navigation as they have historically done. This rule does not require States to take any action.

DATES: This interim rule is effective September 6, 2022. Comments and related material must be received by the Coast Guard on or before December 5, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0071 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Jeffrey Decker, Coast Guard Office of Auxiliary and Boating Safety (CG–BSX); telephone 202–372–1507, email *Jeffrey.E.Decker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

APA Administrative Procedure Act
COLREGS International Regulations for Prevention of Collisions at Sea, 1972
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
Inland Rules Inland Navigation Rules
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section

SFRBT Sport Fish Restoration and Boating Trust
RFA Regulatory Flexibility Act
U.S.C. United States Code

II. Basis and Purpose, and Regulatory History

Section 303 of the Coast Guard and Maritime Transportation Act of 2004,[1] ''Inland Navigation Rules Promulgation Authority,'' authorizes the Secretary of the Department in which the Coast Guard is operating to issue inland navigation regulations and technical annexes for all vessels on the inland waters of the United States. The goal of such regulations is to be as consistent as possible with the corresponding International Regulations. The Secretary delegated this authority to the Coast Guard in Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.2, paragraph (II)(92). The purpose of this interim rule is to correct an error in Title 33 of the Code of Federal Regulations (CFR) part 83, specifically in paragraph (a) of § 83.01, about the preemptive effect of the navigation regulations upon State or local regulation.

The Coast Guard is issuing this rule without prior public notice and opportunity to comment, based on two findings under the ''good cause'' provision of the Administrative Procedure Act (APA). The APA's notice and comment requirements do not apply when the agency, for good cause, finds that the notice and comment process is ''impracticable, unnecessary, or contrary to the public interest.'' [2] Here, prior notice and comment are unnecessary and contrary to the public interest because the Coast Guard is resolving an error it introduced to the Inland Navigation Rules (hereafter ''Inland Rules'') through a 2014 amendment. As explained below, the language being removed is an incorrect statement regarding the preemptive effect of regulations.

The Coast Guard cannot leave the incorrect preemption statement in place, so public comment on it, or on its removal, is unnecessary. The statement was made in error. Leaving it in place could be seen as leaving the public without the protection of any meaningful enforcement of state and local navigation safety laws. No replacement language is being inserted, and no entity's rights are harmed by the removal. The rule requires no action by either the States or the public.

Further, giving the public prior notice of the correction is contrary to the public interest and could even cause harm. As written, the incorrect language purports to prevent States from adopting their own navigational safety regulations. The insertion of this incorrect language in 2014 had no impact, however, on day-to-day enforcement by States. State law enforcement units conduct nearly all the enforcement of navigation rules on inland waterways. An announcement in the **Federal Register** that States cannot do so would undermine the legitimacy of safety enforcement in the time between the notice of proposed rulemaking (NPRM) and the final rule. Violations of State and local navigation rules, such as excessive speed and failing to maintain a proper lookout, comprise four of the top five causal factors in recreational boating accidents.[3] Publishing an NPRM, which could create the impression that State marine patrols lack the authority to enforce State and local navigational safety laws, would undermine their purpose and could reduce safety on inland waters.

Therefore, the Coast Guard also finds good cause under Title 5 of the United States Code (U.S.C.) Section 553(d) to make this interim rule effective immediately on publication. In situations where prior comment is contrary to the public interest, the Coast Guard's practice is to provide a comment period after issuing the rule if doing so will not interfere with the purpose and execution of that rule. We are providing a 90-day period for public comment and will consider all comments received during that time.

III. Background

The Inland Rules are a special body of rules defined by the International Regulations for Prevention of Collisions at Sea, 1972, often referred to as ''COLREGS'' or ''International Rules.'' The President proclaimed the International Rules as United States law in accordance with the International Navigational Rules Act of 1977.[4] Congress subsequently set about harmonizing the inland navigation rules that remained in use within the United States, including the Western Rivers Rules, Great Lakes Rules, the old Inland Rules, and parts of the Motorboat Act of 1940. These efforts culminated in the Inland Navigational Rules Act of 1980, which codified Rules 1 through 38, considered the main body of the Inland Rules.[5]

Neither the International Navigational Rules Act of 1977 nor the Inland Navigational Rules Act of 1980 contained express language regarding the preemption of State law. A 2009 Sea Tow study (available in the docket where indicated under the **ADDRESSES** portion of the preamble) found that ''each State and Territory has its own version of navigation rules recorded in different locations in State law.'' The study further found that 37 of the 56 States and Territories had either adopted the International Rules or Inland Rules, or enacted laws requiring conformity with them. In April 2010, in accordance with Congressional authorization, the Coast Guard issued regulations effectively transferring the Inland Rules from United States Code to the Code of Federal Regulations.[6] The 2010 rule made no specific statements about the preemptive effect of the Inland Rules. The section of the preamble that discussed federalism said that there were no implications for federalism under Executive Order 13132, which addresses preemption.

In 2012, the Coast Guard proposed routine amendments to the Inland Rules to retain consistency with COLREGS amendments approved by the International Maritime Organization.[7] At that time, the Coast Guard proposed to add a statement of preemptive effect to 33 CFR 83.01(a) in accordance with a 2009 Presidential memorandum regarding preemption.[8] A commenter asked the Coast Guard to clarify that the proposed preemption language referred to field preemption rather than conflict preemption, and in the 2014 final rule, the Coast Guard said that it did.[9] This erroneous statement has recently led to questions about whether State and local governments may regulate navigation on State waters where the Inland Navigation Rules apply. Some State agencies use State statutes to enforce violations outside the scope of the Inland Navigation Rules. These include prohibitions on negligent operations. Others have continued to patrol and enforce State boating violations under State navigation rules.

[1] Public Law 108–293, 118 Stat. 1028, Aug. 9, 2004. Section 303 is codified at 33 U.S.C. 2071.

[2] 5 U.S.C. 553(b)(B).

[3] ''2020 Recreational Boating Statistics,'' Commandant Publication P16754.34 (June 29, 2021) available in the docket.

[4] Public Law 95–75, 91 Stat. 308 (July 27, 1977).

[5] Public Law 96–591, 94 Stat. 3415 (Dec. 24, 1980).

[6] 75 FR 19544, April 15, 2010; 33 CFR parts 83–90.

[7] 77 FR 52175, August 28, 2012.

[8] ''Presidential Memorandum Regarding Preemption,'' May 20, 2009, available at Presidential Memorandum Regarding Preemption | *whitehouse.gov* (*archives.gov*) (last visited Jan. 19, 2022).

[9] 79 FR 37897, 37900, August 1, 2014.

Field preemption means that State and local governments may not regulate in that field at all. This is distinct from conflict preemption, which allows State and local government to regulate so long as their actions do not conflict with Federal regulations. Without express guidance from Congress, conflict preemption is the foundation for the relationship between the laws of the Federal government and those of the States. *See Arizona* v. *United States,* 567 U.S. 387 (2012).

The 2014 preemption language was not viewed as a change in authority, and State and local enforcement continued as before. In 2019, however, the Coast Guard learned that a boater had argued that the preemption statement in 33 CFR 83.01(a) meant that State law enforcement could not charge a violation of State navigation rules that were within the field of the Coast Guard's Inland Rules.

The Coast Guard had informal discussions with State boating administrators about the meaning of the language, and, in 2021, the National Association of State Boating Law Administrators asked the Coast Guard to clarify the issue. The Coast Guard revisited the preemption language and determined that the 2014 statement of field preemption is incorrect and undermines States' efforts to enhance navigational safety. In particular, the Coast Guard determined that Congress is not only aware of States' broad efforts to regulate in the area of boating safety, but also that Congress, in part, funds these efforts through the Sport Fish Restoration and Boating Trust (SFRBT) Fund,[10] which is administered by the Coast Guard. The SFRBT Fund provides funding to States to enforce State boating laws and investigate boating accidents and fatalities, many of which are the direct result of navigation rules violations.

IV. Discussion of the Rule

This rule removes the final sentence of 33 CFR 83.01(a), which states that regulations in 33 CFR parts 83 through 90 have preemptive effect over State or local regulation within the same field. Removing the final sentence clarifies the original statutory language of Rule 1. This rule does not insert any other statement about preemption. This is consistent with prior versions of the Inland Rules, which were also silent on the subject and were historically viewed as conflict preemptive.

Generally, under the Supremacy Clause of the U.S. Constitution, States are precluded from regulating conduct in a certain field (*i.e.,* field preemption applies) where a statute contains an express preemption provision, or when Congress has determined that conduct in a particular field must be regulated by its exclusive governance. *Arizona,* 567 U.S. at 399. ''The intent to displace state law altogether can be inferred from a framework of regulation so pervasive . . . that Congress left no room for the States to supplement it, or where there is a federal interest . . . so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'' *Id.* (internal quotations omitted).

In the case of inland navigation, nothing in the relevant statutory enactments by Congress has ever expressly stated or otherwise implied that the States are preempted from regulating in the field. Rather, the appropriate analysis is one of conflict preemption. Under conflict preemption, State law is preempted by Federal law only when compliance with both the State law and a Federal law is impossible, or the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress. *See Arizona, 567 U.S. 387.* State regulation in the field of inland navigation is clearly evidenced by the longstanding existence of many State navigation laws and rules around the country, and by Congress' demonstrated awareness of such laws and rules and its lack of action to preempt them.

State and local marine patrols play a significant role in ensuring safety on our waterways by enforcing navigational safety rules. State and local marine patrols outnumber Coast Guard patrols and conduct almost all the on-water safety enforcement interactions with the boating public. Operator inattention, improper lookout, unsafe speed, and other navigation rules violations, such as operating at night without navigation lights, are contributing factors in many boating accidents. The Coast Guard fully supports the efforts of State and local marine patrols to prevent unsafe operations in accordance with the Inland Rules. While Congress has legislated in this area, it has not created a pervasive or dominant framework that indicates any intent to preclude states from regulating or enforcing their own laws and rules. Accordingly, state and local rules are preempted only in the instances described above: where compliance with both a State requirement and a federal requirement is impossible, or where the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress.

We believe that most vessel operators, and State boating law administrators, assigned no meaning to the 2014 preemption language. Their ongoing operations will be unchanged by this interim rule. Removing the incorrect language about field preemption does not alter the obligations of the boating public. They have always been required to comply with the Inland Rules in 33 CFR parts 83 through 90. It also does not impose obligations on State and local government: no State or local government is required to enact its own navigation rules, and that will not change with removal of this language. This interim rule merely allows State and local governments to continue to regulate local navigation in a way that is consistent with longstanding practice.

V. Regulatory Analyses

We developed this interim rule after considering numerous statutes and Executive orders related to rulemaking. Below, we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

TABLE 1—SUMMARY OF IMPACTS OF THE INTERIM RULE

Category	Summary
Applicability	The interim rule will remove the final sentence in 33 CFR 83.01(a), ''The regulations in this subchapter (subchapter E, 33 CFR parts 83 through 90) have preemptive effect over State or local regulation within the same field.''
Affected Population	State and local Governments and vessel operators on the Inland Waterways.
Costs	No estimated costs.

[10] 46 U.S.C. Ch. 131: RECREATIONAL BOATING SAFETY (*house.gov*). See Section 13107: Authorization of Appropriations. *last viewed June, 2022.*

TABLE 1—SUMMARY OF IMPACTS OF THE INTERIM RULE—Continued

Category	Summary
Unquantified Benefits	Removes incorrect regulatory language. This removal provides regulatory clarity to State and local governments to enforce their own regulations. The regulatory clarity will ensure the continued safety of the boating public.

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, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. A regulatory analysis follows.

This interim rule removes incorrect language from 33 CFR 83.01(a). This rule will clarify that State and local governments are free to continue to regulate navigation consistent with longstanding practice. We believe that most vessel operators, and many local governments, were unaware of the 2014 error and that their ongoing operations, consequently, will be unchanged by this rule. No State has changed its inland navigation rules since 2014, and our conversations with state regulators suggest they did not understand the preemption language to alter their enforcement ability. Other than the 2019 challenge mentioned earlier, we know of no boaters asserting that the preemption language prevents State enforcement. Removing the incorrect language about field preemption does not alter the obligations of the boating public, who have always been required to comply with the Inland Rules in 33 CFR parts 83 through 90. This rule does not impose any additional burdens on vessel operators or impose obligations on State and local government: no State or local government is required to enact its own navigation rules. This rule will clarify that State and local governments are free to continue to regulate local navigation consistent with longstanding practice. Based on our analysis, this rule will not impose any new requirements or regulatory costs on vessel operators, or on State and local governments. Many State and local governments were already enforcing navigation safety regulations, and the boating public has always been required to comply with the Inland Rules.

Affected Population

This rule will affect all State and local navigational law enforcement patrols whose laws or regulations were purported to have been preempted by 33 CFR 83.01(a).

Although vessel operators on the inland waterways are a part of the affected population of this interim rule, they will not incur any new regulatory costs because they were already required by Federal law to comply with State and local navigation rules. This rule creates legal clarity about the States' ability to enforce their own navigational rules, which will maintain safe boating conditions for vessel operators. This interim rule only confirms the States' ability to retain and enforce navigational safety laws within the field of the Inland Rules. We are not aware that any State altered its navigational rules in response to the 2014 preemption statement, so we do not expect any State will alter its navigational rules in response to the statement's removal.

Cost Analysis of the Interim Rule

This interim rule will not impose any new costs on vessel operators, or on State and local governments. State and local governments were already enforcing State and local regulations, and the boating public has always been required to comply with the Inland Rules. The economic baseline is that all potentially affected vessel operators and States are already in compliance with State and local rules, and therefore, will not incur any costs from this rule.

Benefits Analysis of the Interim Rule

The primary benefit of the interim rule is to clarify the Inland navigation rules by removing the incorrect regulatory language and therefore removing any potential question about whether States and local jurisdictions can enforce navigational rules on vessel operators who navigate the inland waterways. Without this interim rule, the regulatory text applied as written would purport to prevent State and local marine patrols from enforcing the navigation laws or regulations. Continued State and local enforcement of State and local navigational safety rules is essential, because four of the top five factors in recreational boating accidents, as reported in the 2020 Recreational Boating Statistics (Commandant Publication P16754.34),[11] involve violations of navigation rules. Further, this interim rule will clarify that field preemption was never intended to be a valid legal defense in State enforcement proceedings.

Alternatives Considered

1. No action. The Coast Guard could leave the field preemption statement in 33 CFR 83.01(a). However, the Coast Guard's current regulatory statement, that the Inland Rules are field preemptive, is legally incorrect. Moreover, if applied as written, it would mean that the thousands of State and local marine patrols, often working cooperatively with the Coast Guard, have no legal authority to enforce their own navigation laws. If applied as written, the 2014 preemption language would constrain the authority of State and local marine patrols, effectively reducing navigational safety. This alternative, to retain the existing regulatory language in 33 CFR part 83.01(a), would expose vessels in the affected populations to an operational environment that has reduced navigational safety. The decrease in safety would increase the risk of future boating accidents. This alternative would not impose costs on State and local governments. This alternative would also undermine Congressional intent of supporting such State regulation via the SFRBT Fund.

2. Provide notice and opportunity to comment prior to issuing an enforceable rule. The Coast Guard considered providing public notice and opportunity to comment before issuing the rule. Publication of an NPRM is our preferred method in most circumstances and could provide an opportunity for the Coast Guard to obtain new insights about the project in advance of issuing an effective rule. The drawback to issuing an NPRM for this action is that doing so could create a public safety issue. Publication of an NPRM would

[11] *Recreational-Boating-Statistics-2020.pdf* (*menlosecurity.com*), last viewed March, 2022.

create confusion about State and local authority to enforce the Inland Rules and could lead to unsafe and otherwise prohibited conduct during the period in which vessel operators believe that States are unable to enforce their own navigation rules. Hence, this alternative would increase risk of accidents. This may also result in litigation between boaters and States if waterway incidents occur, with associated legal costs.

3. Amend 33 CFR 83.01(a) by issuing an interim rule that is immediately effective, followed by public comment period and final rule. This is the preferred alternative. The Coast Guard will remove the reference to field preemption in 33 CFR 83.01(a) without requesting public comment first. Instead, the Coast Guard invites the public to comment on the interim rule and will respond to those comments in a subsequent final rule. We present the costs and benefits of this alternative in this preamble.

B. Small Entities

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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.

There are two affected populations for this interim rule, States or State Governments and vessel operators on the inland waterways. The North American Industry Classification System (NAICS) codes list State governments under the classification of ''Public Administration'' with a NAICS sector code of ''92.'' Although State governments would be affected by this interim rule, they are not considered small entities under the RFA because they have populations of 50,000 or more. Local governments and vessel operators may be small entities under the RFA; however, this interim rule does not impose any new regulatory requirements or costs on them. As a result, there are no small entities affected by this interim rule. Our analysis shows that this interim rule will not impose any regulatory costs on States and recreational boaters. The primary benefit of this interim rule is to clarify existing regulatory text; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule interim rule calls for no new or revised collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 analyzed this interim rule under Executive Order 13132 and determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

States may not regulate in categories reserved by Congress for the exclusive regulation by the Coast Guard. For example, the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. See *United States* v. *Locke,* 529 U.S. 89 (2000). This interim rule, however, is correcting a misstatement in the Inland Rules to clarify that the Inland Rules are not field preemptive of State regulation of categories touching upon navigational safety. Therefore, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will 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).

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination

with Indian Tribal Governments), because it will 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. Energy Effects

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

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, 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 impractical. 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management 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 made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. 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. This rule meets the criteria for categorical exclusions A3 and L54 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Categorical exclusion A3 pertains to ''promulgation of rules of a strictly administrative or procedural nature;'' and those that ''interpret or amend an existing regulation without changing its environmental effect.'' Categorical exclusion L54 pertains to regulations that are editorial or procedural. This rule is a standalone action to delete an incorrect statement about field preemption of State or local regulations on the topic of inland navigation, the legal implications of which were recently recognized. This rule is not part of a larger action, and it will not result in significant impacts to the human environment. Removing the incorrect language will affirm the ability of States to legally regulate inland navigation as they long have done, well before the Inland Rules were established.

VI. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received on this interim rule during the comment period. If you submit a comment, please include the docket number for this interim rule, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0071 in the search box, and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this interim rule for alternate instructions.

Viewing material in the docket. To view documents mentioned in this interim rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the interim rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public meeting. We are not planning to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

List of Subjects in 33 CFR Part 83

Navigation (water); Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 83 as follows:

PART 83—NAVIGATION RULES

■ 1. The authority citation for 33 CFR part 83 is revised to read as follows:

Authority: 33 U.S.C. 2071; DHS Delegation No. 00170.1, Revision No. 01.2.

■ 2. Amend § 83.01 by revising paragraph (a) to read as follows:

§ 83.01 Application (Rule 1).

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

* * * * *

Dated: August 31, 2022.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2022–19154 Filed 9–2–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0691]

Regulated Area; San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the limited access area in the navigable

waters of the San Francisco Bay for the San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration from October 7 through October 9, 2022. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the regulated area, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 100.1105 will be enforced from 1:30 p.m. until 7 p.m. on October 6, 2022; from 9:30 a.m. until 5 p.m. on October 7, 2022; and from 11:30 a.m. until 5 p.m. daily on October 8, 2022 and October 9, 2022, as identified in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Anthony Solares, Coast Guard Sector San Francisco, Waterways Management Division, 415–399–3585, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the limited access area for the annual San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration in 33 CFR 100.1105.

The regulated area ''Alpha'' in § 100.1105(b)(1) for the Navy Parade of Ships will be enforced from 9:30 a.m. until 12 p.m. on October 7, 2022. The regulated area ''Bravo'' in § 100.1105(b)(2) for the U.S. Navy Blue Angels will be enforced from 1:30 p.m. until 7 p.m. on October 6, 2022, and 11:30 a.m. until 5 p.m. daily from October 7, 2022 through October 9, 2022.

Regulated area ''Alpha'' will be enforced during the Navy Parade of Ships and is bounded by a line connecting the following points and thence along the shore to the point of beginning:

Latitude	Longitude
37°48′40″ N	122°28′38″ W
37°49′10″ N	122°28′41″ W
37°49′31″ N	122°25′18″ W
37°49′06″ N	122°24′08″ W
37°47′53″ N	122°22′42″ W
37°46′00″ N	122°22′00″ W
37°46′00″ N	122°23′07″ W

Under the provisions of 33 CFR 100.1105, except for persons or vessels authorized by the PATCOM, in regulated area ''Alpha'' no person or vessel may enter the parade route or remain within 500 yards of any Navy parade vessel. No person or vessel shall anchor, block, loiter in, or impede the through transit of ship parade participants or official patrol vessels in regulated area ''Alpha.''

Regulated area ''Bravo'' will be enforced during the Navy Blue Angels Demonstration and is bounded by a line connecting the following points and thence along the pierheads and bulwarks to the point of beginning:

Latitude	Longitude
37°48′27.5″ N	122°24′04″ W
37°49′31″ N	122°24′18″ W
37°49′00″ N	122°27′52″ W
37°48′19″ N	122°27′40″ W

Except for persons or vessels authorized by the PATCOM, no person or vessel may enter or remain within regulated area ''Bravo.''

When hailed or signaled by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, a person or vessel shall come to an immediate stop. Persons or vessels shall comply with all directions given; failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco, California. The PATCOM is empowered to forbid and control the movement of all vessels in the regulated areas.

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

Dated: August 30, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–19203 Filed 9–2–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0695]

RIN 1625–AA00

Safety Zone; Susquehanna River, Havre de Grace, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Susquhanna River. This action is necessary to provide for the safety of life on these navigable waters of the Susquehanna River at Havre de Grace, MD, on September 10, 2022, (with alternate date of September 11, 2022) from potential hazards during a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 8 p.m. on September 10, 2022, through 11 p.m. on September 11, 2022. This rule will be enforced from 8 p.m. until 11 p.m. on September 10, 2022, or those same hours on September 11, 2022, in the case of inclement weather on September 10, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0695 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 MST2 Courtney Perry, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2596, email *Courtney.E.Perry@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are impracticable and 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. It would be impracticable and contrary to the public interest to publish an NPRM becasue we must take

immediate action to establish this safety zone by September 10, 2022, to respond to potential safety hazards associated with the fireworks display. Potential safety hazards include the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Event sponsors did not notify the Coast Guard of the event until August 2, 2022.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port, Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in this September 10, 2022, display will be a safety concern for anyone near these fireworks discharge sites. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 8 p.m. on September 10, 2022, until 11 p.m. on September 11, 2022. The zone will be enforced from 8 p.m. to 11 p.m. on September 10, 2022, or, if necessary due to inclement weather on September 10, 2022, from 8 p.m. to 11 p.m. on September 11, 2022. The safety zone will cover all navigable waters within 600 feet of a barge in the Susquehanna River located in approximate position latitude 39°32′19.0″ N, longitude 076°04′58.3″ W, at Havre de Grace, MD. The duration of the zone is intended to ensure safety of vessels and these navigable waters before, during, and after the scheduled 9 p.m. to 10 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, duration and time-of-day of the safety zone, which will impact a small designated area of the Susquehanna River for a total of no more than one hour of total enforcement-hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue Local Notice to Mariners and a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST

5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 2.5 hours that will prohibit entry within 600 feet of a barge within a portion of the Susquehanna River. 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.T05–0695 to read as follows:

§ 165.T05–0695 Safety Zone; Susquehanna River, Havre de Grace, MD.

(a) *Location.* The following area is a safety zone: All waters of the Susquehanna River within 600 feet of a fireworks barge in approximate position latitude 39°32′19.0″ N, longitude 076°04′58.3″ W, at Havre de Grace, MD. These coordinates are based on datum NAD 1983.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port, Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This safety zone will be enforced from 8 p.m. to 11 p.m. on September 10, 2022. If necessary due to inclement weather on September 10, 2022, it will be enforced from 8 p.m. to 11 p.m. on September 11, 2022.

Dated: August 30, 2022.

James R. Bendle,

Commander, U.S. Coast Guard, Acting Captain of the Port Maryland-National Capital Region.

[FR Doc. 2022–19127 Filed 9–2–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0750]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO) from September 5, 2022, through September 8, 2022. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port San Francisco or a designated representative. All persons and vessels operating within the safety zone must comply with all directions given to them by the Captain of the Port San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on September 5, 2022, until 11:59 p.m. on September 8, 2022.

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

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 a.m. on September 5, 2022, until 11:59 p.m. on September 8, 2022, or as announced via marine local broadcasts. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198, specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier 2 in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement periods, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you must comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

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

Dated: August 31, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–19281 Filed 9–2–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0183; FRL–10099–01–OCSPP]

IN–11470: Styrene, Copolymers With Acrylic Acid and/or Methacrylic Acid, With None and/or One or More Monomers or Polymers; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate, and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1200, when used as an inert ingredient in pesticide formulations. Croda, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting to amend the existing exemption from the requirement of a tolerance for styrene, copolymers with acrylic acid and/or methacrylic acid with none and/or one or more monomers or polymers by including poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy- as an additional polymer in the tolerance exemption description. This regulation eliminates the need to establish a maximum permissible level for residues of styrene, copolymers with acrylic acid and/or methacrylic acid with none and/or one or more monomers or polymers, as described above.

DATES: This regulation is effective September 6, 2022. Objections and requests for hearings must be received on or before November 7, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0183, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0183 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 7, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0183, by one of the following methods.

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

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

II. Background and Statutory Findings

In the **Federal Register** of July 20, 2022 (87 FR 43231) (FRL–9410–03–OCSPP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11470) filed by Croda, Inc., 300–A Columbus Circle Edison, NJ 08837. The petition requested to amend the existing exemption from the requirement of a tolerance for residues of styrene, copolymers with acrylic acid and/or methacrylic acid under 40 CFR 180.960 by adding poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-

methoxy- (CAS Reg. No. 26915–72–0) to the descriptor. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize. A determination of biodegradability by manometric respiration test (OECD 301F; MRID 51718701) was provided and reviewed by EPA on a surrogate polymer, which was found to not readily biodegrade.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 Daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6)

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e):

The polymer's number average MW of 1200 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting

polymer having a minimum number average molecular weight (in amu), 1200 could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts is 1200 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

EPA has not found styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts to share a common mechanism of toxicity with any other substances, and styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts.

VIII. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IX. Conclusion

Accordingly, EPA finds that exempting residues of styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting

polymer having a minimum number average molecular weight (in amu), 1200 from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

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

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 30, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.960, in table 1, revise the polymer '' Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: Acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, and/or lauryl methacrylate; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1200'' in the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers or polymers: acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, hydroxyethyl acrylate, lauryl methacrylate, and/or poly(oxy-1,2-ethanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-methoxy-; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu), 1200.	None.
* * * * * * *	

[FR Doc. 2022–19126 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2022–0259; FRL–10134–02–R4]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on the authorization of Florida's changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes were outlined in an application to the EPA and correspond to certain Federal rules promulgated between July 1, 1987 and June 30, 2020. We have determined that these changes satisfy all requirements needed for final authorization.

DATES: This authorization is effective on November 7, 2022 without further notice, unless the EPA receives adverse comment by October 6, 2022. If the EPA receives adverse comment, we will publish a timely withdrawal of this direct final action in the **Federal Register** informing the public that the authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2022–0259, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Leah Davis if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

All documents in the docket are listed in the *www.regulations.gov* index. Publicly available docket materials are available electronically in *www.regulations.gov.* For alternative access to docket materials, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Leah Davis; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; telephone number: (404) 562–8562; fax number: (404) 562–9964; email address: *davis.leah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA using a direct final action?

The EPA is publishing this action without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This action is a routine program change. However, in the ''Proposed Rules'' section of this issue of the **Federal Register**, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this action, see the **ADDRESSES** section of this document.

If the EPA receives comments that oppose this authorization, we will withdraw this action by publishing a document in the **Federal Register** before the action becomes effective. The EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final action.

II. Why are revisions to state programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in Florida, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

III. What decisions has the EPA made in this action?

Florida submitted a complete program revision application (PRA), dated September 1, 2021, and an amendment to the PRA, dated June 24, 2022, seeking authorization of changes to its hazardous waste program corresponding to certain Federal rules promulgated between July 1, 1987 and June 30, 2020 (including Non-HSWA Cluster [1] IV (Checklist [2] 24.1 only), HSWA Cluster II (Checklist 44D only), RCRA Clusters VIII (Checklist 167B only), X (Checklists 182 and 182.1), XI (Checklist 190 only), XV (Checklists 206.1 and 207.1), and XXVIII (Checklist 242). The EPA concludes that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established under RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants Florida final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section VI of this document.

Florida has responsibility for permitting treatment, storage, and disposal facilities within its borders

[1] A ''cluster'' is a grouping of hazardous waste rules that the EPA promulgates from July 1st of one year to June 30th of the following year.

[2] A ''checklist'' is developed by the EPA for each Federal rule amending the RCRA regulations. The checklists document the changes made by each Federal rule and are presented and numbered in chronological order by date of promulgation.

(except in Indian country, as defined at 18 U.S.C. 1151) and for carrying out the aspects of the RCRA program described in its program revision application, subject to the limitations of HSWA, as discussed above.

IV. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Florida's authorization application will become part of the authorized State hazardous waste program and will therefore be federally enforceable. Florida will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA will maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing Florida are already effective under State law and are not changed by this action.

V. What has Florida previously been authorized for?

Florida initially received final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement the RCRA hazardous waste management program. The EPA granted authorization for changes to Florida's program on the following dates: December 1, 1987, effective March 3, 1988 (52 FR 45634); December 16, 1988, effective January 3, 1989 (53 FR 50529); December 14, 1990, effective February 12, 1991 (55 FR 51416); February 5, 1992, effective April 6, 1992 (57 FR 4371); February 7, 1992, effective April 7, 1992 (57 FR 4738); May 20, 1992, effective July 20, 1992 (57 FR 21351); November 9, 1993, effective January 10, 1994 (58 FR 59367); July 11, 1994, effective September 9, 1994 (59 FR 35266); April 16, 1994, effective October 17, 1994 (59 FR 41979); October 26, 1994, effective December 27, 1994 (59 FR 53753); April 1, 1997, effective June 2, 1997 (62 FR 15407); January 20, 1998, effective March 23, 1998 (63 FR 2896); September 18, 2000, effective November 18, 2000 (65 FR 56256); August 23, 2001, effective October 22, 2001 (66 FR 44307); August 20, 2002, effective October 21, 2002 (67 FR 53886 and 67 FR 53889); October 14, 2004, effective December 13, 2004 (69 FR 60964); August 10, 2007, effective October 9, 2007 (72 FR 44973); February 7, 2011, effective April 8, 2011 (76 FR 6564); October 8, 2014, effective December 8, 2014 (79 FR 60756); February 22, 2019 (Proposed), effective May 10, 2019 (84 FR 20549); and February 25, 2020, effective June 1, 2020 (85 FR 33026). The authorized Florida program, through RCRA Cluster IV, was incorporated by reference into the CFR on January 20, 1988, effective March 23, 1998 (63 FR 2896).

VI. What changes is the EPA authorizing with this action?

Florida submitted a complete program revision application, dated September 1, 2021, and an amendment to the PRA, dated June 24, 2022, seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR 271.21. This application included changes associated with Checklist 242. Additionally, the amendment to the PRA included changes associated with older Checklists 24.1, 44D, 167B, 182, 182.1, 190, 206.1, and 207.1.[3] The EPA has determined, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, the EPA grants final authorization to Florida for the following program changes:

Description of Federal requirement	**Federal Register** date and page	Analogous state authority [1]
Checklist 24.1, Closure/Post-Closure and Financial Responsibility Requirements [2].	53 FR 7740, 3/10/1988	62–730.020(1); 62–730.180(1)–(2); 62–730.220(1); 62–730.290(4).
Checklist 44D, EPA Administered Permit Programs: The Hazardous Waste Permit Program.	52 FR 45788, 12/1/1987 ..	62–730.290.
Checklist 167B, Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions.	63 FR 28556, 5/26/1988 ..	62–730.183.
Checklists 182 and 182.1, NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule).	64 FR 52827, 9/30/1999; 64 FR 63209, 11/19/1999.	62–730.020(1); 62–730.030(1); 62–730.180(1)–(2); 62–730.181(1); 62–730.220(1); 62–730.290(4).
Checklist 190, Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil.	65 FR 81373, 12/26/2000	62–730.183.
Checklist 206.1, Nonwastewaters from Dyes and Pigments Correction.	70 FR 35032, 6/16/2005 ..	62–730.030(1); 62–730.183.
Checklist 207.1, Uniform Hazardous Waste Manifest Correction.	70 FR 35034, 6/16/2005 ..	62–730.020(1); 62–730.030(1); 62–730.160(1); 62–730.170(1); 62–730.180(1)–(2).
Checklist 242, Universal Waste Regulations: Addition of Aerosol Cans.	84 FR 67202, 12/9/19	62–730.020(1); 62–730.030(1); 62–730.180(1)–(2); 62–730.183; 62–730.220(1); 62–730.185(1).

Notes

[1] The Florida regulatory citations are from the Florida Administrative Code (F.A.C.), effective October 30, 2020.

[2] The amendments made by Checklist 24.1 corrected errors in the preamble to the underlying Federal rule at 51 FR 16422 (May 2, 1986). Florida properly adopted the required changes made by Checklist 24 and was previously authorized for those changes. We are including Checklist 24.1 in this authorization for completeness.

[3] Florida previously adopted these older Federal rules associated with these checklists but has not yet been authorized for them. For completeness, the EPA is authorizing Florida for these older checklists now.

VII. Where are the revised State rules different than the Federal rules?

When revised state rules differ from the Federal rules in the RCRA state authorization process, the EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, state programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent states from adopting regulations that are broader in scope than the Federal program, states cannot receive authorization for such regulations, and they are not federally enforceable. There are no State requirements in the program revisions listed in the table above that are considered to be more stringent or broader in scope than the Federal requirements.

VIII. Who handles permits after the authorization takes effect?

When final authorization takes effect, Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits that the EPA issued prior to the effective date of authorization until they expire or are terminated. The EPA will not issue any new permits or new portions of permits for the provisions listed in the table above after the effective date of the final authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Florida is not yet authorized. The EPA has the authority to enforce State-issued permits after the State is authorized.

IX. How does this action affect Indian country in Florida?

Florida is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Indian lands associated with the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

X. What is codification and is the EPA codifying Florida's hazardous waste program as authorized in this action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of Florida's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart K, for the authorization of Florida's program changes at a later date.

XI. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988), by examining the takings implications of this action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, this rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective November 7, 2022.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: August 26, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–19199 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–450; FCC 22–65; FR ID 101252]

Affordable Connectivity Program

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: In this document, the Federal Communications Commission (Commission) establishes a pilot program, titled ''Your Home, Your internet,'' designed to increase awareness of and encourage participation in the Affordable Connectivity Program for households receiving Federal housing assistance.

DATES: The pilot program is established as of September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Sherry Ross, Wireline Competition Bureau, (202) 418–7400 or by email at *Sherry.Ross@fcc.gov.* The Federal Communications Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Third Report and Order in WC Docket No. 21–450; FCC 22–65, adopted on August 5, 2022 and released on August 8, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-releases-rules-implement-affordable-connectivity-program.*

Synopsis

I. Introduction

1. Earlier this year, the Federal Communications Commission (Commission) established the $14.2 billion Affordable Connectivity Program (or ACP). Over 12 million households have signed up to receive a $30 benefit (or up to $75 per month for households on qualifying Tribal lands) to offset the cost of internet access. For those households, the Affordable Connectivity Program can open up a world of opportunity. They can work from home, take advantage of telehealth and remote schooling, and stay connected with friends and family. The Commission is committed to bringing those benefits to the millions more eligible households who have not yet signed up. In this document, the Commission establishes a pilot program, titled ''Your Home, Your internet,'' designed to increase awareness of and encourage participation in the Affordable Connectivity Program for households receiving Federal housing assistance.

2. When the Commission adopted the final ACP rules in January 2022, it sought comment on a proposal to target outreach and provide application support to residents of public housing and other Federal housing assistance recipients. By establishing this pilot program, the Commission intends to test the best methods to make recipients aware of and to help them enroll in the Affordable Connectivity Program. The Commission will also use the tools and resources provided to it through the Infrastructure Investment and Jobs Act (Infrastructure Act), such as the ability to collaborate with other agencies, including continuing and expanding upon existing collaborations, to help households receiving Federal housing assistance access affordable broadband service.

II. Discussion

3. In this document, the Commission first identifies discrete ACP enhancements and improvements to the ACP application process, the effectiveness of which will be tested during the pilot program. Next, the Commission establishes a one-year pilot program, ''Your Home, Your internet,'' with the goal of increasing awareness of the Affordable Connectivity Program among recipients of Federal housing assistance and facilitating enrollment in the program by providing targeted assistance with completion of the ACP application.

4. Your Home, Your internet will couple targeted outreach with hands-on application assistance. It will test ways to increase ACP participation by recipients of Federal housing assistance who are eligible for the Affordable Connectivity Program but, based on the Commission's experience, may not be aware of or enrolled in the program. The Commission will select up to 20 pilot participants, which may include government entities and third-party organizations serving Federal housing assistance recipients, from across the country. The Commission intends to select pilot participants from a variety of settings, including urban, rural, and Tribal communities. As discussed below, applicants may propose a variety of activities, including the development of new promotional materials, hands-on application assistance, and site-based outreach. Participants will be given the option to access the National Verifier to better assist consumers in applying for ACP benefits. Participants also will be allowed to apply for a grant to fund Your Home, Your internet pilot projects through the Affordable Connectivity Outreach Grant Program that the Commission adopts in a final rule published elsewhere in this issue of the **Federal Register**. The Commission has allocated up to $5 million of the $100 million designated for outreach in the *ACP Order,* 87 FR 8346, February 14, 2022, to provide grants to fund Your Home, Your internet pilot projects. The Commission also has allocated up to an additional $5 million to fund its own outreach activities alongside the grant funds and may collaborate with the Department of Housing and Urban Development (HUD) and other Federal agency partners that work directly with Federal housing assistance recipients to

increase awareness of and participation in the Affordable Connectivity Program among recipients of Federal housing assistance.

A. Commission Actions To Enhance the ACP Application Process

5. The Commission directs the Wireline Competition Bureau (the Bureau) and the Universal Service Administrative Company (USAC) to take several actions that the Commission expects will facilitate more efficient ACP access for Federal housing assistance recipients in general as well as those working with pilot participants to qualify for the Affordable Connectivity Program. To test their effectiveness during the pilot program, the Commission commits, where practicable, to making these enhancements as expeditiously as possible.

6. First, based on the record and specific feedback from HUD staff, the Commission will change its enrollment materials to include more recognizable language to describe Federal Public Housing Assistance (FPHA) eligibility so participants in the Native American affordable housing, public housing, housing choice voucher, and project-based rental assistance (PBRA) programs (PBRA, Section 202, and Section 811) can more easily identify the program in which they participate. Commenters also argue that there is a lack of clear guidance on what is considered to be a qualifying FPHA program. Without further explanation, participants in those programs may mistakenly believe they do not qualify for the Affordable Connectivity Program. Accordingly, the Commission directs the Bureau and USAC to provide explanatory language naming Native American affordable housing, public housing, housing choice vouchers, and project-based rental assistance in the ACP application (including at the point where applicants select the qualifying programs in which they participate), in related USAC materials, and in the materials created by the Commission.

7. Second, the Commission directs the Bureau, the Office of General Counsel (OGC), the Office of Managing Director (OMD), and USAC to expand and swiftly finalize a revised data sharing agreement with HUD that would allow more Federal housing assistance recipients to be automatically approved for the Affordable Connectivity Program through the National Verifier. The National Verifier is designed to ease the qualification process by leveraging connections with state and Federal database connections. The National Verifier is also an important tool for combating waste, fraud, and abuse in the Affordable Connectivity Program by validating consumer identity and, with the use of the National Lifeline Accountability Database (NLAD), identifying duplicate households in the program.

8. The Commission and HUD have an existing computer matching agreement (CMA) and database connection for the automatic eligibility verification of households participating in certain FPHA programs. This existing agreement, which complies with the Computer Matching and Privacy Protection Act of 1988, covers a connection with the HUD Inventory Management System/Public Housing Information Center (IMS/PIC) database. This connection already allows the National Verifier to automatically qualify households that participate in the public housing and housing choice voucher programs for the Affordable Connectivity Program and Lifeline. Consumers whose eligibility is automatically determined by the National Verifier can proceed to enroll in the Affordable Connectivity Program. Consumers that are not able to be verified through an automated database connection will need to provide documentation for manual review.

9. Because the manual review process is more burdensome than automatic eligibility checks—especially for applicants, but also for USAC—the Commission is committed to further minimizing the use of manual review. To that end, Commission staff are already working with HUD staff to explore establishing an additional connection with the Tenant Rental Assistance Certification System (TRACS) database that would allow more Federal housing assistance recipients to qualify automatically. The TRACS database includes tenants receiving rental housing assistance through the PBRA, Section 202, and Section 811 programs and a connection with the TRACS database would allow households receiving assistance through those programs to be automatically verified without undergoing a manual review process. Finalizing that effort will allow more Federal housing assistance recipients to enroll faster and with less assistance, allowing pilot program participants to stretch their resources further and assist more households. Accordingly, the Commission directs the Bureau and USAC to expedite the completion of that process so that pilot program participants will benefit to the greatest extent possible.

10. Third, because manual review will continue to be necessary for some Federal housing assistance recipients, the Commission directs the Bureau and USAC to take steps to expedite the manual review process and to test the effectiveness of these actions during the pilot program. Currently, USAC provides high-level guidance on the requirements for supporting documentation to demonstrate Federal housing assistance eligibility Federal housing assistance households may need to contact their local public housing agency (PHA) or other Federal housing assistance provider (*e.g.,* for PBRA, Section 202, or Section 811 tenants) for documentation, and those staff may not be aware of the Affordable Connectivity Program at all or what documentation the household will need. The Commission directs the Bureau and USAC to consult with HUD about the types of documentation PHAs and other Federal housing assistance providers typically provide and create a standardized form to be made available to pilot participants for use by an applicant to demonstrate eligibility in a qualifying Federal housing assistance program to streamline and expedite the manual review process in the National Verifier for Federal housing assistance recipients, PHAs, and USAC reviewers.

11. Finally, the Commission directs USAC, with oversight from the Bureau, to designate a direct point of contact at USAC for organizations selected to participate in the Your Home, Your internet Pilot Program to provide additional support when pilot participants are assisting consumers during the application process. This point of contact should be trained on issues related to Federal housing assistance eligibility and prepared to directly assist pilot participants with questions about the ACP application, including any documentation requirements. Contact information for this point of contact shall be made available to pilot participants to test the impact of having a dedicated point of contact for application-related questions regarding the qualification process.

B. The ''Your Home, Your Internet'' Pilot Program

12. Below, the Commission identifies the specifics of the one-year Your Home, Your Internet Pilot Program. The Commission describes eligible entities that may apply to participate, funding for selected projects, activities these organizations may undertake as part of the pilot program, the procedures and criteria the Bureau will use to select the participants, and the metrics the Commission will use when evaluating the program's results.

1. Entities Eligible To Apply

13. The Commission encourages Federal and non-Federal organizations to apply to participate in the Your Home, Your Internet Pilot Program. Applicants may include Federal agencies and their partners, housing agencies, and entities that provide ACP support for Federal housing assistance recipients, as described further below. The Commission recognizes that challenges large housing agencies face may differ from smaller providers of federally assisted housing and that Tribal, urban, and rural communities may benefit from different approaches. The Commission therefore intends to select pilot participants operating in a variety of settings in order to generate information about what works in different kinds of communities. Congress expressly authorized the Commission to target outreach to eligible households, including, in particular, to recipients of Federal housing assistance. Congress also required the Commission to ''collaborate with relevant Federal agencies to ensure that a household that participates in any program that qualifies the household for the Affordable Connectivity Program is provided information about the Program.'' The Commission recognizes that Federal housing assistance recipients live in a variety of settings across the country, from single-family homes to large, urban housing developments, and that Federal housing assistance operates through a web of public housing agencies and private landlords. Thus, the decentralized nature of Federal housing assistance requires an ''all hands'' approach to raising awareness among this group of qualifying households that are served by private and public entities across the country.

14. *Federal agency partners.* The Commission encourages its Federal agency partners, many of whom have promoted the Affordable Connectivity Program thus far, to singularly or in coordination with other partners submit applications for the pilot program with ideas and proposals designed to ensure that households participating in public housing or receiving Federal housing assistance are provided with information about the Affordable Connectivity Program, including application and enrollment information.

15. Given the overlap between the Affordable Connectivity Program and Federal housing assistance, the Commission has worked closely with HUD in order to raise awareness of the Affordable Connectivity Program among those eligible households. The Commission expects that this relationship will only strengthen further as the collaboration continues. This is consistent with commenters that emphasize the need to continue to collaborate with HUD. The Commission acknowledges, however, that there are Federal agencies beyond HUD that work with households that receive Federal housing assistance. For example, commenters recommend that the Commission collaborates with the National Telecommunications and Information Administration (NTIA) and the Department of Education. The Alaska Federation of Natives (AFN) urges the Commission to reach Tribal households receiving Federal housing assistance by coordinating with the Office of Native American Programs at HUD, the Bureau of Indian Affairs in the Department of the Interior, and the Indian Health Service in the Department of Health and Human Services. The Commission agrees with commenters that continuing to expand its collaboration within HUD and with other Federal agencies, as the Commission is directed to do under the Infrastructure Act, will increase its reach and allow more touchpoints with households receiving Federal housing assistance. The Commission urges interested Federal partners to consider applying to participate in the pilot program and to share their expertise.

16. *Non-Federal partners.* In addition to Federal agencies, the Commission urges state, local, and Tribal housing agencies and non-profit and community-based organizations working with Federal housing assistance recipients to apply to participate in Your Home, Your internet. Commenters agree. For example, the Chicago Housing Authority argues that empowering local housing agencies and community organizations to help spread awareness of the program builds trust. AFN urges the Commission to leverage the Tribally Designated Housing Entities (TDHE) or the associations representing multiple TDHE, such as the Association of Alaska Housing Authorities, for outreach. Starry states that the Commission should also consider structuring outreach efforts to reach Federal housing assistance recipients who live outside of centrally managed public or affordable housing communities. Additionally, the San Diego Association of Governments (SANDAG) recommends that the Commission collaborate with the San Diego Housing Commission to help connect the 16,000 San Diego area households that receive Federal Section 8 housing choice voucher rental assistance through the San Diego Housing Commission.

17. The Commission agrees with commenters that the relationships that regional, state, local, and Tribal housing agencies and community-based organizations have fostered with the Federal housing assistance recipients whom they support will help the Commission spread awareness of the Affordable Connectivity Program. A common theme in the record is the need to develop trust to ensure low-income consumers know that the Affordable Connectivity Program is a legitimate government program that can help reduce a household's monthly internet bill. The Commission is persuaded that regional, state, local, and Tribal housing agencies and community-based organizations are vital avenues for connecting with Federal housing assistance recipients. Therefore, the Commission similarly encourages such organizations that serve the needs of this target group to submit pilot program proposals designed to help spread awareness of the Affordable Connectivity Program and encourage enrollment during this pilot.

2. Funding

18. To help support this innovative pilot program, the Commission will allocate up to $10 million of the $100 million identified in the *ACP Order* for ACP outreach to support Your Home, Your Internet participation. Of this $10 million, up to $5 million will be available in the form of grants for use by grant-eligible pilot participants under the Affordable Connectivity Outreach Grant Program and requirements and procedures for applying for such grants will be separately announced. The Commission directs the Consumer and Governmental Affairs Bureau (CGB) to incorporate the parameters for this pilot program into the requirements and procedures for the Affordable Connectivity Outreach Grant Program, as applicable. Additionally, the Commission will target up to an additional $5 million to fund its own outreach efforts, and may coordinate these efforts with HUD and other Federal agency partners.

19. The Commission finds that there likely is substantial need for funding to support the Your Home, Your Internet Pilot Program to increase participation among the households residing in public housing or receiving Federal housing assistance. This funding will support the pilot participants as they seek to reach and connect the households living in approximately 5 million available housing units subsidized by Federal housing

assistance. The *ACP Order* supports such an allocation. It particularly names, among the outreach activities for which that money is dedicated, ''immediate outreach activities and a potential outreach grant program.'' The Commission found in the *ACP Order* that ''a wide range of outreach is needed to best promote awareness of and increase participating in the Affordable Connectivity Program.'' Funding Your Home, Your Internet is also consistent with the statute and Congressional intent because the Infrastructure Act allows ''outreach efforts to encourage eligible households to enroll in the Affordable Connectivity Program.''

20. A broad and diverse set of commenters agree that the Commission must include a funding source as part of the pilot program. EducationSuperHighway supports funding to support services to increase enrollment, including translation services, outreach materials, and device support. Similarly, the California Emerging Technology Fund asks the Commission to award grant funding and Los Angeles County supports awarding grants to local governments, including counties, cities, and other entities to develop hyper-local campaigns. Stewards of Affordable Housing for the Future urges the Commission to accompany the applications with designated funding to ensure households can participate in the Affordable Connectivity Program. The National Hispanic Media Coalition asks the Commission to build out grant amounts to adequately cover an organization's capacity to apply and comply with the grant, as well as plan and implement an outreach program.

3. Eligible Activities

21. Having established the types of agencies and organizations with which the Commission expects to participate in this pilot, the Commission now turns to the activities that may be undertaken pursuant to the pilot. The Commission encourages applicants to be creative in developing pilot program proposals to connect with eligible but so far unreached households living in public housing or receiving Federal housing assistance. While the Commission identifies potential pilot program activities below, the discussion here is not meant to be an exhaustive list. As discussed below, the Bureau will provide additional guidance in a public notice announcing the application process.

22. *Electronic and Downloadable Content.* Since the launch of the Emergency Broadband Benefit Program (EBB Program), the Commission and USAC have produced and published electronic and downloadable content for its partners to use to promote the Affordable Connectivity Program and the EBB Program to low-income consumers, including materials in languages other than English. This pilot offers the opportunity to better serve a specific audience: those who receive assistance from Federal housing assistance programs.

23. Commenters also suggest that toolkits and outreach materials specifically tailored to support organizations working with Federal housing assistance recipients would make outreach more effective under this pilot. For example, Microsoft recommends that toolkits be designed to target the staff at the local housing agencies, consumer experts, non-profits, digital navigators, and other outreach partners by providing information and support to those working directly with the Federal housing assistance recipients. Some commenters recommend making such toolkits available in multiple languages, as Federal housing assistance recipients include non-English speakers as well as those for whom English is a second language. The Commission agrees with commenters as to the potential benefits of specialized toolkits for outreach partners focused on Federal housing assistance recipients. Accordingly, the Commission encourages pilot applicants to submit proposals for specialized ACP outreach materials for organizations working with Federal housing assistance recipients. This may include proposals to prepare materials in languages tailored for the communities they serve.

24. *Application Assistance.* In the *ACP Further Notice of Proposed Rulemaking (FNPRM),* 87 FR 8385, February 14, 2022, the Commission sought comment on how to best assist Federal housing assistance recipients in accessing or navigating the application process for the Affordable Connectivity Program. Commenters indicate that Federal housing assistance recipients may face difficulty during the ACP application process. Mississippi Center for Justice states that many applicants face application challenges, such as language barriers, preventing eligible households from applying. Mississippi Center for Justice further asserts that the application process requires applicants to submit additional documents and applicants may abandon their Lifeline or EBB applications, which commenters predicted would also occur for ACP applicants. The National Digital Inclusion Alliance (NDIA) explains that the application process can be confusing for many Federal housing assistance recipients, deterring them from applying.

25. In the Lifeline program, applicants are permitted to receive assistance in the application process from trusted third parties. For example, state entities and Tribal partners may request access to the National Verifier to assist applicants who are physically present with completing and submitting an application for the Lifeline program. To gain access to the National Verifier, state or Tribal entity representatives must register in the Representative Accountability Database (RAD) and indicate their assistance when helping consumers submit an application through the National Verifier. Similarly, as with the Lifeline program, in the *ACP Order,* the Commission directed the Bureau, in coordination with USAC, to conduct a separate one-year ACP Navigator Pilot, granting ''trusted, neutral third-party entities such as schools and school districts, or other local or state government entities'' access to the National Verifier for the purpose of assisting customers with applying for the Affordable Connectivity Program.

26. The Commission finds support in the record for providing limited access to the National Verifier to application assistants or navigators to help Federal housing assistance recipients navigate the application process for the Affordable Connectivity Program. Commenters state that having individuals assist with applications ''would alleviate . . . burdens on the applicants and promote additional engagement with FPHA recipients.'' The Chicago Housing Authority argued that allowing access to the National Verifier database would reduce the amount of time it takes to complete the enrollment process to get residents enrolled in the Affordable Connectivity Program. NCTA—The Internet & Television Association (NCTA) supports ''the FCC's proposal to encourage partner agencies to gain access to the National Verifier in order to assist federal housing assistance recipients in applying for the Affordable Connectivity Program through the National Verifier.''

27. Based on the record before the Commission and its experience with the Lifeline program, the Commission believes that it will be beneficial to grant access to the National Verifier to neutral, trusted government entities such as state and local housing agencies, Tribally Designated Housing Entities, associations representing multiple Tribally Designated Housing Entities, or other state, regional, and local government entities or their partners for

purposes of assisting recipients of Federal housing assistance with completing and submitting an application for the Affordable Connectivity Program, provided that the consumer is physically present with the person providing assistance. Therefore, the Commission encourages pilot applicants to include requests for access to the National Verifier in connection with the Your Home, Your Internet Pilot Program and/or the ACP Navigator Pilot.

28. In addition, some commenters suggested that the Commission allow access to the National Verifier to certain trusted tenant associations and non-profit or community-based organizations. USTelecom comments that the Commission should ''partner with federal, state, and local housing authorities, as well as third parties, including national and regional housing advocacy organizations, tenant associations, and other groups that are already working in this space to assist in reaching households in public housing who would benefit from Affordable Connectivity Program participation.'' NCTA states that the Commission should collaborate with trusted partners that could assist residents in applying for the Affordable Connectivity Program based on their participation in the Federal housing assistance programs. The Commission agrees with commenters that community organizations are well positioned to provide one-on-one support and in-person guidance about navigating the ACP application in their neighborhoods. Therefore, as discussed below, the Commission will allow access to the National Verifier to a limited number of tenant associations, on-site service coordinators, and non-profit or community-based organizations that already have an established partnership with governmental agencies participating in the pilot. A tenant association, non-profit, or community-based organization may participate in the pilot provided that the government entity it is partnering with submits support of the partnership. Additionally, enrollment activities through the National Verifier must take place in the government entity's facility or other location or setting maintained or operated with support from the government entity. Tenant associations, on-site service coordinators, non-profits, and community-based organizations must have their representatives register in the RAD and indicate their assistance when helping consumers submit an application through the National Verifier. Governmental entities must oversee these organizations to ensure adequate safeguards are in place to prevent any misconduct, waste, fraud, or abuse and that appropriate measures are in place to protect the personally identifiable information of the applicants.

29. Governmental agencies participating in this pilot (and their partners as applicable) must maintain neutrality with respect to ACP participating providers when assisting consumers in connection with this pilot. Those voluntarily participating in this pilot cannot, when assisting applicants, direct consumers to a specific ACP provider's website or otherwise recommend a specific ACP provider. Pilot participants assisting consumers with the application may, however, refer consumers to a list of providers offering ACP service in their area. Those providing application assistance through this pilot are also prohibited from accepting gifts or other incentives from a participating provider that would have the effect of influencing an agency or partner to encourage consumers they are assisting to enroll with a specific provider. Furthermore, pilot participants may not otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers (including, but not limited to, broadband industry groups such as trade associations) for the purpose of assisting consumers in connection with this pilot. As discussed below, these requirements do not prohibit activities like sign-up events conducted with ACP providers so long as those activities are open to all providers serving the relevant location.

30. Some commenters recommend allowing state, local, and Tribal housing agencies to automatically enroll Federal housing assistance recipients in the Affordable Connectivity Program, stating that Federal housing assistance recipients' eligibility has already been prequalified. The National Verifier application is designed to ease the qualification process by leveraging connections with state and Federal databases. Currently, the National Verifier has a connection with HUD to verify applicants' participation in certain FPHA programs, for which the Commission, USAC and HUD have entered into a Computer Matching Agreement to comply with the Computer Matching and Privacy Protection Act of 1988. The National Verifier is also an important tool in combating waste, fraud, and abuse in the Affordable Connectivity Program by validating consumer identity and, with the use of the NLAD, to identify duplicate households in the program. The Commission declines at this time to modify the qualification and enrollment processes for the Affordable Connectivity Program to allow HUD or housing agencies to ''auto-qualify'' or bulk enroll households without first requiring a household to submit a National Verifier application. Instead, the application assistance tools the Commission adopts as part of this pilot will build upon the database connections and existing matching agreements related to the National Verifier to further streamline the application process for Federal housing assistance recipients, while at the same time protecting program integrity and consumer choice.

31. To the extent that pilot applicants have proposals for tools to assist in the application process that they may seek to utilize during the pilot, the Commission encourages them to submit proposals incorporating the use of such application assistance tools to test the effectiveness of those tools during the pilot program. One important goal of the Your Home, Your Internet Pilot Program is to identify methods to decrease the amount of time and effort needed to sign up for the Affordable Connectivity Program, while at the same time protecting the integrity of the program. The Commission directs the Bureau, with support from USAC, OMD, and OGC, to explore the feasibility of permitting the use of such application aids during this pilot, and to ensure that the use of such tools is consistent with legal and USAC system requirements and will not invite waste, fraud, and abuse into the Affordable Connectivity Program. In addition to providing National Verifier access to help support the completion of ACP applications, the Commission encourages pilot participants to consider as part of their proposals ''train the trainer'' events or webinars to educate housing organizations, government agencies, and other authorized partners about the application and enrollment process and to answer their questions about the program.

32. In the *ACP FNPRM,* the Commission also sought comment on whether the Commission should encourage the entities participating in the pilot program to establish on-site assistance locations where eligible household members can complete applications for the Affordable Connectivity Program. In the *ACP FNPRM,* the Commission did not define or provide examples of on-site assistance locations; however, examples from the record include properties where Federal housing assistance

recipients reside. Commenters agree that those participating in the pilot program should establish on-site assistance locations where Federal housing assistance recipients can complete ACP applications. NDIA states that ''FPHA beneficiaries would benefit enormously from an on-site enrollment assistance location where they can complete and submit an ACP application in a one-stop manner.'' NDIA further argues that ''an on-site assistance location would reduce the application burden on households, build trust, and ultimately increase ACP enrollment amongst FPHA beneficiaries.'' Local Initiatives Support Corporation (LISC) asserts that it is essential to consider partnerships that would elevate the Affordable Connectivity Program, and in particular should focus on on-site service coordinators at properties. NCTA comments that allowing partner agencies to gain access to the National Verifier would allow partner agencies to host on-site enrollment events and provide immediate support to eligible households navigating the application process.

33. The Commission also acknowledges that ACP participating providers serve a pivotal role in enrolling eligible Federal housing assistance recipients in the Affordable Connectivity Program. There is evidence in the record that housing agencies and cities have had success working with providers to offer ACP service to qualified households receiving housing assistance. On the other hand, NDIA argues that public housing tenants and other recipients of housing assistance often distrust providers and NDIA's affiliates have needed to participate in calls between qualified households and providers in order to complete the enrollment process. Organizations participating in the pilot may co-host events with providers, so long as the organization maintains neutrality and does not favor a particular provider or restrict participation in events to particular providers, if multiple ACP providers serve the area. The Commission finds that there is value in providers promoting their services to this eligible population so long as it is done in compliance with the Commission's rules and is consistent with Congress's consumer protection requirements. The Commission reminds providers wishing to send their agents to a location where there is on-site application assistance of the requirements that the Commission established in the *ACP Order* to protect consumers, including the need to provide disclosures about the Affordable Connectivity Program and to capture informed consent prior to enrolling a household. Providers are prohibited from linking enrollment in the Affordable Connectivity Program to some other action such signing up for Lifeline service and from engaging in upselling and downselling of ACP services.

34. USAC will be required to grant access to the National Verifier to approved pilot applicants that meet the established requirements for such access for purposes of assisting eligible Federal housing assistance recipients with the application process. Consistent with current practice in the Lifeline program, the Commission requires that representatives of the trusted entities granted access to the National Verifier in this pilot register in the RAD pursuant to the Commission's rules. Entities participating in this pilot must maintain neutrality with respect to ACP participating providers when assisting consumers in connection with this pilot. Selected pilot participants will be required to provide updates to the Bureau regarding their experience with the application process, aggregate, non-personally identifiable information about the consumers they are assisting, any occurrences or incidents involving unauthorized access to the National Verifier (*e.g.,* by an unauthorized user), and other aspects of the pilot. To help identify the applications that benefited from the application assistance made possible through this pilot, the pilot participants shall ensure that their assigned representative identification number or other identifier as determined by USAC is provided on the application. Additional data to be reported by pilot participants and the format of the required data shall be determined by the Bureau consistent with the direction provided by this document. The data collected will assist the Commission in measuring the success of the pilot and track the progress towards meeting the pilot program goals. The Commission further encourages pilot participants to conduct their own evaluations of outreach efforts and share insights with the Bureau. Upon conclusion of the year-long pilot program, pilot participants will no longer have access to the National Verifier absent further action by the Bureau or the Commission.

35. Finally, the Commission recognizes the important role that navigators can play in helping all eligible households, including those not receiving Federal housing assistance, manage the ACP application process. To learn more about those opportunities, the Commission will also be establishing guidance for participation in a separate Navigator Pilot that will focus on helping other ACP eligible households with the application. Your Home, Your Internet Pilot Program participants are eligible to participate in the separate ACP Navigator Pilot, and the Commission encourages them to consider participating in both to ensure the widest impact to the Affordable Connectivity Program. To that end, the Commission directs the Bureau, in consultation with USAC, to consider ways to streamline the application processes and necessary training to permit entities qualified to serve in the Your Home, Your Internet Pilot Program and the ACP Navigator pilots to participate in both. The efficiencies gained by allowing dual participation by entities qualified to participate in both pilots will allow the Commission to quickly stand up and track progress toward the goals the Commission has established for each pilot. The Commission directs the CGB, including the Office of Native Affairs and Policy, and the Office of Communications Business Opportunities (OCBO), in coordination with the Bureau and USAC, to promote both pilots among entities likely to be eligible to participate.

4. Application Procedures and Selection Criteria

36. Below the Commission discusses the required procedures for entities eligible and interested in applying to participate in the Your Home, Your Internet Pilot Program. The Commission next discusses the selection criteria the Bureau will use to select up to 20 Your Home, Your internet participants.

37. *Application Process.* Eligible entities seeking to participate in the pilot program must apply and be approved by the Bureau. The Commission directs the Bureau, in coordination with other Bureaus and Offices, as necessary, to establish an application review process for interested pilot participants consistent with this document. The Commission directs the Bureau to establish an application window during which interested entities seeking approval to participate in the pilot program will receive guaranteed consideration of their submitted application. The Commission believes that establishing this window will not only allow the Bureau to select a diverse group of pilot participants, but also encourage selected entities to work quickly to ensure appropriate measures are in place to assist Federal housing assistance recipients with navigating the ACP application. The Commission directs the

Bureau to consider the timing of available grant awards for the Affordable Connectivity Outreach Grant Program when considering the deadlines for the filing window.

38. As a part of the application process, interested entities will be required to submit a detailed proposal explaining their plan. Applicants should also be prepared to submit, at a minimum, information about the entities including any partnerships; the geographic areas (including whether rural, urban, tribal, or other) and constituencies the entity intends to serve (including estimates of the number of eligible households with which the entity would engage); housing or other state, local, or Tribal agencies with which the entity works; and to provide a description of the entity's role in the community which it is serving. Tenant associations, non-profits, and community-based organizations should also include information about the government entity providing support for their partnership as well as describing the nature of the partnership.

39. *Selection Criteria.* In order to increase participation in the Affordable Connectivity Program, the Commission's goal is to select applications that target areas with lower program participation rates and areas where application assistants or navigators will have the most impact on addressing barriers Federal housing assistance recipients face when navigating the ACP application. The Commission directs the Bureau to review applications and select entities to participate in the pilot program in a manner that ensures a geographically diverse group of pilot participants, representing both urban and rural areas. Within 60 days of the release of this document, the Commission directs the Bureau to issue a public notice announcing the pilot application requirements and the deadline for submitting applications during the window. In order to increase the chances of attracting a diverse variety of applications, the application window will be open for no fewer than 28 days. Interested entities should not submit applications to participate in this pilot prior to the opening of the window. The Commission further delegates authority to the Bureau to provide additional guidance to prospective pilot participants where necessary to carry out this document.

40. Participation in the Your Home, Your Internet Pilot Program will initially be limited to no more than 20 participants. Depending on pilot program demand from entities seeking to participate, the Commission delegates to the Bureau the option to accept more than 20 participants into the pilot program if doing so would further the goals of the pilot. The Commission directs the Bureau to establish necessary systems and processes to fairly and systematically review pilot applications. Applicants will be notified by the Bureau of their selection to participate in the pilot. The Commission further directs the Bureau to consolidate, where possible, the application process for the ACP Navigator Pilot with this pilot to allow participation by entities that are eligible to participate in both.

5. Metrics for Evaluating the Success of Pilot Project

41. In order to properly analyze the results of the Your Home, Your Internet Pilot Program, the Commission adopts requirements for pilot participants to provide data and other information necessary for the Bureau to issue a report summarizing the results of the pilot. The Commission directs the Bureau to submit a report to the Commission after the conclusion of the Your Home, Your Internet Pilot Program to inform the Commission's future efforts to facilitate the Affordable Connectivity Program application process for households receiving Federal housing assistance.

42. *Data.* When adopting the ACP rules, the Commission directed Commission staff, with support from USAC, to collect data, including possibly via a survey, that measures the general public's awareness of the Affordable Connectivity Program. The Commission directs the Bureau and the Office of Economics and Analytics (OEA), with support from USAC, to work with the entities that participate in the pilot to collect information that could be used to measure program performance while balancing the additional burdens such coordination may impose on the pilot participants. Helpful data may include the number, location (city and state), nature of their outreach, and type (local, state, Tribal, Federal, non-profit, community-based organization, etc.) of trusted partners that participate in the pilot. In addition, the Commission directs USAC to collect data regarding the number of applications started, applications completed, and subsequent enrollments of self-reported Federal housing assistance recipients that have been assisted by trusted partners. Surveys may be used to gather additional information which may not be captured through available data sources. The Commission gives the Bureau, OEA, and USAC the option to conduct surveys on the awareness of the Affordable Connectivity Program among Federal housing assistance program participants and any enrollment barriers these households may have faced. Additionally, to help protect participants' personally identifiable information, the Commission delegates to the Bureau the authority to issue additional guidance addressing the appropriate and necessary protections regarding the collection of participant data.

43. *Performance Goals.* Through this pilot program, the Commission aims to increase awareness of and participation in the Affordable Connectivity Program among the Federal housing assistance recipients and to identify the barriers to enrollment for Federal housing assistance recipients. To that end, it is important to establish performance measurements and goals to determine how the Commission can ensure maximum participation by qualified Federal housing assistance recipients during and beyond the pilot's term.

44. To evaluate the success of the Your Home, Your Internet Pilot Program, it will be important to track applications and enrollments and to solicit feedback from partners and households about their experience enrolling in the Affordable Connectivity Program. The Commission directs the Bureau and OEA, with support from USAC, to track and collect appropriate data and to further develop metrics to determine progress toward the pilot's goal of increasing awareness of and enrollment in the Affordable Connectivity Program among households participating in qualifying Federal housing assistance programs. The Commission directs OEA, the Bureau, and USAC to consider tracking, for both Federal housing assistance and non-Federal housing assistance households: the ratio of enrollments to qualified applications; the ratio of qualified applications to all applications; and the participation rate for Federal housing assistance recipients and all households to measure any improvement in these metrics as a result of the pilot. Because households receiving Federal housing assistance may well participate in other ACP-qualifying programs, the Commission expects that this analysis will necessarily rely to some extent on households to self-report that they receive Federal housing assistance on their ACP application form. The Commission encourages partners to remind households completing the application to indicate *all* of the qualifying programs in which they participate so that the Commission can

better identify and track the households that self-report as receiving Federal housing assistance, even if those households ultimately are qualified based on income, their participation in Medicaid, or another qualifying program. To the extent possible, the Commission directs OEA and the Bureau, with assistance from USAC, to identify ways in which HUD can provide relevant information to construct measures of performance, including checking current qualified subscribers against HUD databases to identify subscribers who participate in Federal housing assistance programs but did not indicate so on their application.

45. The Commission also directs the Bureau, in coordination with USAC and OEA, to identify ways in which program requirements, application and enrollment processes, and the ways in which the Affordable Connectivity Program is promoted can better serve Federal housing assistance recipients. For example, Chicago Housing Authority argues that because some households do not have an email address, establishing one when applying through the online application can result in delays. Through this pilot, the Commission can track how the email address requirement impacts the timely completion of the ACP application.

46. *Final report.* Within 180 days of the completion of the one-year pilot, the Commission directs the Bureau to send a report to the Commission summarizing its results. The report should describe the Your Home, Your Internet Pilot Program's successes and challenges and include recommendations on further action to increase participation in the Affordable Connectivity Program among Federal housing assistance recipients, including addressing, consistent with the program requirements set forth in the Infrastructure Act and the Commission's obligation to limit waste, fraud, and abuse in the Affordable Connectivity Program, barriers to enrollment. In developing the report, staff should consider the experience of the trusted entities granted access to the National Verifier and the impact granting this access to the National Verifier had on the number of qualified applications for those who receive Federal housing assistance. The Bureau, OEA, or USAC may also conduct focus groups or send a questionnaire/survey to pilot participants assisting Federal housing assistance recipients with the application to help with these and other questions. Based on findings in the final pilot report and feedback from pilot participants, the Bureau and/or USAC may release additional guidance regarding the potential expansion of access to the National Verifier to assist with completion of the ACP application.

47. It is clear from the record that the groups that serve Federal housing assistance recipients are mobilized and eager to continue to work with Federal housing assistance recipients to maximize the benefits offered through the Affordable Connectivity Program. The pilot the Commission establishes is just one of the tools the Commission is standing up to target eligible households to increase their participation in the Affordable Connectivity Program. Through the Your Home, Your Internet Pilot Program the Commission adopts, along with the ACP Navigator Pilot, and the Outreach Grant Order and the Notice of Funding Opportunity anticipated for the fall, the Commission will empower its governmental and non-profit partners with the tools to reach more eligible households to promote the Affordable Connectivity Program and to encourage their participation. To that end, the Commission directs the Bureau, in coordination with other Offices and Bureaus, as well as USAC, to establish this pilot program consistent with the timetables the Commission adopts in this document to expand program awareness and to assist with the completion of the applications. The Commission also delegates to the Bureau the authority to make modifications to the National Verifier to implement recommendations in the final report to address any barriers to enrollment, consistent with program requirements set forth in the Infrastructure Act as well as the Commission's obligation to limit waste, fraud, and abuse in the Affordable Connectivity Program. The Commission also encourages those entities that plan to participate in this pilot program to look for guidance to be issued in the coming months on the ACP Navigator Pilot and Outreach Grant Program funding opportunities to boost the grassroots support to eligible households the Commission enables through these pilots.

III. Procedural Matters

48. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a final regulatory flexibility analysis ''whenever an agency promulgates a final rule under [5 U.S.C. 553], after being required by that section or any other law to publish a general notice of proposed rulemaking.'' The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Third Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). Consistent with the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Affordable Connectivity Program Further Notice of Proposed Rulemaking* (*ACP FNPRM*). The Commission sought written public comment on proposals in the *ACP FNPRM,* including comment on the IRFA. The Commission did not receive any comments in response to this IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, This Final Action

49. The Affordable Connectivity Program provides a monthly discount of up to $30 per month (and up to $75 per month for households on qualifying Tribal lands) as well as a one-time $100 discount toward a laptop, desktop computer, or tablet. When adopting the final rules for the Affordable Connectivity Program, the Commission sought further comment on a proposal to target outreach and provide application support to residents of public housing and other Federal Public Housing Assistance (FPHA) recipients that are eligible for the Affordable Connectivity Program.

50. The *ACP FNPRM* proposed and sought comment on a pilot program focused on expanding ACP participation by FPHA program (including housing choice voucher program (Section 8), project-based rental assistance, and public housing) recipients including increasing awareness and assisting with navigating the ACP enrollment process. To that end, the Commission proposed and sought comment on a pilot program to develop partnerships with agencies that administer the FPHA programs for collaborative cross-agency outreach and marketing regarding the Affordable Connectivity Program to recipients of those housing programs. The *ACP FNPRM* sought comment on how the Commission could structure this pilot, how to make the pilot effective, data sources the Commission could use to identify locations for this pilot, and how to measure the success of the pilot. In this document, the Commission establishes a one-year pilot program with the goal of increasing awareness of the Affordable Connectivity Program among Federal housing assistance recipients and facilitating enrollment into the program by providing targeted assistance with completion of the ACP application. The document sets forth the details of the pilot by identifying the

government entities and third-party organizations who may apply to participate in the pilot to gain limited access to the National Verifier to help Federal housing assistance recipients complete and submit their ACP applications. The document also identifies changes to the ACP application process, the success of which will be tested in the Your Home, Your Internet Pilot Program.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

51. The Commission did not receive comments that specifically addressed the IRFA contained in the *ACP FNPRM.*

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

52. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any changes made to the proposed rule(s) as a result of those comments.

53. The Chief Counsel did not file any comments in response to the *ACP FNPRM.*

D. Description and Estimate of the Number of Small Entities to Which the Final Action Will Apply

54. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; (3) satisfies any additional criteria established by the Small Business Administration (SBA).

55. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

56. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

57. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

58. *Wired Broadband Internet Access Service Providers (Wired ISPs).* Providers of wired broadband internet access service include various types of providers except dial-up internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Wired broadband internet services fall in the Wired Telecommunications Carriers industry. The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees.

59. Additionally, according to Commission data on internet access services as of December 31, 2018, nationwide there were approximately 2,700 providers of connections over 200 kbps in at least one direction using various wireline technologies. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time the Commission is not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2020 Communications Marketplace Report,* the Commission believes that the majority of wireline internet access service providers can be considered small entities.

60. *Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs).* Providers of wireless broadband internet access service include fixed and mobile wireless providers. The Commission defines a WISP as ''[a] company that provides end-users with wireless access to the Internet[.]'' Wireless service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Neither the SBA nor the Commission have developed a size standard specifically applicable to Wireless Broadband Internet Access Service Providers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite). The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees.

61. Additionally, according to Commission data on internet access services as of December 31, 2018, nationwide there were approximately 1,209 fixed wireless and 71 mobile wireless providers of connections over 200 kbps in at least one direction. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time the

Commission is not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, based on data in the Commission's *2020 Communications Marketplace Report* on the small number of large mobile wireless nationwide and regional facilities-based providers, the dozens of small regional facilities-based providers and the number of wireless mobile virtual network providers in general, as well as on terrestrial fixed wireless broadband providers in general, the Commission believes that the majority of wireless internet access service providers can be considered small entities.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

62. In this document the Commission establishes the requirements for the pilot program designed to increase awareness of and participation in the Affordable Connectivity Program among Federal housing assistance recipients. For eligible entities seeking to participate in the pilot program the Commission adopted an application process that requires, at minimum, entities to submit information about the entities including any partnerships; their geographic areas (including whether rural, urban, or other) and constituencies the entity intends to serve (including estimates of the number of eligible households with which the entity would engage); housing or other state, local, or Tribal authorities with which the entity works; and to provide a description of the entity's role in the community which it is serving. Tenant associations, non-profits, or community-based organizations should include, as a part of their application, information about the government entity providing support for their partnership as well as describing the nature of the partnership. In order to increase participation in the Affordable Connectivity Program, the Commission's goal is to select applications that target areas with low program participation rates and areas where application assistants or navigators will have the most impact on addressing barriers Federal housing assistance recipients face when navigating the ACP application. The Commission therefore, established an application window, during which interested entities seeking approval to participate in the pilot program will receive guaranteed consideration of their submitted application. The Bureau, will select pilot participants based on applications, and applicant's responses to the information criteria listed above. Applicants that seek funding for their pilot program activities will need to abide by any application requirements established in the Affordable Connectivity Outreach Grant Program.

63. Similar to the current practice in the Lifeline program, the Commission will require representatives of the entities granted access to the National Verifier to register in the RAD. Also, selected pilot participants will be required to provide updates to the Bureau and USAC regarding their experience with the application process, aggregate, non-personally identifiable information about the consumers they are assisting, any occurrences or incidents involving unauthorized access to the National Verifier (*e.g.,* by an unauthorized user), and other aspects of the pilot. Additionally, in order to help identify the applications that benefited from the application assistance made possible through this pilot, assistants shall ensure that their assigned representative identification number or other identifier as determined by USAC is provided on the application. Additional data to be reported by pilot participants and the format of the required data shall be determined by the Bureau consistent with the direction provided by this document. The Commission encourages pilot participants to conduct their own evaluations of outreach efforts and share insights with the Bureau.

64. The Commission will require the Bureau and the Office of Economics and Analytics (OEA), with support from USAC, to work with entities that participate in this pilot to collect information that could be used to measure program performance. Helpful data may include the number, location (city and state), the nature of their outreach, and type (local, state, Federal, non-profit, community-based organization, etc.) of trusted partners that participate in this pilot. Surveys may be used to gather additional information which may not be captured through available data sources. The Commission gives the Bureau, OEA, and USAC the option to conduct surveys on the awareness of the Affordable Connectivity Program among Your Home, Your Internet participants and any enrollment barriers these households may have faced. Additionally, to help protect participants' personally identifiable information, the Commission delegates to the Bureau the authority to issue additional guidance addressing the appropriate and necessary protections regarding the collection of participant data.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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

66. The Commission has considered the economic impact on small entities in reaching its final conclusions and taking action in this proceeding. The pilot program that the Commission establish in this document will help to identify and address barriers to enrollment for Federal housing assistance recipients and provide an efficient application process for all pilot participants, including small entities. The Commission intends to minimize the burdens imposed on small entities where doing so would not compromise the goals of the Affordable Connectivity Program and this pilot program. The regulatory burdens, such as the voluntary application process and data collection, can be used to measure program performance while balancing the additional burdens that may be imposed on Your Home, Your Internet Pilot Program participants. The Commission will continue to examine alternatives in the future with the objective of eliminating unnecessary regulations and minimizing any significant impact on small entities.

G. Report to Congress

67. The Commission will send a copy of the Third Report and Order, including the FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Third Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Third Report and Order, including the FRFA (or summaries thereof), will also be published in the **Federal Register**.

68. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs,

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

69. *Paperwork Reduction Act.* Pursuant to 47 U.S.C. 1752(h)(2), the collection of information sponsored or conducted under the regulations promulgated in the Third Report and Order is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501–3521.

IV. Ordering Clauses

70. Accordingly, *it is ordered* that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, as amended by Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), the Report and Order *is adopted.*

71. *It is further ordered* that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of the Third Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

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

Federal Communications Commission.

Sheryl Todd,

Deputy Secretary, Office of the Secretary.

[FR Doc. 2022–18293 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–150; RM–11926; DA 22–900; FR ID 102895]

Television Broadcasting Services Augusta, Maine

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 13, 2022, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* in response to a petition for rulemaking filed by Maine Public Broadcasting Corporation (Petitioner), the licensee of WCBB, channel *10, Augusta, Maine, requesting the substitution of channel *20 for channel *10 at Augusta in the Table of Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends Federal Communications Commission (FCC or Commission) regulations to substitute channel *20 for channel *10 at Augusta.

DATES: Effective September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 87 FR 25196 on April 28, 2022. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *20. No other comments were filed.

We find that the public interest would be served by substituting channel *20 for channel *10 at Augusta, Maine since it would improve access to WCBB's PBS and other public television programming by improving indoor reception. Although the proposed channel *20 facilities will result in a predicted loss of service to 3,785 persons, much of the predicted loss area is located outside the state of Maine and the ''vast majority'' is served by Petitioner's owned and operated stations WMEB–TV, Orono, Maine (WMEB–TV), and WMEA–TV, Biddeford, Maine, or by other PBS member stations WENH–TV, Durham, New Hampshire, WLED–TV, Littleton, New Hampshire, and WVTB, St. Johnsbury, Vermont. Once these other sources of PBS programing and terrain-limitations are factored into the loss analysis, the new loss area that would be created by the proposed channel substitution would contain 155 persons, which is within the level the Commission considers *de minimis* in the context of considering impermissible loss of service. Since the proposed facility is located within the Canadian coordination zone, concurrence from the Canadian government was required and has subsequently been obtained.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 22–150; RM–11926; DA 22–900, adopted August 29, 2022, and released August 29, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the Table of Allotments, under Maine, by revising the entry for ''Augusta'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
MAINE	
Augusta	*20
* * * * *	

[FR Doc. 2022–19174 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–215; RM–11929; DA 22–899; FR ID 102896]

Television Broadcasting Services Orono, Maine

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On May 25, 2022, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* in response to a petition for rulemaking filed by Maine Public Broadcasting Corporation (Petitioner), the licensee of WMEB–TV, channel *9, Orono, Maine, requesting the substitution of channel *22 for channel *9 at Orono in the Table of Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends Federal Communications Commission (FCC or Commission) regulations to substitute channel *22 for channel *9 at Orono.

DATES: Effective September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 87 FR 34624 on June 7, 2022. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *22. No other comments were filed.

We believe the public interest would be served by substituting channel *22 for channel *9 at Orono, Maine, since it would improve access to WMEB–TV's PBS and other public television programming by improving indoor reception. Although the proposed channel *20 facilities will result in a predicted loss of service, much of the predicted loss area is served by the Petitioner's other commonly owned stations WCBB(TV), Augusta, Maine (WCCB), and WMED–TV, Calais, Maine, which largely air the same programming as WMEB–TV. Once these other sources of PBS programing and terrain limitations are factored into the loss analysis, the new loss area created by the proposed channel substitution would contain only 523 persons, which is within the level the Commission considers *de minimis* in the context of determining whether there would be an impermissible loss of service. Moreover, the proposed channel change would result in first service to a substantial number of persons. As set forth in the Engineering Statement submitted with the Petition, the proposed facilities would reach 25,238 persons that do not currently receive WMEB–TV and of those persons, 5,558 would receive their first television service and 10,681 would receive their first noncommercial educational (NCE) television service. Since the proposed facility is located within the Canadian coordination zone, concurrence from the Canadian government was required and has subsequently been obtained.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 22–215; RM–11929; DA 22–899, adopted August 29, 2022, and released August 29, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the Table of Allotments, under Maine, by revising the entry for ''Orono'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
MAINE	
* * * * *	
Orono	*22
* * * * *	

[FR Doc. 2022–19175 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 87, No. 171
Tuesday, September 6, 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.

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2022–13; Order No. 6262]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a Postal Service application for waiver pursuant to Commission regulations as it relates to a workshare discount. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 7, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On August 26, 2022, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Six.

II. Proposal Six

Background. Proposal Six relates to the distribution of peak season highway transportation costs. *See* Petition, Proposal Six at 1. In particular, the Postal Service proposes to include additional sampling of peak season trips within the Transportation Cost System (TRACS) ''to develop a separate distribution key for the costs in peak season highway accounts.'' *Id.*

According to the Postal Service, based on the assumption that ''peak season trips have a similar mail mix to regular transportation for the same quarter,'' peak season costs have been ''distributed similarly to the regular contract costs calculated by quarter.'' *Id.* at 8. Thus, the distribution keys associated with the costs of peak season highway contracts are based upon TRACS data for regular contracts (and not Emergency, Exceptional, or Christmas contracts). *See id.* at 1. These data are calculated quarterly using a process that involves developing a sampling frame for each quarter. *See id.* The peak season falls in Quarter One of the fiscal year (FY), and its sampling frame is designed in early September, ''using the most recent operations data'' including operations data from the last weeks of August. *Id.* at 2. However, peak contract highway trips do not run in August or September; in fact, they may not be finalized completely until approximately mid-November (shortly before the beginning of the peak season). *See id.* As a result, they may not be sampled under the current methodology of sampling highway transportation cost data.[2]

The Postal Service reports that it studied peak season sampling in the peak seasons of FYs 2021 and 2022. *Id.* at 3–4. For FY 2021, although the Postal Service developed a peak season frame ''using a non-finalized list of peak trips from operations obtained in September'' and merging this list with actual trip data from the peak season of FY 2020, the Postal Service did not obtain ''enough useful data to develop a distribution key.'' *Id.* at 3. For FY 2022, the Postal Service reports that it conducted a study in November and December 2021 that produced ''meaningful data, allowing a distribution key to be developed.'' *Id.* at 4. According to the Postal Service, ''the only differences in the methodology, compared with the regular TRACS sampling[,]'' are in developing the frame and in scheduling the peak TRACS tests in November instead of September. *Id.*

Proposal. The Postal Service's proposal seeks to use additional sampling of peak season trips within TRACS to develop a separate distribution key for the costs in peak season highway accounts. *See* Petition. The Postal Service would use its new system (instead of regular contract data) to determine the distribution of peak costs. *Id.* Proposal Six at 3. More specifically, for the fiscal year (FY) 2022 Annual Compliance Report (ACR), the Postal Service proposes to implement the FY 2022 peak distribution key. *See id.* at 6. Further, for future years' annual compliance reports, the Postal Service recommends the adoption of the following changes: increasing the number of peak tests to 300 (*see id.* at 5); modifying the frame design process to include all trips that fall under the classification of peak/Christmas accounts within the Transportation Contract Support System (TCSS); and using late October and early November trip data. *See id.* at 6.

Further, the Postal Service proposes to ''create a separate peak season cost pool apart from the regular highway cost pools.'' *Id.* at 7. Under this aspect of Proposal Six, ''[t]he new peak season variabilities that were approved [in] Docket [No.] RM2021–1 would be applied to these costs, and then they would be distributed based on the peak distribution key.'' *Id.* However, the Postal Service does not propose changing the distribution of such costs outside of the peak period. *See id.*

Rationale and impact. The Postal Service asserts that adopting Proposal Six would allow peak contract costs to be estimated more accurately. *See id.* at 8–9. As noted, according to the Postal Service, the current approach of relying on regular contract costs calculated by quarter is founded on ''the assumption

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Six), August 26, 2022 (Petition). The Postal Service also filed a notice of filing of non-public material relating to Proposal Six, as well as public and non-public materials supporting the proposal. *See* Notice of Filing of USPS–RM2022–13–1 and USPS–RM2022–13–NP1 and Application for Nonpublic Treatment, August 26, 2022.

[2] *See id.; see also* Docket No. RM2021–1, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), October 6, 2021, at 36 (Order No. 5999) (''[T]he TRACS database . . . still does not include Christmas contracts in the sampling frame.'').

that peak season trips have a similar mail mix to regular transportation for the same quarter.'' *Id.* at 8. However, the Postal Service advises that this is not necessarily so because ''peak season transportation is used to supplement the regular transportation network during peak season[.]'' *Id.* Thus, the Postal Service asserts that ''sampling of peak season trips provides visibility into the peak season trip mail mix'' and offers ''a more accurate estimation of the cost distribution of peak contract costs.'' *Id.* at 8–9.

According to the Postal Service, for FY 2022 Quarter One, there were $356 million of accrued costs relating to peak season highway contracts, of which $346 million were volume variable. *Id.* at 9. If Proposal Six is implemented, the Postal Service advises that ''these costs would be shifted out of the regular transportation cost pools and into a separate peak season cost pool.'' *Id.* Further, the Postal Service states that ''[t]he costs would mainly shift to competitive domestic products'' as detailed in Table 2 (in public and non-public versions). *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2022–13 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *https://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Six no later than October 7, 2022. Pursuant to 39 U.S.C. 505, Manon A. Boudreault is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2022–13 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Six), filed August 26, 2022.

2. Comments by interested persons in this proceeding are due no later than October 7, 2022.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Manon A. Boudreault to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–19131 Filed 9–2–22; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2022–0259; FRL–10134–01–R4]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to authorize changes to Florida's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes were outlined in an application to the EPA and correspond to certain Federal rules promulgated between July 1, 1987 through June 30, 2020. The EPA reviewed Florida's application and has determined that these changes satisfy all requirements needed to qualify for final authorization. Therefore, in the ''Rules and Regulations'' section of this **Federal Register**, we are authorizing Florida for these changes as a direct final action without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Comments must be received on or before October 6, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2022–0259, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Leah Davis if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

All documents in the docket are listed in the *www.regulations.gov* index. Publicly available docket materials are available electronically in *www.regulations.gov.* For alternative access to docket materials, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Leah Davis; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; telephone number: (404) 562–8562; fax number: (404) 562–9964; email address: *davis.leah@epa.gov.*

SUPPLEMENTARY INFORMATION: This document proposes to act on Florida's changes to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), as amended. We have published a direct final action authorizing these changes in the ''Rules and Regulations'' section of this issue of the **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final action.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final action and it will not take effect. We would then address all public comments in a subsequent final action and base any further decision on the authorization of the State program changes after considering all comments received during the comment period.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further

information, please see the information provided in the **ADDRESSES** section of this document.

Dated: August 26, 2022.

Daniel Blackman

Regional Administrator, Region 4.

[FR Doc. 2022–19202 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[EPA–HQ–OLEM–2019–0341; FRL–7204–02–OLEM]

RIN 2050–AH09

Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA'' or ''Superfund''), the Environmental Protection Agency (EPA or the Agency) is proposing to designate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers, as hazardous substances. CERCLA authorizes the Administrator to promulgate regulations designating as hazardous substances such elements, compounds, mixtures, solutions, and substances which, when released into the environment, may present substantial danger to the public health or welfare or the environment. Such a designation would ultimately facilitate cleanup of contaminated sites and reduce human exposure to these ''forever'' chemicals.

DATES: Comments must be received on or before November 7, 2022. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before October 6, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2019–0341, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov (our preferred method).* Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OLEM Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michelle Schutz, Office of Superfund Remediation and Technology Innovation (5202T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number 703–346–9536; email address: *schutz.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations: We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of the preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ADEC Alaska Department of Environmental Conservation
AFFF Aqueous film-forming foam
APFO Ammonium perfluorooctanoate
ATSDR Agency for Toxic Substances and Disease Registry
CDC Center for Disease Control and Prevention
CDR Chemical Data Reporting
CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
CFR Code of Federal Regulations
COP–9 9th Conference of Parties
DoD Department of Defense
DOE Department of Energy
DNA Deoxyribonucleic acid
EA Economic Analysis
EALs Environmental action levels
ECF Electrochemical fluorination
EJ Environmental justice
EPA Environmental Protection Agency
EPCRA Emergency Planning and Community Right-to-Know Act
EU European Union
FAA Federal Aviation Administration
FDA Food and Drug Administration
FR Federal Register
FSANZ Food Standards Australia New Zealand
IARC International Agency for Research of Cancer
ICR Information Collection Request
ILs Initiation levels
LEPC Local Emergency Planning Committee
LHA Lifetime health advisories
MAC Maximum acceptable concentration
MCL Maximum contaminant level
MDH Minnesota Department of Health
mg/kg milligram per kilogram
mg/kg/day milligram per kilogram per day
MRL Minimal risk level
MSC Medium-specific concentration
NAICS North American Industrial Classification System
NCP National Oil and Hazardous Substances Pollution Contingency Plan
ng/g nanograms per gram
ng/L nanograms per liter
NHANES National Health and Nutrition Examination Survey
NJDEP New Jersey Department of Environmental Protection
NPL National Priorities List
NRC National Response Center
OMB Office of Management and Budget
PADEP Pennsylvania Department of Environmental Protection
PBI Proprietary business information
PCBs Polychlorinated biphenyls
PCL Protective concentration level
PER Perimeter Well Study
PFAS Per- and polyfluoroalkyl substances
PFBS Perfluorobutanesulfonic acid
PFDA Perfluorodecanoic acid
PFHpA Perfluoroheptanoic acid
PFHxA Perfluorohexanoic acid
PFHxS Perfluorohexanesulfonic acid
PFNA Perfluorononanoic acid
PFOA Perfluorooctanoic acid
PFOS Perfluorooctanesulfonic acid
PFOSA Perfluorooctanesulfonamide
pg/m^3 picogram per cubic meter
PHGs Public health goals
POSF Perfluorooctanesulfonyl fluoride
ppt parts per trillion
PRG Preliminary remediation goal
PWS Public water system
RAGs Remedial action guidelines
RCRA Resource Conservation and Recovery Act
REACH Registration Evaluation, Authorisation and Restriction of Chemicals
RFA Regulatory Flexibility Act
RfD Reference dose
RIDEM Rhode Island Department of Environmental Management
RML Regional removal management level
RQ Reportable quantity
RSL Regional screening level
SAB Science Advisory Board
SALs State action levels
SDWA Safe Drinking Water Act SERC State Emergency Response Commission
SNURs Significant New Use Rules
TDI Tolerable daily intake
TEPC Tribal Emergency Planning Committee
TERC Tribal Emergency Response Commission
TRI Toxic Release Inventory
TSCA Toxic Substances Control Act
UCMR Unregulated Contaminant Monitoring Rule
UK United Kingdom
UMRA Unfunded Mandates Reform Act

UNEP United Nations Environment Programme
U.S. United States
U.S.C. United States Code
WQCC Water Quality Control Commission
WWTP Wastewater treatment plant

Table of Contents

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2019–0341, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Propriety Business Information (PBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud or other file sharing system). For additional submission methods, the full EPA public comment policy, information about PBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to monitor information carefully and continuously from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

II. Does this action apply to me?

The purpose of this proposed rulemaking is to designate PFOA and PFOS, including their salts and structural isomers, as hazardous substances under CERCLA section 102(a). Upon designation, any person in charge of a vessel or an offshore or onshore facility, as soon as they have knowledge of any release of such substances at or above the reportable quantity (RQ) must immediately report such releases to the Federal, state, tribal and local authorities (CERCLA section 103(a), Emergency Planning and Community Right-to-Know Act (EPCRA) section 304). The RQ for these designations is 1 pound or more in a 24-hour period. Once EPA has collected more data on the size of releases and the resulting risks to human health and the environment, the Agency may consider issuing a regulation adjusting the reportable quantities for these substances.

The five broad categories of entities potentially affected by this action include: (1) PFOA and/or PFOS manufacturers (including importers and importers of articles); (2) PFOA and/or PFOS processors; (3) manufacturers of products containing PFOA and/or PFOS; (4) downstream product manufacturers and users of PFOA and/or PFOS products; and (5) waste management and wastewater treatment facilities. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this action applies to them. Potentially affected entities may include:

NAICS code	List of potentially affected U.S. industrial entities
488119	Aviation operations.
314110	Carpet manufacturers.
811192	Car washes.
325	Chemical manufacturing.
332813	Chrome electroplating, anodizing, and etching services.
325510	Coatings, paints, and varnish manufacturers.
325998	Firefighting foam manufacturers.
562212	Landfills.
339112	Medical Devices.
922160	Municipal fire departments and firefighting training centers, including Federal agencies that use, trained with, and tested firefighting foams.
322121 and 322130	Paper mills.
325320	Pesticides and Insecticides.

NAICS code	List of potentially affected U.S. industrial entities
324	Petroleum and coal product manufacturing.
324110 and 424710	Petroleum refineries and terminals.
352992	Photographic film manufacturers.
325612	Polish, wax, and cleaning product manufacturers.
325211	Polymer manufacturers.
323111 and 325910	Printing facilities where inks are used in photolithography.
313210, 313220, 313230, 313240, and 313320.	Textile mills (textiles and upholstery).
562	Waste management and remediation services.
221320	Wastewater treatment plants.

III. General Information

A. Executive Summary

EPA is proposing to designate two per- and polyfluoroalkyl substances (PFAS)—specifically PFOA and PFOS including their salts and structural isomers [1] as hazardous substances because evidence indicates that these chemicals may present substantial danger to public health or welfare or the environment when released into the environment. All references to PFOA and PFOS in this notice are meant to include their salts and linear and branched structural isomers. Linear and branched structural isomers of PFOA and PFOS maintain the carboxylic acid and sulfonic acid functional groups, respectively, but have different arrangements of the carbon atoms in the fluorinated carbon chain.

PFOA and PFOS have historically been found in or used in making a wide range of consumer products including carpets, clothing, fabrics for furniture, and packaging for food and cookware that are resistant to water, grease or stains. They are also used for firefighting at airfields and in a number of industrial processes. PFOA and PFOS are persistent and mobile in the environment, and exposure can lead to adverse human health effects, including high cholesterol, changes in liver enzymes, decreased immune response to vaccination, thyroid disorders, pregnancy-induced hypertension and preeclampsia, and cancer (testicular and kidney for PFOA, liver and thyroid cancer for PFOS). In June 2022, EPA released interim updated health advisories for PFOA and PFOS based on human epidemiology studies in populations exposed to these chemicals. Based on the new data and EPA's draft analyses, the levels at which negative health effects could occur are much lower than previously understood when EPA issued the 2016 health advisories for PFOA and PFOS (70 parts per trillion or ppt).

EPA believes the totality of evidence about PFOA and PFOS described here demonstrates that they can pose substantial danger to public health or welfare or the environment. This level of evidence is more than sufficient to satisfy the CERCLA section 102(a) standard. EPA believes that this amount and type of evidence exceeds the minimum required under CERCLA section 102(a).

PFOA and PFOS are common contaminants in the environment because of their release into the environment and their resistance to degradation. PFAS generally, and PFOA and PFOS specifically, are sometimes referred to as ''forever'' chemicals because their strong carbon-fluorine bonds cause PFOA and PFOS to be extremely resistant to degradation in the environment. PFAS are found in outdoor air at locations in the United States, Europe, Japan, and over the Atlantic Ocean. PFAS are also found in the artic snow and air.[2]

PFOA and PFOS are found worldwide in many environmental media and in wildlife. For example:

- PFOA and PFOS are widely detected in surface water samples collected from various rivers, lakes, and streams in the United States.
- PFOA and PFOS have been detected in surface and subsurface soils.
- PFOA and PFOS have been detected in groundwater in monitoring wells, private drinking water wells, and public drinking water systems across the country. PFOA and PFOS have been found in wild and domestic animals such as fish, shellfish, alligators, deer and avian eggs.

Environmental sources can include industrial, and inadvertent municipal and agricultural discharges of PFOA and PFOS directly. PFOA and PFOS precursors can be converted to PFOA and PFOS, respectively, by microbes in soil, sludge, and wastewater and through abiotic chemical reactions. PFOA and PFOS that are deposited or created by the degradation of their precursors in industrial and consumer waste, in a landfill without environmental controls, can discharge via leachates, groundwater pollution/migration and atmospheric releases.

The principal worldwide manufacturers of PFOA and PFOS and related chemicals phased out their production in the early 2000's although PFOA and PFOS may still be produced domestically for certain uses and by international companies that export treated products to the United States. Environmental contamination and resulting human exposure to PFOA and PFOS are anticipated to continue for the foreseeable future due to its environmental persistence, formation from precursor compounds, continued production by international manufacturers and possible domestic production, and as a result of the large legacy production in the United States. Although PFOA and PFOS levels have been decreasing in human serum samples since the phase out, they are still detected in a high percentage of the U.S. population.[3]

The adverse human health effects, mobility, persistence, prevalence, and other factors related to these PFAS combine to support EPA's proposed finding that PFOA and PFOS, when released into the environment may present substantial danger to the public health or welfare or the environment and, as a result, warrant designation as CERCLA hazardous substances.

The potential dangers posed by PFOA and PFOS specifically, and more generally by PFAS, have been recognized by numerous Federal, state, and international governmental entities that have taken a wide variety of actions to address these dangers to public health and welfare and the

[1] All references to PFOA and PFOS in this notice are meant to include their salts and linear and branched structural isomers. Linear and branched structural isomers of PFOA and PFOS maintain the carboxylic acid and sulfonic acid functional groups, respectively, but have different arrangements of the carbon atoms in the fluorinated carbon chain.

[2] Scientific Reports (2016) Natural Poly-/perfluoroalkyl Substances in Air and Snow from the Artic *https://www.nature.com/articles/srep08912*.

[3] CDC. (2021). National Health and Nutrition Examination Survey: NHANES questionnaires, datasets, and related documentation. Centers for Disease Control and Prevention. *https://wwwn.cdc.gov/nchs/nhanes/Default.aspx*.

environment. For example, the Department of Defense has been providing alternative drinking water to local residents near military bases with elevated PFOA and PFOS levels from DoD activities. Many states, including California, Michigan, and Vermont have drinking water standards for PFOA and PFOS. And numerous international bodies, such as the European Union, and individual countries, such as Australia, China, and Canada, have taken measures to address PFOA and PFOS. Designating PFOA and PFOS as hazardous substances will add to the set of tools already available under CERCLA to protect the public health and welfare and the environment.

If finalized, the direct effects of this proposed CERCLA designation would include requiring that any person in charge of a vessel or facility report releases of PFOA and PFOS of one pound or more within a 24-hour period. This would give the Agency, state, Tribal, and local governments, and the public a better understanding of where releases occur and the quantities involved.

In addition, when selling or transferring Federally-owned real property, Federal agencies would be required to meet all of the property transfer requirements in CERCLA section 120(h), including providing notice when any hazardous substance ''was stored for one year or more, known to have been released, or disposed of'' and providing a covenant warranting that ''all remedial action necessary to protect human health and the environment with respect to any [hazardous substances] remaining on the property has been taken before the date of such transfer, and any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.'' This would ensure that any entity receiving Federal land is informed of the presence of PFOA or PFOS, and that these substances will be addressed as required under CERCLA. There would also be an obligation for DOT to list and regulate PFOA and PFOS as hazardous materials under the Hazardous Materials Transportation Act (HMTA) (see CERCLA Section 306(a)).

In addition to those direct effects, if finalized, these designations would provide some additional tools that the government and others could use to address PFOA/PFOS contamination and, thus, could facilitate an increase in the pace of cleanups of PFOA/PFOS contaminated sites. Furthermore, there will likely be additional response actions beyond those that are simply undertaken before designating PFOA/PFOS a hazardous substance, although the quantity of such an increase is indeterminable. The Federal government is already authorized to cleanup PFOA/PFOS contamination under some circumstances, including when it finds that a release may present an imminent and substantial danger to public health or welfare. A faster pace of cleanups would provide public health protection for affected communities sooner and could reduce the cost of individual cleanups (generally, the sooner contamination is addressed, the less it spreads and the smaller the area that needs to be cleaned). The indirect, downstream effects of these designations could include the following:

- EPA and other agencies exercising delegated CERCLA authority could respond to PFOA and PFOS releases and threatened releases without making the imminent and substantial danger finding that is required for responses now.
- EPA and delegated agencies could require potentially responsible parties to address PFOA or PFOS releases that pose an imminent and substantial endangerment to public health or welfare or the environment.
- EPA and delegated agencies could recover PFOA and PFOS cleanup costs from potentially responsible parties, to facilitate having polluters and other potentially responsible parties, rather than taxpayers, pay for these cleanups.
- Private parties that conduct cleanups that are consistent with the National Oil and Hazardous Substances Contingency Plan (NCP) could also recover PFOA and PFOS cleanup costs from potentially responsible parties.

These impacts from the proposed rule will result in meaningful public health benefits, including by increasing transparency around PFOA/PFOS releases and offering additional tools that EPA and other government agencies could use to conduct faster cleanups at contaminated sites.[4]

In addition to this action, in 2022, the EPA will be developing an advance notice of proposed rulemaking seeking comments and data to assist in the development of potential future regulations pertaining to other PFAS designation as hazardous substances under CERCLA.

[4] See the *Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances* in the rulemaking docket for a discussion of indirect benefits and costs.

B. What are PFOA and PFOS, and how have they been used?

PFAS, including PFOA and PFOS, are human-made chemicals that have been used in industry and consumer products since the 1940s because of their useful properties, including their resistance to water, grease, and stains. In terms of their chemistry, they exist as linear and branched isomers, depending on the methods by which they are produced. Both PFOA and PFOS have been manufactured in numerous salt forms.[5] In considering toxicity and fate and transport processes, the salts are deemed the same as the commonly referenced acid versions because, once added to water, the salts dissociate to the component ions (there are two ions, the cation and the anion). Hence, if any of the salt or acid forms of PFOA or PFOS are released into the environment, the anionic form will generally be found in environmental media; all references to PFOA and PFOS in this preamble are meant to include all salts and structural isomers.[6]

PFOA and PFOS have been produced within the United States (U.S.)[7] as well as imported. Although PFOA and PFOS production may be ending in the United States, their continued use in certain applications and persistence in the environment means that their historical production and use will continue to be a concern in the future.

PFOA and PFOS can also be formed by chemical or biological degradation from a large group of related PFAS (*i.e.,* precursor compounds).[8] [9] The nature of PFOA and PFOS (*i.e.,* reactivity as both a base and acid) has led to their use in a variety of manufactured goods, industrial applications, or the environment, including the following:

- Food packaging and preparation, including PFAS-containing materials

[5] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237*.

[6] Ibid.

[7] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237*.

[8] Ibid.

[9] UNEP. (2006). Report of the Persistent Organic Pollutants Review Committee on the work of its second meeting. Addendum: Risk profile on perfluorooctane sulfonate. Stockholm Convention on Persistent Organic Pollutants. (UNEP/POPS/POPRC.2/17/Add.5). United Nations Environment Programme. *https://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC2/POPRC2ReportandDecisions/tabid/349/Default.aspx*.

(*e.g.,* sandwich wrappers, and other paper and paperboard food packaging) and processing equipment that uses PFAS. This can lead to migration of PFAS into food that contacts such surfaces.

- Commercial household products, including stain- and water-repellent fabrics, nonstick products, polishes, waxes, paints, and cleaning products.
- Certain firefighting foams. PFAS can be found in groundwater and surface water at airports, military bases and other facilities where PFAS-containing firefighting foam was used for training, incident response, or where foam was stored.
- Manufacturing and production, including chrome plating, electronics manufacturing, textile manufacturing or oil recovery.
- Drinking water, typically because of localized contamination associated with a specific facility (*e.g.,* manufacturer, landfill, wastewater treatment plant, firefighter training facility).
- Living organisms, including plants, animals and humans due to the above-mentioned sources.
- Plating processes, such as a wetting agent/fume suppressant.
- Non-stick cookware and food processing equipment.
- Processing aids in fluoropolymer production.
- Processing aids in textile coating applications.
- Insecticides.
- Certain types of adhesives.
- Cleaning products, such as carpet cleaners, auto washes and electronics.
- Coating products, paints, varnishes and inks.
- Surfactants for oil extraction and mining.
- Photo lithography, photographic coatings
- Hydraulic fluids for aviation.[10] [11]
- Certain explosives and pyrotechnics as binders and oxidizers.

The most common processes for making fluorinated chemicals, including PFOA and PFOS, are electrochemical fluorination (ECF) and telomerization. Production sites that produced PFAS by means of ECF were located in the U.S., including Decatur, Alabama. International production sites include Belgium (Zwijndrecht near Antwerp) and Italy (Miteni in Vicenza)).

Although PFOA and PFOS production may be ending in the United States, their continued use in certain applications and persistence in the environment means that their historical production and use will continue to be a concern in the future.

Domestic production and import of PFOA has been phased out in the United States by the companies participating in the 2010/2015 PFOA Stewardship Program. Small quantities of PFOA may be produced, imported, and used by companies not participating in the PFOA Stewardship Program and some uses of PFOS are ongoing (see 40 Code of Federal Regulations (CFR) 721.9582).[12] The EPA Chemical Data Reporting (CDR) rule under the Toxic Substance Control Act (TSCA) requires manufacturers (including importers) to report certain data about chemicals in commerce in the United States, including information on PFOA and PFOS (subject to a 2,500 pound reporting threshold at a single site). The last time PFOA and PFOS manufacturing information was reported to EPA pursuant to CDR was in 2013 and 2002, respectively. However, Toxics Release Inventory (TRI) data for 2020 shows that small amounts of PFOA and PFOS continue to be released into the environment. Pursuant to TRI reporting requirements, facilities in regulated industry sectors must report annually on releases and other waste management of certain listed toxic chemicals that they manufacture, process, or otherwise use above certain threshold quantities (100 pounds for PFOA and PFOS).

C. What action is the Agency taking?

The EPA is proposing to designate PFOA and PFOS, including their salts and structural isomers, as hazardous substances under section 102(a) of CERCLA.

The designation of PFOA and PFOS, including their salts and structural isomers, as hazardous substances, if finalized, would result in a default RQ of one pound pursuant to CERCLA section 102. CERCLA section 103(a) requires any person in charge of a vessel or facility, as soon as they have knowledge of any release [13] (other than a federally permitted release) of a hazardous substance from such vessel or facility in quantities equal to or greater than the RQ (one pound) or more in a 24-hour period, to immediately notify the National Response Center (NRC) of such a release. The reporting requirements are further codified in 40 CFR 302.6(a). Section 304 of EPCRA (42 (United States Code) U.S.C. 11004) also requires facility owners or operators to immediately notify their community emergency coordinator for local emergency planning committee (LEPC) (or Tribal emergency planning committee (TEPC)), if established, for any area likely to be affected by the release and to notify the State Emergency Response Commission (SERC) (or Tribal Emergency Response Commission (TERC)) of any state or Tribal region likely to be affected by the release. EPCRA section 304 also requires facilities to submit a follow-up written report to their SERC (or TERC) and the LEPC (or TEPC) as soon as practicable after the release. EPA published a guidance on July 13, 2010 (75 **Federal Register** (FR) 39852) defining the phrase, ''as soon as practicable'' to be 30 days after a release. (Note: Some states or Tribal Nations provide less than 30 days for submitting a follow-up report.) EPCRA section 304 requirements are codified in 40 CFR 355.30 to 355.43.[14]

In addition, when Federal agencies sell or transfer real property they must provide notice of the presence of hazardous substances in certain circumstances as required by CERCLA section 120(h). Furthermore, in certain circumstances, CERCLA 120(h) requires Federal agencies to provide a covenant warranting that ''all remedial action necessary to protect human health and the environment with respect to any [hazardous substances] remaining on the property has been taken before the date of such transfer, and any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.''

While these are the only direct and automatic consequences of designating PFOA and PFOS hazardous substances for purposes of CERCLA, there are other, indirect impacts described above that should facilitate cleanups and reduce

[10] U.S. EPA. (2014). Certain perfluoroalkyl sulfonates. U.S. Environmental Protection Agency. Code of Federal Regulations. 40 CFR 721.9582. *https://www.govinfo.gov/content/pkg/CFR-2014-title40-vol31/pdf/CFR-2014-title40-vol31-sec721-9582.pdf.*

[11] Glüge, J; Scheringer, M; Cousins, IT; DeWitt, JC; Goldenman, G; Herzke, D; Lohmann, R; Ng, CA; Trier, X; Wang, Z. (2020). An overview of the uses of per-and polyfluoroalkyl substances (PFAS). Environ Sci Process Impacts 22: 2345–2373. *https://www.ncbi.nlm.nih.gov/pubmed/33125022.*

[12] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[13] *See* Office of Regulatory Enforcement, EPA, *Enforcement Response Policy for Sections 304, 311 and 312 of EPCRA and Section 103 of CERCLA* at 12 (Sept. 30, 1999), *available at https://www.epa.gov/enforcement/enforcement-response-policy-epcra-sections-304-311-312-and-cercla-section-103. See also https://www.epa.gov/epcra/definition-immediate-epcra-and-cercla-release-notification.*

[14] For additional information on release reporting requirements, see *https://www.epa.gov/faqs/search/topics/emergency-planning-and-community-right-know-304487/topics/release-notification-epcra-304cercla-103-30450.*

human and environmental exposure to these hazardous chemicals.

IV. Legal Authority

A. Background

CERCLA was enacted to promote the timely cleanup of contaminated sites and to ensure that parties responsible for the contamination bear the costs of such cleanups. CERCLA provides the Federal government with the authority to respond to releases or threatened releases of hazardous substances, and pollutants and contaminants in order to protect public health, welfare, and the environment. The statute confers considerable discretion upon the EPA in its exercise of these authorities. Other than the reporting requirements in the statute, CERCLA is not a traditional regulatory statute that prospectively regulates behavior; rather it is remedial in nature, generally designed to address contamination on a site-specific basis.

CERCLA required a significant update to the NCP, which provides the ''procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants . . . .'' CERCLA section 105(a). The NCP is the blueprint for all aspects of the cleanup process, from the discovery of releases of contaminants, to responding to releases or threatened releases that require prompt response, and to prioritizing and developing longer-term remedial actions.

Once a Federal agency learns of a release or potential threat of a release of a hazardous substance, pollutant and/or contaminant, CERCLA authorizes response in one of three ways: by determining no action at the Federal level is warranted; by undertaking a removal action (if the situation presents a more immediate threat); or by assessing the relative risk of the release to other releases via the NPL listing process that is the first step towards a longer-term remedial action. Superfund cleanups typically begin with a preliminary assessment/site inspection, which includes reviews of historical information and site visits to evaluate the potential for a release of hazardous substances. EPA determines whether the site poses a threat to people and the environment and whether hazards need to be addressed immediately or additional site information will be collected. Federal entities other than EPA that respond to releases or threatened releases of hazardous substances, pollutants, or contaminants at Federal sites must similarly act consistent with CERCLA and the NCP. Finally, private parties responding to a release or threatened release at their facility must act consistent with CERCLA and the NCP in order to maintain CERCLA claims for recovery of response costs.

The nature of the subsequent response action depends upon the site-specific circumstances. Short-term ''removals'' are response actions that EPA and other Federal agencies may take to address releases or threatened releases requiring prompt action and are limited in cost and duration unless specific criteria are met. Long-term ''remedial'' actions permanently and significantly reduce the risks associated with releases or threats of releases that are serious and are typically associated with chronic exposures, but not immediately life-threatening. EPA can only conduct remedial actions at sites listed on EPA's National Priorities List (NPL). Additions to the NPL undergo notice-and-comment rulemaking. The NPL sites are among the worst hazardous substance sites identified by EPA. Only about 3% of the 53,400 assessed sites have been placed on the NPL. If a site is placed on the NPL, a Remedial Investigation/Feasibility Study is conducted to assess risks posed by releases of a hazardous substance, pollutant, or contaminant at the site by evaluating soil, surface water, ground water, and other media, and waste samples, and to analyze potential treatment methods or cleanup alternatives. EPA then summarizes those alternatives and offers its recommendation in a Proposed Plan, which undergoes a public comment process. The final decision on the cleanup is memorialized in a Record of Decision, which is accompanied by a responsiveness summary addressing the public comments. The specific details of the cleanup are then planned in the Remedial Design and finally carried out in the Remedial Action. Ultimately, the remedy must be one ''that is protective of human health and the environment, that is cost effective, and that utilizes permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable.'' CERCLA section 121(b)(1).

CERCLA provides authority for response actions to address releases of hazardous substances as well as releases of pollutants and contaminants. The authority conferred by CERCLA with regard to hazardous substances differs in a few respects from the authority with regard to pollutants and contaminants. With respect to *hazardous substances,* the Agency can conduct response actions if there is a release or threatened release without having to establish an imminent and substantial danger. In addition, the EPA can also recover costs from potentially responsible parties and require potentially responsible parties to conduct the cleanup themselves. CERCLA also authorizes persons (including private parties) that conduct cleanup activities that are consistent with the NCP to seek to recover cleanup costs from potentially responsible parties. With respect to releases or substantial threat of releases of *pollutants and contaminants,* EPA can respond if the Agency finds that the release or threat of release may present an imminent and substantial danger to the public health or welfare, and, generally, cannot require a private party to pay for or conduct the removal action.

Accordingly, CERCLA already provides significant authority to Federal agencies to address PFOA and PFOS releases because these two chemicals are pollutants and contaminants. Nonetheless, designating PFOA and PFOS as hazardous substances will likely increase the pace at which cleanups occur because it will allow the Federal government to require responsible private parties to address releases of PFOS and PFOA at sites without other ongoing cleanup activities, and allow the government and private parties to seek to recover cleanup costs from potentially responsible parties assuming relevant statutory criteria are met. As a result, risks from releases of PFOA and PFOS may be mitigated.

B. Explanation of Criteria for Designation Decisions

CERCLA section 101(14) sets out the definition of ''hazardous substance.'' There are two ways that a substance may be defined as a ''hazardous'' substance under CERCLA. The first is automatic where the substance is identified as hazardous or toxic pursuant to other specified environmental statutes (*e.g.,* chemicals listed as air toxics by Congress or EPA under section 112 of the Clean Air Act). The second is where the substance is designated as hazardous pursuant to CERCLA section 102. In this action, the Administrator is exercising his authority to designate under section 102.

1. Statutory Factors To Be Considered Under Section 102

The EPA Administrator is authorized under CERCLA section 102(a) to promulgate regulations designating as a hazardous substance:

(1) ''such elements, compounds, mixtures, solutions, and substances''

(2) ''which, when released into the environment''

(3) ''may present substantial danger''

(4) ''to the public health or welfare or the environment.''

The term ''hazardous substance'' is defined in section 101(14) of CERCLA primarily by reference to other environmental statutes and includes substances designated pursuant to CERCLA section 102. Pursuant to CERCLA section 101(14) the term hazardous substance means (A) any substances designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)], (B) any element, compound, mixture, solution, or substances designated pursuant to section 9602 of this title, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921], (but not including any waste the regulation of which under the Solid Waste Disposal Act {42 U.S.C. 6901 *et seq.*] has been suspended by Act of Congress). (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act {33 U.S.C. 1317(a)], (E) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under paragraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Because EPA has not exercised its authority under CERCLA section 102(a), it has not previously issued an interpretation of the standard for designating hazardous substances.

EPA proposes to interpret ''may present'' in the statutory language as indicating that Congress did not require certainty that the substance presents a substantial danger or require proof of actual harm. In assessing whether a substance, when released, may present ''substantial danger,'' [15] the EPA proposes to consider information such as the following: the potential harm to humans or the environment from exposure to the substance (*i.e.,* hazard), and how the substance moves and degrades when in the environment (*i.e.,* environmental fate and transport). To further inform its decision about whether the statutory factors have been met, the Agency proposes to also consider other information that may be relevant when evaluating releases of the substance, such as the frequency, nature and geographic scope of releases of the substances. The Agency proposes to weigh this information to determine whether the substance, when released, may present a ''substantial danger.''

2. CERCLA Section 102(a) Precludes Consideration of Cost

Given the specific standard Congress established for determining whether a substance is hazardous (*i.e.,* whether it ''may present substantial danger to the public health or welfare or the environment''), EPA proposes to interpret the language of CERCLA section 102(a) as precluding the Agency from taking cost into account in designating hazardous substances. Congress did not list cost as a required or permissible factor, and none of the Congressionally-listed statutory factors encompass a consideration of cleanup costs. Moreover, as a matter of common sense and straightforward reading, determining whether something is ''hazardous'' does not naturally lend itself to considerations of cost. A substance is or is not hazardous based on scientific and technical considerations. Subsequent determinations of *whether and how to address* something hazardous may involve considerations of cost, as CERCLA does in the context of response actions, as discussed below.

a. Consistency With Case Law

Reading CERCLA as precluding consideration of costs in hazardous substance designations is consistent with relevant Supreme Court precedent on cost consideration in rulemaking decisions. CERCLA section 102(a) is similar to Clean Air Act section 109(b)(1),[16] which governs EPA's setting of national ambient air quality standards (NAAQS) and which the Supreme Court said precludes consideration of costs. *Whitman* v. *American Trucking,* 531 U.S. 457 (2001). In his majority opinion, Justice Scalia explained,

> The EPA, ''based on'' the information about health effects contained in the technical ''criteria'' documents compiled under section 108(a)(2), 42 U.S.C. 7408(a)(2), is to identify the maximum airborne concentration of a pollutant that the public health can tolerate, decrease the concentration to provide an ''adequate'' margin of safety, and set the standard at that level. Nowhere are the costs of achieving such a standard made part of that initial calculation.

American Trucking, 531 U.S. at 465.

Similarly, CERCLA section 102(a) establishes a standard for designation that is tied exclusively to whether the release of a substance ''may present substantial danger to the public health or welfare or the environment.'' 42 U.S.C. 9602(a). Congress did not mention cost in this language that sets the standard for designation of hazardous substances.

Section 102(a)'s specific designation standard and its statutory context differentiate it from the broader statutory standard in Clean Air Act section 112(n)(1)(A), which the Supreme Court held requires EPA to consider costs in determining whether to regulate air toxic emissions from power plants in *Michigan* v. *EPA,* 576 U.S. 743 (2015). Clean Air Act section 112(n)(1)(A) states, in part,

> The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this paragraph.

42 U.S.C. 7412(n)(1)(A). The Supreme Court explained that ''appropriate'' is a broad term that ''includes consideration of all the relevant factors'' and when read in the context of Clean Air Act section 112(n)(1)(A) requires ''at least some attention to cost.'' *Michigan,* 576 U.S., at 752. In particular, the Court pointed to a study that was required by

[15] The EPA notes that the ''substantial danger'' language in CERCLA section 102(a) is similar to language in other parts of CERCLA but is interpreted in a different manner due to the contexts in which the language appears. Those other provisions (*see, e.g.,* CERCLA sections 104, 105, 106, and 128) concern enforcement and response actions and apply to and require analyses of site-specific circumstances relevant to a particular facility or person, and to an event. By contrast, the statutory objectives associated with designating hazardous substances under CERCLA section 102(a) warrant a different implementation strategy because of its broader applicability and analytical requirements. The standard for CERCLA section 102(a) in this notice is based on the specific language and purpose of section 102(a) and does not affect EPA's interpretations of other CERCLA provisions. *See Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 320 (2014) (finding that statutory terms, even those that are defined in the statute, ''may take on distinct characters from association with distinct statutory objects calling for different implementation strategies.'').

[16] ''National primary ambient air quality standards, prescribed under paragraph (a) shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.'' 42 U.S.C. 7409(b)(1).

the same paragraph (*i.e.,* Clean Air Act section 112(n)(1)), and noted both that Congress required that this study address cost (among other factors), and that EPA said that study helped provide a ''framework'' for EPA's decision under Clean Air Act section 112(n)(1). Given this context, in interpreting the Clean Air Act section 112(n)(1)'s ''appropriate and necessary'' standard for triggering regulation of air toxics from power plants, the Court held that EPA must consider cost in deciding whether to regulate power plants.

The standard for designation in CERCLA section 102(a) is significantly more circumscribed than the standard at issue in *Michigan.* As noted above, in CERCLA section 102(a), Congress specified a public health and welfare and environment standard governing EPA's designation decisions that did not include cost. In these circumstances, *Michigan* acknowledged that:

American Trucking thus establishes the modest principle that where the Clean Air Act expressly directs EPA to regulate on the basis of a factor that on its face does not include cost, the Act normally should not be read as implicitly allowing the Agency to consider cost anyway.

Id. at 755–56. Because CERCLA section 102(a) specifies the standard that EPA is to use, and it wholly relates to danger to public health, welfare, or the environment, cost should not be read in as an additional consideration. Furthermore, CERCLA section 102(a) is lacking provisions that indicate Congressional intent to take cost into account—unlike CAA section 112(n)(1), which had cost elements in provisions that the Court and EPA said were relevant to interpreting the ''appropriate and necessary'' standard.

CERCLA section 102(a) does use the word ''appropriate'' (the Administrator shall ''promulgate and revise as may be appropriate'' regulations designating hazardous substances), but significantly, the word ''appropriate'' is not used in the context of what EPA should consider when assessing whether a substance is hazardous. And as the Michigan Court noted, ''appropriate and necessary'' does not always encompass cost, context matters. See *Michigan,* 576 U.S. at 752. Under CAA section 112(n)(1), the substantive standard is nothing more than whether regulation is ''appropriate and necessary'' and, to the extent Congress provided a contextual indication about the meaning of that capacious phrase, it indicated that cost was relevant. In contrast, under CERCLA section 102(a), the Administrator is to promulgate and revise as may be appropriate regulations that accomplish the statutory goal of designating hazardous substances—and the guidance Congress provided was that the Administrator should look to specific criteria that do not include cost. Thus, EPA's authority to designate a substance as hazardous is tied solely to a finding that, when released, the substance may present a substantial danger to public health or welfare or the environment.

In addition, the Court in both *American Trucking* and *Michigan,* looked to the overall statutory scheme to determine whether cost should be considered as part of the Agency's determination. The role of a hazardous substance designation in the overall structure of CERCLA is much closer to the role of a national ambient air quality standard in the overall structure of the NAAQS program than it is to the role of the appropriate and necessary finding in regulating air toxic emissions from power plants.

Under CERCLA, the only automatic, private party obligation that flows from designation as a CERCLA hazardous substance under section 102(a) is the obligation to report releases (a relatively small cost). As discussed above, designation does not lead automatically to any response action obligations. CERCLA response actions, which include investigations of hazardous substance releases and determining if removal or remedial action is necessary, are contingent, discretionary, and site-specific actions.[17] EPA prioritizes the highest-risk sites under CERCLA (and that listing process is open to public comment); the process for selecting remedies includes public notice and comment (such as on the remedial action objectives and the consideration of remedial alternatives); and cost considerations, among other important factors such as protectiveness, are part of CERCLA's site-specific cleanup approach.

For both the hazardous substance designation in CERCLA and the setting of a NAAQS, there are later steps in the program where cost can be taken into account before specific requirements are imposed on entities subject to the programs. In contrast, in *Michigan,* the Court seemed to weigh heavily the fact that, if regulations are ''appropriate and necessary'' under section 112(n)(1)(A), then, without regard to cost, ''the Agency must promulgate certain minimum emission regulations, known as floor standards.'' *Michigan,* 576 U.S., at 748.

Furthermore, the designation of a hazardous substance under CERCLA section 102(a) in some cases does not create *new* costs, but rather allows costs to be shifted from the taxpayer to parties responsible for pollution under CERCLA. Even in those circumstances, where the government is able to transfer costs, a private party's ability to pay response costs is taken into account under the statute and in EPA's implementation of the statute.[18]

The interpretation that section 102(a) precludes the consideration of cost in designation decisions is also supported by the Court of Appeals for the D.C. Circuit. In *Utility Solid Waste Activities Group* v. *EPA,* 901 F.3d 414 (D.C. Cir. 2018), the D.C. Circuit, relying on *Michigan* and *American Trucking,* upheld EPA's decision that it should not have considered cost in establishing requirements under the Resource Conservation and Recovery Act (RCRA) for disposing of coal combustion residuals because the statutory standard only addresses ''adverse effects on health or the environment'' without mentioning costs or including other language that could encompass cost.

Based in part on Supreme Court decisions addressing statutory interpretation and the D.C. Circuit's application of those decisions, EPA proposes to interpret CERCLA section 102(a) as precluding consideration of costs in hazardous substance designations.

b. Consistency With Statutory Structure

The way CERCLA initially established the list of hazardous substances shows that Congress did not intend for costs to be considered in designation decisions. As noted above, CERCLA offers two ways for a substance to be designated as hazardous. One is a finding pursuant to CERCLA section 102. Another is the list of other statutory provisions in CERCLA section 101(14) that identify hazardous and toxic substances. In that section, Congress directed that the definition of

[17] As noted below in section IV.B.2.c. and the *Economic Assessment,* the multiple, contingent, discretionary and site-specific steps between designation of a hazardous substance and the incurrence of cleanup costs contribute to the inability to quantify costs at the designation stage. The uncertainty at this stage, when contrasted with the greater certainty and explicit consideration of costs during the later cleanup selection process, further supports EPA's proposed interpretation that CERCLA precludes consideration of costs when designating a hazardous substance.

[18] *See* Memorandum from Susan Shinkman, Director, Office of Civil Enforcement, and Cynthia Mackey, Director, Office of Site Remediation Enforcement, US EPA (June 29, 2015) (Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action); Memorandum from Barry Breen, Director, Office of Site Remediation Enforcement, US EPA (Sep. 30, 1997) (General Policy on Superfund Ability to Pay Determinations).

''hazardous substance'' includes all substances identified as hazardous or toxic by Congress or EPA under other specified environmental statutes:

- Clean Water Act section 311(b)(2)(A) hazardous substances;
- Resource Conservation and Recovery Act section 3001 hazardous wastes;
- Clean Water Act section 307(a) toxic pollutants;
- Clean Air Act section 112 hazardous air pollutants; and
- Toxic Substances Control Act section 7 imminently hazardous chemical.

When EPA adds a substance or chemical for regulation under any of those other statutory provisions, it also becomes a CERCLA hazardous substance—without considering the resulting costs under CERCLA.

In addition to the other statutory provisions listed above, CERCLA section 101(14) also includes CERCLA section 102(a), which suggests it should be interpreted in a manner similar to the other authorities on the list. Under the other statutory provisions, that program's compliance costs are not considered a factor or criteria in making listing decisions,[19] and the Agency proposes to interpret CERCLA section 102(a) as similarly excluding consideration of cost.

c. Costs

While EPA proposes to interpret CERCLA section 102(a) as excluding consideration of cost in a designation decision, the Agency is soliciting comment on that interpretation and, if costs should be considered, how they should be considered. See section IV.B.2.d. below.

EPA has estimated parties' potential direct costs associated with this designation decision (from reporting releases); they are relatively small and would not impede a designation decision even if the Agency were required to consider costs.

It is impractical, however, to quantitatively assess the indirect costs (for response actions) associated with a designation decision because of the uncertainty about such costs at this early stage in in the process. However, a qualitative discussion of indirect costs and benefits, as well as details explaining the impracticality of quantitative estimates are contained in the *Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances*.[20] Possible indirect costs could arise from an increased number of sites identified, assessed and/or remediated, and from associated research and development. In addition, economic costs could be offset by savings from faster and more efficient response actions. Possible indirect benefits could include reduced health effects such as cancer, immunological problems, high cholesterol, and thyroid disorders resulting from earlier and greater numbers of response actions due to release reporting, and application of enhanced response authority.

A designation alone does not require the EPA to take response actions, does not require any response action by a private party, and does not determine liability for hazardous substance release response costs.

Response actions are contingent, discretionary, and site-specific decisions made after a hazardous substance release or threatened release. They are contingent upon a series of separate discretionary actions and meeting certain statutory and regulatory requirements, as explained above. In addition, future discretionary decisions about cleanup and response are difficult to quantify due to numerous, significant uncertainties such as: (1) How many sites have PFOA or PFOS contamination at a level that warrants a cleanup action; (2) the extent and type of PFOA and PFOS contamination at/near sites; (3) the extent and type of other contamination at/near sites; (4) the incremental cost of assessing and remediating the PFOA and/or PFOS contamination at/near these sites; and (5) the cleanup level required for these substances.

d. Request for Comment

EPA proposes to interpret CERCLA section 102(a) as prohibiting the Agency from considering cost as part of its decision to designate hazardous substances, EPA is taking comment on its approach to the consideration of costs, including: (1) Whether CERCLA section 102(a) precludes, allows, or requires consideration of cost in designation decisions, and, if so, (2) which costs and benefits of those discussed in the EA should be considered, (3) whether additional benefits and costs not identified in the EA should be considered, (4) if indirect benefits and costs are considered, how they should be assessed in light of the discretion and uncertainties described above, (5) how benefits and costs could be incorporated into the designation decision, and (6) whether designation would be justified if costs were to be considered in the Agency's designation decision. In addition, the *Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances* includes requests for comments on several topics related to indirect costs that EPA does not currently have robust information about. Please see Section ES–5 of the *Economic Assessment* for specific details.

V. Designation of PFOA, PFOS, and Their Salts and Structural Isomers as Hazardous Substances

A. Introduction

The EPA is proposing to designate PFOA and PFOS as hazardous substances because significant evidence indicates that they satisfy the statutory criteria set forth in CERCLA section 102(a):

(1) They are ''substances'' as described in section IV.B.;

(2) They may be ''released into the environment'' as described in section IV.B.;

(3) They may present substantial danger as described in section V; and

(4) That danger is ''to the public health or welfare or the environment'' as described in section V.

While EPA acknowledges that the science regarding PFOA and PFOS human health and environmental effects is still evolving, a significant body of scientific evidence shows that PFOA and PFOS are persistent and mobile in the environment, and that exposure to PFOA and PFOS may lead to adverse human health effects. Assessments conducted by EPA, other Federal, state, Tribal and international agencies, academia, non-profit organizations and the private sector support the conclusion that PFOA and PFOS warrant a hazardous substance designation. This conclusion is based on the factors considered by EPA in this proposal, which, as noted above, included the potential human health or environmental hazards associated with exposure to PFOA and PFOS and the environmental fate and transport of PFOA and PFOS. The evidence for concern about PFOA and PFOS includes:

- Chemical/Physical Characteristics
- Toxicity and Toxicokinetics

[19] *See, e.g.,* 42 U.S.C. 6921(a) (RCRA section 3001(a)); 42 U.S.C. 7412(b)(2) (Clean Air Act section 112(b)(2).

[20] U.S. EPA (2022) Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances.

- Environmental Prevalence

Each of the above evidence categories are discussed in more detail below. PFOA and PFOS hazardous substance designation would be consistent with and supportive of many other actions taken by EPA, other Federal agencies, states, Tribal Nations and international bodies. These entities have set PFOA and PFOS benchmarks and standards and have undertaken PFOA- and PFOS-based regulatory activities and enforcement actions. Details are provided below.

B. What is the evidence for designation of PFOA and PFOS as hazardous substances?

A significant collection of evidence and actions support designating PFOA and PFOS as hazardous substances under CERCLA section 102(a). EPA is proposing that, when released into the environment, PFOA and PFOS may present substantial danger to the public health or welfare or the environment. What follows are brief summaries and not a comprehensive review of the available literature.

1. Chemical/Physical Characteristics

PFOA and PFOS are persistent chemicals that bioaccumulate, and exposure to PFOA and PFOS may cause adverse human health effects. PFOA and PFOS are distinctive from many other bioaccumulative chemicals because their water-solubility allows them to migrate readily from soil to groundwater. If PFOA and PFOS are released into the environment, they can contaminate surface water and groundwater used as drinking water sources and persist for long periods of time, thereby posing a direct threat to human health and the environment.

PFOA is comprised of eight carbons, seven of which are fully fluorinated, and the eighth carbon is part of a carboxylic acid group. PFOA is considered a surfactant (*i.e.,* a substance that tends to reduce the surface tension of a liquid in which it is dissolved) due to its chemical structure consisting of a hydrophobic perfluorinated alkyl ''tail group'' and a hydrophilic carboxylate ''head group''.[21] [22] As a result of the head group, PFOA is water soluble, which contributes to its tendency to be found in groundwater.

PFOA is produced and used mainly as ammonium perfluorooctanoate (APFO), a salt of PFOA, that may include both linear and branched isomers. APFO's isomeric composition depends on the manufacturing processes used. The APFO that is produced through the perfluorooctyl iodide oxidation process, commonly called telomerization, is >99 percent linear, and the APFO that is produced by the ECF process is >70 percent linear with the remaining <30 percent a mixture of branched isomers.[23] [24] As a result, there are different PFOA structural isomers that may be released and found in the environment. Analytical chemistry methods used to detect and measure PFOA may measure the different isomers separately.

PFOS has a fully fluorinated eight-carbon linear or branched tail, with a hydrophilic sulfonate functional head group attached to the carbon tail. PFOS is manufactured from perfluorooctanesulfonyl fluoride (POSF), which is produced through ECF. This process results in linear and branched isomers of PFOS.[25] PFOS is often produced as its potassium salt. Like PFOA, PFOS is water soluble, which is why it can be found in groundwater.

As noted above, PFOA and PFOS contain carbon atoms bonded to fluorine atoms. These carbon-fluorine bonds are strong, causing PFOA and PFOS to be extremely resistant to degradation in the environment (including biodegradation, photolysis and hydrolysis) and, thus, likely to persist for long periods of time.[26] [27]

These chemical and physical characteristics of PFOA and PFOS, when viewed in combination with the information that follows, supports this proposed designation of these chemicals as CERCLA hazardous substances.

2. Toxicity and Toxicokinetics

Exposure to PFOA and PFOS is associated with a variety of adverse human health effects. Human studies have found associations between PFOA and/or PFOS exposure and effects on the immune system, the cardiovascular system, human development (*e.g.,* decreased birth weight), and cancer. EPA continues to conduct extensive evaluations of human epidemiological and experimental animal study data to support the development of a PFAS National Primary Drinking Water Regulation. In November 2021, EPA released draft updated health effects analyses for PFOA and PFOS; these analyses are undergoing Science Advisory Board (SAB) review. EPA evaluated over 400 peer-reviewed studies published since 2016 and used new approaches, tools, and models to identify and evaluate the information. Based on the new data and draft analyses, the levels at which negative health effects could occur are much lower than previously understood when EPA issued the 2016 Health Advisories for PFOA and PFOS (70 ppt).

The following discussion is based on information and conclusions from the EPA 2016 Health Effects Support Documents for PFOA [28] and PFOS [29] and other published peer reviewed science. The weight of scientific evidence presented in the Health Effects Support Documents for PFOA [30] and

[21] ChEBI. (2017). ChEBI:35549—perfluorooctanoic acid. Chemical Entities of Biological Interest. European Molecular Biology Laboratory, European Bioinformatics Institute. *https://www.ebi.ac.uk/chebi/searchId.do?chebiId=CHEBI:35549.*

[22] Lindstrom, AB; Strynar, MJ; Libelo, EL. (2011). Polyfluorinated compounds: past, present, and future. Environ Sci Technol 45: 7954–7961. *https://www.ncbi.nlm.nih.gov/pubmed/21866930.*

[23] European Commission. (2015). Analysis of the risks arising from the industrial use of perfluorooctanoic acid (PFOA) and ammonium perfluorooctonate (APFO) and from their use in consumer articles. Evaluation and risk reduction measures for potential restrictions on the manufacture, placing on the market and use of PFOA and APFO. (TOX08.7049). European Commission, Enterprise and Industry Directorate—General. *https://ec.europa.eu/docsroom/documents/13037/attachments/1/translations/en/renditions/pdf.*

[24] Buck, RC; Franklin, J; Berger, U; Conder, JM; Cousins, IT; de Voogt, P; Jensen, AA; Kannan, K; Mabury, SA; van Leeuwen, SP. (2011). Perfluoroalkyl and polyfluoroalkyl substances in the environment: terminology, classification, and origins. Integr Environ Assess Manag 7: 513–541. *https://www.ncbi.nlm.nih.gov/pubmed/21793199.*

[25] OECD. (2002). Hazard assessment of perfluorooctane sulfonate (PFOS) and its salts. Environment Directorate, Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology, Co-operation on Existing Chemicals. (ENV/JM/RD(2002)17/FINAL. JT00135607). Organisation for Economic Co-operation and Development. *https://www.oecd.org/env/ehs/risk-assessment/2382880.pdf.*

[26] U.S. EPA. (2016). Drinking water health advisory for perfluorooctanoic acid (PFOA). (EPA822R16005). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_health_advisory_final_508.pdf.*

[27] U.S. EPA. (2016). Drinking water health advisory for perfluorooctane sulfonate (PFOS). (EPA822R16004). U.S. Environmental Protection Agency. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_health_advisory_final_508.pdf.*

[28] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

[29] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[30] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

PFOS [31] and supporting documents for the Regulatory Determination 4 process [32] supports the conclusion that exposure to PFOA and PFOS can lead to adverse human health effects. As part of the final Regulatory Determination 4 process, the Agency concluded that exposure to PFOA and PFOS may have adverse health effects.[33]

Data from human and animal studies indicate that PFOA and PFOS are well absorbed via the oral route and are distributed throughout the body by noncovalent binding to serum albumin and other plasma proteins. PFOA and PFOS are slowly eliminated from the human body as evidenced by the half-life of 2.1–10.1 years for PFOA and 3.3–27 years for PFOS.[34] Because of their resistance to metabolic degradation, PFOA and PFOS are eliminated from mammals primarily unchanged.

Human epidemiology studies observed associations between PFOA exposure and high cholesterol, changes in liver enzymes, decreased immune response to vaccination, thyroid effects, pregnancy-induced hypertension and preeclampsia, low birth weight, and cancer (testicular and kidney).[35] Epidemiology studies have generally found a positive association between increasing serum PFOA and total cholesterol levels in PFOA-exposed workers and residents of high-exposure communities. In addition, associations between increasing serum PFOA concentrations and elevations in serum levels of alanine aminotransferase and gamma-glutamyl transpeptidase were consistently observed in occupational cohorts, high-exposure communities and the U.S. general population. This could indicate the potential for PFOA to affect liver function. A decreased response to vaccines was found to be associated with PFOA exposure in studies in adults in a highly exposed community and in studies of children in the general population. A study of a community with high exposure to PFOA observed an association between serum PFOA and risk of pregnancy-related hypertension or preeclampsia, conditions that are related to renal function during pregnancy. An association between increasing maternal PFOA or cord blood PFOA concentrations and decreasing birth weight was seen in several studies.[36]

Numerous epidemiology studies have examined occupational populations at large-scale PFOS production plants in the United States and the residential populations living near the PFOS production facilities to evaluate the association between increasing PFOS concentrations and various health outcomes. Data also suggest associations between higher PFOS levels and increases in total cholesterol and high-density lipoproteins, decreases in female fecundity and fertility, in addition to decreased offspring body weights and negative effects on other measures of postnatal growth. Evidence of an association between PFOS exposure and cancer is less conclusive.[37]

Perfluoroalkyl acids are transferred to the fetus during pregnancy and to breast milk through distribution due to their slow elimination from the human body through excretion.[38] Toxicity studies conducted in laboratory animal models demonstrate that the developing fetus is particularly sensitive to PFOA- and PFOS-induced toxicity. Some studies in laboratory animal models indicate that gestation and/or lactation periods are critical exposure windows that may lead to developmental health effects including decreased offspring survival, low birth weight, accelerated puberty and skeletal variations.[39] [40] [41]

Numerous animal toxicity studies for PFOA and PFOS are available and provide information about the potential for similar effects in humans. Animal studies and epidemiology studies indicate that PFOA and PFOS are well absorbed orally; absorption may also occur via the inhalation and dermal routes. Absorbed PFOA and/or PFOS are widely distributed in the body, with the highest concentrations typically found in the blood, liver and/or kidney. Across species, the highest extravascular concentrations of PFOA and PFOS are found in the liver, however, PFOA and/or PFOS have also been detected in many other tissues (*e.g.,* lung, kidney, spleen and bone). Though not readily, PFOS can cross the blood-brain barrier and has been detected at low levels in the brains of humans and rodents.[42] [43] [44]

PFOA and PFOS in blood bind to plasma albumin and other plasma proteins. Absorbed PFOA and PFOS are not metabolized and are eliminated by excretion primarily in urine. Active transport mechanisms mediate renal tubular reabsorption and secretion of PFOA and PFOS. Some excretion occurs through cord blood in pregnant women, and through lactation and menstrual blood loss. Although PFOA and PFOS are found in the bile of humans, they are reabsorbed from the bile and thus, fecal excretion is substantially lower than urinary excretion; levels in fecal matter represent both unabsorbed material and that discharged with bile.[45] [46] [47] [48] [49]

[31] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[32] U.S. EPA. (2021). Final regulatory determination 4 support document. (EPA815R21001). U.S. Environmental Protection Agency.

[33] Ibid.

[34] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[35] Ibid.

[36] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

[37] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[38] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[39] Ibid.

[40] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

[41] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[42] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[43] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

[44] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[45] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[46] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf.*

[47] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf.*

[48] NJDWQI. (2017). Appendix A: Health-based maximum contaminant level support document perfluorooctanoic acid (PFOA). New Jersey Drinking Water Quality Institute, Health Effects

Continued

For PFOA, oral studies of short-term (subchronic) and chronic duration are available in multiple species including monkeys, rats and mice. The animal studies report developmental effects, liver and kidney toxicity, immune effects and cancer (liver, testicular and pancreatic). The developmental effects observed in rodents include decreased survival, delayed eye opening, reduced ossification, skeletal defects, altered puberty (delayed vaginal opening in females and accelerated puberty in males) and altered mammary gland development.

For PFOS, numerous animal studies are available in multiple species including monkeys, rats and mice. Short-term and chronic exposure studies in animals demonstrate increases in liver weight, changes in cholesterol, hepatic steatosis, lower body weight and liver histopathological changes. One- and two- generation rodent toxicity studies also show decreased pup survival and body weights. Additionally, developmental neurotoxicity studies in rodents show increased motor activity, decreased habituation and increased escape latency in the water maze test (tests spatial learning and memory) following *in utero* and lactational exposure to PFOS. Gestational and lactational exposures were also associated with higher serum glucose levels and evidence of insulin resistance in adult offspring. Evidence suggests immunological effects in animal models.[50] [51]

The International Agency for Research on Cancer (IARC) concluded that PFOA is possibly carcinogenic to humans.[52] Study findings are mixed. While a mutagenic mode of action has not been established for PFOA or PFOS, studies indicate that PFOA (the more extensively studied of the two compounds) can induce deoxyribonucleic acid (DNA) damage.[53] In 2016, the EPA determined there is suggestive evidence that PFOA and PFOS may contribute to tumor development in humans.[54] [55] Epidemiology studies show an association between exposure to high levels of serum PFOA and testicular and kidney cancer in humans; two chronic bioassays in rats [56] [57] also support the finding that PFOA is tumorigenic (*i.e.,* capable of producing tumors).[58] Epidemiology studies establishing a correlation between PFOS exposure and the incidence of cancer are limited; however, a chronic toxicity and carcinogenicity study in rats provides some evidence of tumorigenicity.[59]

This information does not reflect recent scientific data that has been collected to support EPA's ongoing PFAS National Primary Drinking Water Regulation. The Agency's draft new analyses, released in November 2021 for independent scientific review by the EPA Science Advisory Board (SAB), indicate that negative health effects may occur at much lower levels of exposure to PFOA and PFOS than previously understood and that PFOA is likely carcinogenic to humans. The draft documents present EPA's initial analysis and findings with respect to this newly available updated information.[60] [61] Following SAB peer review, the final documents will be used to inform the development of Maximum Contaminant Level Goals and ultimately a National Primary Drinking Water Regulation for PFOA and PFOS. While this preliminary data was not used for this proposal, it appears to support designating PFOA and PFOS as hazardous substances.

In sum, studies have shown that exposure to PFOA and PFOS is associated with numerous and varied adverse effects to human health. This evidence plays a major role in the EPA's proposal to designate PFOA and PFOS as hazardous substances.

3. Environmental Prevalence

PFOA and PFOS are common contaminants in the environment because of their release into the environment since the 1940s and their resistance to degradation. PFOA and PFOS are found in many environmental media and in wildlife worldwide, including in remote polar regions. As an example, the polar bear, the top predator of arctic marine ecosystems, bioaccumulates high concentrations of PFAS (especially PFOS), which may be harmful to their health.[62]

Environmental sources can include direct industrial discharges of PFOA and PFOS to soil, air, and water. Precursors can also degrade to PFOA and/or PFOS (*e.g.,* perfluorooctanesulfonamide (PFOSA) can be transformed to PFOS in the environment). PFOA and PFOS precursors can be converted to PFOA and PFOS, respectively, by microbes in soil, sludge, and wastewater and through abiotic chemical reactions. PFOA and PFOS that are deposited, created by the degradation of their precursors in industrial and consumer

Subcommittee. *https://www.state.nj.us/dep/watersupply/pdf/pfoa-appendixa.pdf*.

[49] NJDWQI. (2018). Appendix A: Health-based maximum contaminant level support document perfluorooctane sulfonate (PFOS). New Jersey Drinking Water Quality Institute, Health Effects Subcommittee. *https://www.state.nj.us/dep/watersupply/pdf/pfos-recommendation-appendix-a.pdf*.

[50] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237*.

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[53] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237*.

[54] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf*.

[55] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf*.

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[58] U.S. EPA. (2016). Health effects support document for perfluorooctanoic acid (PFOA). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_hesd_final-plain.pdf*.

[59] U.S. EPA. (2016). Health effects support document for perfluorooctane sulfonate (PFOS). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2016-05/documents/pfos_hesd_final_508.pdf*.

[60] U.S. EPA. (2021). Proposed approaches for deriving maximum contaminant level goals for PFOA in drinking water. (EPA822D21001). U.S. Environmental Protection Agency.

[61] U.S. EPA. (2021). Proposed approaches for deriving maximum contaminant level goals for PFOS in drinking water. (EPA822D21002). U.S. Environmental Protection Agency.

[62] Tartu, S.; Bourgeon, S.; Aars, J.; Andersen, M.; Lone, K.; Jenssen, B.M.; Polder, A.; Thiemann, G.W.; Torget, V.; Welker, J.M.; Routti, H. (2017). Diet and metabolic state are the main factors determining concentrations of perfluoroalkyl substances in female polar bears from Svalbard. Environ Pollut 229: 146–158. *https://www.ncbi.nlm.nih.gov/pubmed/28587979*. Tartu et al. (2017) found that the concentration of PFAS increased with the trophic level of female polar bears, which is consistent with other studies showing biomagnification of PFAS in Arctic marine ecosystems.

waste, in a landfill without environmental controls can discharge via leachates, groundwater pollution/migration and atmospheric releases.[63] [64] [65] The discharge of aqueous film-forming foam (AFFF) starting in the 1970s is also an important source for some locations. AFFF is a foam containing many PFAS, including PFOA and PFOS, which is effective at extinguishing petroleum fueled fires. PFAS, including PFOA and PFOS, were found in the soil and groundwater where AFFF was used to fight fires or for training and storage. Concrete where AFFF has been repeatedly discharged, such as for training activities, can absorb PFAS, including PFOA and PFOS, and then release PFAS to groundwater and soils during precipitation events.[66]

Industrial uses that have led to PFOA and PFOS in the soil and groundwater include, but are not limited to, chrome plating facilities where PFAS were used as a wetting agent/fume suppressant and industries where textiles and other materials are coated with PFAS. PFAS manufactured for use as a stain or water repellant may be released from these facilities into the air and wastewater.[67]

The principal worldwide manufacturers of PFOA and PFOS and related chemicals phased out their production in the early 2000's. PFOA and PFOS may still be produced domestically for certain uses and by international companies that import treated products to the United States.[68] Some uses of PFOS are ongoing, such as use as a component of a photoresist substance, including a photo acid generator or surfactant, or as a component of an anti-reflective coating, used in a photomicrolithography process to produce semiconductors or similar components of electronic or other miniaturized devices. Environmental contamination and resulting human exposure to PFOA and PFOS are declining, but are anticipated to continue for the foreseeable future due to their environmental persistence, formation from precursor compounds, continued production primarily by international manufacturers and their long history of production in the United States.[69]

Wastewater treatment plants (WWTPs) may receive wastewater that contains PFOA, PFOS or their precursors, from a variety of sources, including industries that manufacture or use these PFAS and their precursors. Some companies may operate onsite wastewater treatment facilities, but typically they are not designed to remove PFAS. PFOA and PFOS are the most widely detected PFAS in wastewater, and generally treatment units at conventional WWTPs do not remove PFAS efficiently.[70] Certain PFAS can be volatilized into the atmosphere from wastewater treatment plant operations, such as aeration chambers.[71] [72] Although effluent discharged to receiving water bodies may contain PFOA or PFOS, much of these substances may concentrate in the WWTP biosolids. Biosolids are also commonly applied to land as fertilizers or soil amendments but can also be sent to a landfill. The use of biosolids on farmland and home gardens can lead to the uptake of PFOA and PFOS in the food chain, as acknowledged by the U.S. Food and Drug Administration (FDA).[73] Biosolids from wastewater treatment plants and some industrial wastewater that is land applied are also potential sources of contamination.[74] [75]

PFAS have been found in outdoor air at locations in the United States, Europe, Japan, and over the Atlantic Ocean.[76] Concentrations are not generally correlated with rural or urban environments, but rather, around PFAS production industries and industries that use PFAS. Mean PFOA levels ranged from 1.54 to 15.2 picograms per cubic meter (pg/m^3) in air samples collected in the urban locations in Albany, New York, Fukuchiyama, Japan, and Morioka, Japan and in the rural locations in Kjeller, Norway, and Mace Head, Ireland. However, higher mean concentrations (101–552 pg/m^3) were measured at the urban locations in Oyamazaki, Japan, and Manchester, United Kingdom (UK), and semirural locations in Hazelrigg, UK. Maximum reported concentrations at Oyamazaki and Hazelrigg were 919 and 828 pg/m^3, respectively. Thus, there is no correlation between higher concentrations and urban versus rural locations; rather, high concentrations in certain locations may be attributable to a specific industrial plant.[77]

PFOA and PFOS are widely detected in surface water samples collected from various rivers, lakes, and streams in the United States.[78] Therefore, municipalities and other entities that use surface water sources for drinking water may face challenges treating and removing PFOA and PFAS from their finished drinking water. The most vulnerable drinking water systems are those in close proximity to sites contaminated with PFOA and PFOS.[79] Levels of these substances in surface water are declining since the major U.S.

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[68] Ibid.

[69] (ATSDR) Per- and Polyfluoroalkyl Substances (PFAS) and Your Health U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html*.

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[72] Ahrens, L.; Shoeib, M.; Harner, T.; Lee, S.C.; Guo, R.; Reiner, E.J. (2011). Wastewater treatment plant and landfills as sources of polyfluoroalkyl compounds to the atmosphere. Environ Sci Technol 45: 8098–8105. *https://www.ncbi.nlm.nih.gov/pubmed/21466185*.

[73] Genualdi, S.; deJager, L.; South, P.; Sheehan, J.; Begley, T. (2019). Investigation of PFAS concentrations in US food products. Center for Food Safety and Applied Nutrition, Food and Drug Administration. In SETAC Europe 29th annual meeting 26–30 May 2019 (pp. 357). Helsinki, Finland: Society of Environmental Toxicology and Chemistry.

[74] NJDWQI. (2018). Appendix A: Health-based maximum contaminant level support document perfluorooctane sulfonate (PFOS). New Jersey Drinking Water Quality Institute, Health Effects Subcommittee. *https://www.state.nj.us/dep/watersupply/pdf/pfos-recommendation-appendix-a.pdf*.

[75] NJDWQI. (2017). Appendix A: Health-based maximum contaminant level support document perfluorooctanoic acid (PFOA). New Jersey Drinking Water Quality Institute, Health Effects Subcommittee. *https://www.state.nj.us/dep/watersupply/pdf/pfoa-appendixa.pdf*.

[76] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://www.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237*.

[77] Ibid.

[78] Ibid.

[79] Ibid.

producers phased out these two substances.[80]

PFOA and PFOS have been detected in surface and subsurface soils. Levels of PFOA and PFOS generally increased with increasing depth at sampled locations, suggesting a downward movement of the contaminants and the potential to contaminate groundwater.[81] PFAS can be inadvertently released to soils when biosolids are applied as fertilizer to help maintain productive agricultural soils and stimulate plant growth.[82] PFOA and PFOS have been detected in both biosolids and biosolid-amended soils. PFAS can also reach soil due to atmospheric transport and wet/dry deposition.[83]

PFOA and PFOS have been detected in groundwater in monitoring wells, private drinking water wells, and public drinking water systems across the country. The EPA worked with the states and local communities to monitor for six PFAS, including PFOA and PFOS, under the third Unregulated Contaminant Monitoring Rule to understand the nationwide occurrence of these chemicals in the U.S. drinking water provided by public water systems (PWSs). Of the 4,920 PWSs with results for PFOA and PFOS, PFOA were detected above the minimum reporting level (minimum reporting level = 20 nanogram/liter (ng/L)) in 117 PWSs. Detections exceeded above the MRL for PFOS (MRL = 40 ng/L) at 95 PWSs.[84]

As previously stated, PFOA and PFOS are common contaminants in the environment because they and their precursors have been produced and released into the environment since the 1940s, and they are resistant to degradation. In addition to being found in groundwater, surface water, soil, sediment, and air, they have been found in wild and domestic animals such as fish, shellfish, alligators, deer and avian eggs; and in humans.[85] For example, PFOA has been found in snack foods, vegetables, meat, dairy products and fish, and PFOS has been found in eggs, milk, meat, fish and root vegetables.[86] [87] [88] [89] [90] [91] [92] [93] [94] [95] In one study investigating the global distribution of PFAS, wildlife samples were collected on four continents including North America and Antarctica. Wildlife sampled included marine mammals, birds, and polar bears. Only a few samples contained PFOA in concentrations greater than the limit of quantification. However, over 30 different species had measurable levels of PFOS. The study reported PFOS concentrations in mink liver in the midwestern U.S. ranging from 970–3, 680 nanograms per gram (ng/g), river otter liver in northwestern U.S. from 34–990 ng/g, brown pelican liver in Mississippi from 290–620 ng/g, and lake whitefish eggs in Michigan waters from 150–380 ng/g.[96] [97]

PFOS bioaccumulates in animals. A fish kinetic bioconcentration factor for PFOS has been estimated to range from 1,000 to 4,000.[98] The time to reach 50% clearance of PFOS in fish has been estimated to be around 100 days.[99] Bioaccumulation has been demonstrated for fish, birds, crustaceans, worms, plankton, and alligators, among others.[100] [101] [102]

PFOA bioaccumulates as well, but not to the same degree as PFOS.[103]

The prevalence of PFOA and PFOS in environmental media, wild animals, livestock, and plants not only affects the environment but can also lead to human exposure. PFOA and PFOS can also enter the drinking water supply from contamination in groundwater and surface water sources for drinking water. Contaminated drinking water or groundwater can also be used to irrigate or wash home-grown foods or farm-grown foods, thereby providing another means for human exposure. Wild animals are contaminated through environmental exposure, and some wild animals are caught or hunted and eaten by humans, thus, increasing human exposure. Contaminated water also results in the contamination of beef, pork, poultry, etc. Susceptible populations, such as women of reproductive age, pregnant and breastfeeding women, and young children who eat fish may have increased exposure to PFOA and PFOS due to bioaccumulation in fish.[104] [105] [106]

[80] Ibid.

[81] Ibid.

[82] Ibid.

[83] Ibid.

[84] U.S. EPA. (2017). The third Unregulated Contaminant Monitoring Rule (UCMR 3): Data summary, January 2017. (EPA815S17001). U.S. Environmental Protection Agency, Office of Water. *https://www.epa.gov/sites/default/files/2017-02/documents/ucmr3-data-summary-january-2017.pdf*.

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[100] Bangma, J.T.; Reiner, J.L.; Jones, M.; Lowers, R.H.; Nilsen, F.; Rainwater, T.R.; Somerville, S.; Guillette, L.J.; Bowden, J.A. (2017). Variation in perfluoroalkyl acids in the American alligator (Alligator mississippiensis) at Merritt Island National Wildlife Refuge. Chemosphere 166: 72–79. *https://www.ncbi.nlm.nih.gov/pubmed/27689886*.

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Human exposure is confirmed by measurements of PFOA and PFOS that were detected in human serum as part of the continuous National Health and Nutrition Examination Survey (NHANES), a program of the CDC. PFOA and PFOS were measured in the serum of a representative sample of the U.S. population ages 12 years and older in each two-year cycle of NHANES since 1999–2000, with the exception of 2001–2002. PFOA and PFOS have been detected in 99% of those surveyed in each NHANES cycle. However, the mean concentrations of PFOA and PFOS in the serum have been steadily decreasing since 1999–2000.[107] [108]

Taken together, this information illustrates the prevalence of PFOA and PFOS in water, soil, air, plants, and animals worldwide due to its transportability and persistence. This widespread distribution of these PFAS significantly contributes to the EPA's proposed finding that PFOA and PFOS, when released into the environment may present substantial danger to the public health or welfare or the environment.

EPA's proposal to designate PFOA and PFOS, and their salts and structural isomers, as hazardous substances under CERCLA section 102(a) is based on significant evidence, summarized above, that indicates, when released into the environment, these substances may present substantial danger to the public health, welfare or the environment. Collectively, this information demonstrates that PFOA and PFOS should be designated as hazardous substances under CERCLA.

VI. Effect of Designation

The designation of PFOA and PFOS would have three direct effects—triggering reporting obligations when there is a release of PFOA or PFOS above the reportable quantity, obligations on the U.S. Government when it transfers certain properties, and an obligation on DOT to list and regulate CERCLA designated hazardous substances as hazardous materials.

A. Default Reportable Quantity

Section 102(b) of CERCLA provides that, until superseded by regulation, the reportable quantity for any hazardous substance is one pound. This proposed rule does not include an RQ adjustment for PFOA or PFOS. EPA is setting the RQ by operation of law at the statutory default of one pound pursuant to Section 102(b) of CERCLA. If the Agency chooses to propose adjusting the RQ in the future, it would do so through notice-and-comment rulemaking.

B. Direct Effects of a Hazardous Substance Designation

1. Reporting and Notification Requirements for CERCLA Hazardous Substances

Section 103 of CERCLA requires any person in charge of a vessel or facility to immediately notify the NRC when there is a release of a hazardous substance, as defined under CERCLA section 101(14), in an amount equal to or greater than the RQ for that substance. The reporting requirements are further codified in 40 CFR 302.6. If this action is finalized, any person in charge of a vessel or facility as soon as he or she has knowledge of a release from such vessel or facility of one pound or more of PFOA or PFOS in a 24-hour period is required to immediately notify the NRC in accordance with 40 CFR part 302. EPA solicits comment on the number of small entities affected by and the estimated cost impacts on small entities from these reporting requirements.

In addition to these CERCLA reporting requirements, EPCRA section 304 also requires owners or operators of facilities to immediately notify their SERC (or TERC) and LEPC (or TEPC) when there is a release of a CERCLA hazardous substance in an amount equal to or greater than the RQ for that substance within a 24-hour period. EPCRA section 304 requires these facilities to submit a follow-up written report to the SERC (or TERC) and LEPC (or TEPC) within 30 days of the release. (Note: Some states provide less than 30 days to submit the follow-up written report. Facilities are encouraged to contact the appropriate state or tribal agency for additional reporting requirements.) See 40 CFR part 355, subpart C, for information on the contents for the initial telephone notification and the follow-up written report.

EPCRA and CERCLA are separate, but interrelated, environmental laws that work together to provide emergency release notifications to Federal, state, Tribal, and local officials. Notice given to the NRC under CERCLA serves to inform the Federal government of a release so that Federal personnel can evaluate the need for a response in accordance with the National Oil and Hazardous Substances Contingency Plan, the Federal government's framework for responding to both oil and hazardous substance releases. The NRC maintains all reports of hazardous substance and oil releases made to the Federal government.

Relatedly, release notifications under EPCRA given to the SERC (or TERC) and to the LEPC (or TEPC) are crucial so that these state, Tribal, and local authorities have information to help protect the community.

2. Requirements Upon Transfer of Government Property

Under CERCLA section 120(h), when Federal agencies sell or transfer federally-owned, real property, they must provide notice of when any hazardous substances ''was stored for one year or more, known to have been released, or disposed of'' and covenants concerning the remediation of such hazardous substances in certain circumstances.

3. Requirement of DOT To List and Regulate CERCLA Hazardous Substances

Section 306(a) of CERCLA requires substances designated as hazardous under CERCLA be listed and regulated as hazardous materials by DOT under the Hazardous Materials Transportation Act (HMTA). DOT typically does not undertake a public notice and comment period when adding a CERCLA-designated hazardous substance to the list of regulated hazardous materials under HMTA.

VII. Regulatory and Advisory Status at EPA, Other Federal, State and International Agencies

Designating PFOA and PFOS as hazardous substances would be one additional piece of an extensive, widespread response to address the dangers these chemicals pose. Regulatory requirements, enforcement actions, and other activities of many Federal, state, and international entities together indicate the widespread and serious concern with PFOA and PFOS.

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A. EPA Actions

The EPA has taken several actions in the past to address risks from PFOA and PFOS. In 2006, the EPA launched the 2010/2015 PFOA Stewardship Program, under which eight major chemical manufacturers and processors agreed to phase out the use of PFOA and PFOA-related chemicals in their products and emissions from their facilities. All companies met the PFOA Stewardship Program goals by 2015.

The TSCA program has taken a range of regulatory actions to address PFAS in manufacturing and consumer products. Since 2002, EPA has finalized a number of TSCA Section 5(a) Significant New Use Rules (SNURs) covering hundreds of existing PFAS no longer in use. These regulatory actions require notice to EPA, as well as Agency review and regulation, as necessary, before manufacture (including import) or processing for significant new uses of these chemicals can begin or resume. The SNURs also apply to imported articles containing certain PFAS, including consumer products such as carpets, furniture, electronics, and household appliances. EPA also has issued SNURs for dozens of PFAS that have undergone EPA's new chemicals review prior to commercialization; these actions ensure that any new uses which may present risk concerns but were not part of the EPA new chemicals review, do not commence unless EPA is notified, conducts a risk review, and regulates as appropriate under TSCA section 5.

In 2009, EPA published provisional drinking water health advisories of 400 ppt for PFOA and 200 ppt for PFOS based on health effects information available at that time. The provisional health advisories were developed for application to short-term (weeks to months) risk assessment exposure scenarios. The provisional health advisories were intended as guidelines for public water systems while allowing time for EPA to develop final lifetime health advisories for PFOA and PFOS. EPA published final lifetime drinking water health advisories for PFOA and PFOS (70 ppt individually, and in combination) in 2016.

New health information has become available since 2016, and in June 2022, EPA replaced the 2016 advisories with interim updated lifetime health advisories for PFOA and PFOS based on human epidemiology studies in populations exposed to these chemicals. Based on the new data and EPA's draft analyses, the levels at which negative health effects could occur are much lower than previously understood when EPA issued the 2016 health advisories for PFOA and PFOS. The interim updated health advisory levels are 0.004 ppt for PFOA and 0.02 ppt for PFOS, which are below the levels at which analytical methods can measure these PFAS in drinking water. The EPA Science Advisory Board is reviewing EPA's analyses, and therefore, the interim health advisories are subject to change. However, EPA does not anticipate changes that will result in health advisory levels that are greater than the minimum reporting levels. The interim health advisories are intended to provide information to states and public water systems until the PFAS National Primary Drinking Water Regulation takes effect. Health advisories provide drinking water system operators, and state, Tribal, and local officials who have the primary responsibility for overseeing these systems, with information on the health risks of these chemicals, so they can take the appropriate actions to protect their residents.

In 2019, EPA issued the *Interim Recommendations to Address Groundwater Contaminated with PFOA and PFOS* to facilitate cleaning up contaminated groundwater that is a current or potential source of drinking water. The recommendations provide a starting point for making site-specific cleanup decisions. The guidance recommends: [109]

- Use the following tapwater screening levels for PFOA and PFOS to determine if PFOA and/or PFOS is present at a site and may warrant further attention.
  - If both are detected in tapwater—PFOS regional screening level (RSL) = 6 parts per trillion (ppt) and PFOS regional removal management levels (RMLs) = 4 ppt.
  - If they are the only contaminant detected in tapwater—PFOA RSL = 60 ppt and PFOS RSL = 40 ppt.
  - Screening levels are risk-based values that are used to determine if levels of contamination may warrant further investigation at a site.
- Using EPA's 2016 PFOA and PFOS LHA level of 70 ppt as the preliminary remediation goal (PRG) for contaminated groundwater that is a current or potential source of drinking water, where no state or tribal maximum contaminant level (MCL) or other applicable or relevant and appropriate requirements are available or sufficiently protective.
  - PRGs are generally initial targets for cleanup that may be adjusted on a site-specific basis as more information becomes available.

In 2020, the EPA issued a final rule strengthening the regulation of PFAS (*i.e.,* PFOA and its salts, long-chain perfluoroalkyl carboxylate chemical substances) by requiring notice and EPA review before the use of long-chain PFAS that have been phased out in the United States could begin again. Additionally, products containing certain long-chain PFAS as a surface coating and carpet containing perfluoroalkyl sulfonate chemical substances can no longer be imported into the United States without EPA review. This action means that articles like textiles, carpet, furniture, electronics, and household appliances that could contain certain PFAS cannot be imported into the United States unless EPA reviews and approves the use or puts in place the necessary restrictions to address any unreasonable risks.

In 2020, the EPA also added 172 PFAS (including PFOA and PFOS) to the TRI, and 3 additional compounds were added in 2021. Additional PFAS will continue to be added to TRI, consistent with the National Defense Authorization Act for Fiscal Year 2020.

In October 2021, the EPA released the PFAS Strategic Roadmap that presents EPA's whole-of-agency approach to addressing PFAS and sets timelines by which the Agency plans to take concrete actions.[110] Several actions described in the roadmap, including this proposed rule, address PFOA and PFOS. Other ongoing EPA actions on PFOA and PFOS include:

- Finalizing a proposed rule that would impose certain reporting and recordkeeping requirements under TSCA for PFAS, including PFOA and PFOS, manufactured at any time since January 1, 2011 (86 FR 33926).
- Finalizing the proposed Unregulated Contaminant Monitoring Rule 5 (UCMR5). As proposed, UCMR5 would collect data on 29 PFAS, including PFOA and PFOS, in public water systems (86 FR 13846).
- Establishing a national primary drinking water regulation for PFOA and PFOS under the Safe Drinking Water Act.
- Publishing recommended aquatic life water quality criteria for PFOA and

[109] U.S. EPA. (2019). USEPA draft interim recommendations to address groundwater contaminated with perfluorooctanoic acid and perfluorooctane sulfonate. (EPA–HQ–OLEM–2019–0229–0002). U.S. Environmental Protection Agency. *https://downloads.regulations.gov/EPA-HQ-OLEM-2019-0229-0002/content.pdf.*

[110] U.S. EPA. (2021). PFAS strategic roadmap: EPA's commitments to action 2021–2024. U.S. Environmental Protection Agency. *https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf.*

PFOS (draft criteria were released for public comment in May 2022) and developing human health water quality criteria for PFOA and PFOS.

• Finalizing a risk assessment for PFOA and PFOS in biosolids, which will serve as the basis for determining whether regulation of PFOA and PFOS in biosolids is appropriate.

Further, based on public health and environmental protection concerns, and in response to a petition from the Governor of New Mexico, which requested EPA to take regulatory action on PFAS under RCRA, EPA announced on October 26, 2021, the initiation of two rulemakings. First, EPA will initiate the rulemaking process to propose adding four PFAS as RCRA hazardous constituents under 40 CFR part 261 Appendix VIII, by evaluating the existing data for these chemicals and establishing a record to support such a proposed rule. The four PFAS EPA will evaluate are: PFOA, PFOS, perfluorobutane sulfonic acid (PFBS) and GenX chemicals (hexafluoropropylene oxide (HFPO) dimer acid and its ammonium salt). Second, EPA will initiate a rulemaking to clarify in the Agency's regulations that the RCRA Corrective Action Program has the authority to require investigation and cleanup for wastes that meet the statutory definition of hazardous waste, as defined under RCRA section 1004(5). This modification would clarify that emerging contaminants such as PFAS can be addressed through RCRA corrective action.

Recent scientific data and the Agency's new analyses indicate that negative health effects may occur at much lower levels of exposure to PFOA and PFOS than previously understood and that PFOA is likely carcinogenic to humans. The Agency's new analyses were released in November 2021 [111] [112] for independent scientific review by the EPA Science Advisory Board. The draft documents present EPA's initial analysis and findings with respect to this new information. EPA's 2021 draft non-cancer reference doses based on human epidemiology studies for various effects (*e.g.,* developmental/growth, cardiovascular health outcomes, immune health) range from ~10^{-7} to 10^{-9} milligram per kilogram per day (mg/kg/day). These draft reference doses are two to four orders of magnitude lower than EPA's 2016 reference doses for PFOA and PFOS of 2×10^{-5} mg/kg/day. Following peer review, this information will be used to inform updated EPA drinking water health advisories and the development of Maximum Contaminant Level Goals and a National Primary Drinking Water Regulation for PFOA and PFOS.

The EPA routinely updates RSLs and RMLs two times per year. EPA's next regularly scheduled update to the RSL and RML tables will be in November 2022. Since the science of PFAS toxicity is evolving we expect to update the numbers as appropriate during future updates.

B. Actions by Other Federal Agencies

• *ATSDR:* The Agency for Toxic Substances and Disease Registry (ATSDR), in response to a congressional mandate under CERCLA, develops comparison values to help identify chemicals that may be of concern to the public's health at hazardous waste sites. The ATSDR's guideline values are minimal risk levels (MRLs). An MRL is an estimate of the amount of a chemical a person can eat, drink, or breathe each day over a specified duration without a detectable risk to health. MRLs are developed for health effects other than cancer. If someone is exposed to an amount above the MRLs, it does not mean that health problems will happen. MRLs are a screening tool that help identify exposures that could be potentially hazardous to human health. Exposure above the MRLs does not mean that health problems will occur. Instead, it may act as a signal to health assessors to look more closely at a particular site where exposures may be identified.

The ATSDR works closely with EPA at both a national and regional level to determine areas and populations potentially at risk for health effects from exposure to PFAS.[113] The ATSDR has final intermediate duration (15–364 days) MRLs (2021) for PFOA and PFOS which are 3×10^{-6} mg/kg/day and 2×10^{-6} mg/kg/day, respectively.[114]

ATSDR also has a PFAS strategy, exposure assessments, and a multi-site study—PFAS Cooperative Agreement.

• *DoD:* The Department of Defense (DoD) included PFOA and PFOS on its list of emerging chemicals of concern.[115] The DoD defines emerging chemicals as chemicals or materials that the department currently uses or plans to use that present a potentially unacceptable human health or environmental risk; have a reasonably possible pathway to enter the environment; and either do not have regulatory standards based on peer-reviewed science, or their regulatory standards are evolving due to new science, detection capabilities or exposure pathways.[116]

In 2017, the DoD updated their military specification for AFFF to include no more than 800 parts per billion, the quantitation limit by DoD Quality Systems Manual 5.1, of PFOA and PFOS in the concentrate.[117] The DoD is working to remove AFFF containing PFOA and PFOS from the supply chain.[118] ''In January 2016, the Office of the Assistant Secretary of Defense for Energy, Installations and Environment issued a policy requiring the DoD components to: (1) issue Military Service-specific risk management procedures to prevent uncontrolled land-based releases of AFFF during maintenance, testing and training activities, and (2) remove and properly dispose of AFFF containing PFOS from the local stored supplies for non-shipboard use to prevent future environmental response action costs, where practical''.[119] Under this policy,

[111] U.S. EPA (U.S. Environmental Protection Agency). 2021a. External Peer Review Draft: Proposed Approaches to the Derivation of a Draft Maximum Contaminant Level Goal for Perfluorooctanoic Acid (PFOA) (CASRN 335–67–1) in Drinking Water. EPA–822–D–21–001. EPA, Office of Water, Washington, DC. Accessed April 2022. *https://sab.epa.gov/ords/sab/f?p=100:18:16490947993:::RP,18:P18_ID:2601.*

[112] U.S. EPA (U.S. Environmental Protection Agency). 2021b. External Peer Review Draft: Proposed Approaches to the Derivation of a Draft Maximum Contaminant Level Goal for Perfluorooctane Sulfonic Acid (PFOS) CASRN 1763–23–1 in Drinking Water. EPA–822–D–21–002. EPA, Office of Water, Washington, DC. Accessed April 2022. *https://sab.epa.gov/ords/sab/f?p=100:18:16490947993:::RP,18:P18_ID:2601.*

[113] ATSDR. (2018). Minimal risk levels (MRLs). Atlanta, GA: Agency for Toxic Substances and Disease Registry. *https://www.atsdr.cdc.gov/minimalrisklevels/.*

[114] ATSDR. (2021). Toxicological profile for perfluoroalkyls: final. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry. *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1117&tid=237.*

[115] DoD. (2019). DoD instruction 4715.18: Emerging chemicals (ECs) of environmental concern. U.S. Department of Defense. *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471518p.pdf?ver=2017-12-13-110558-727.*

[116] Ibid.

[117] U.S. Navy. (2017). Performance specification fire extinguishing agent, aqueous film-forming foam (AFFF) liquid concentrate, for fresh and sea water. (MIL–PRF–24385F(SH) w/Amendment 2). U.S. Navy, Naval Sea Systems Command (Ship Systems). *https://quicksearch.dla.mil/Transient/E3EA5BB276A741A292E87C18DE644702.pdf https://quicksearch.dla.mil/Transient/C26F946AAE39463BBFCB321B047611E4.pdf.*

[118] *WH.gov.* (2021). Fact sheet: President Biden signs executive order catalyzing America's clean energy economy through federal sustainability. Washington, DC: The White House. *https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-president-biden-signs-executive-order-catalyzing-americas-clean-energy-economy-through-federal-sustainability/.*

[119] DoD. (2017). Aqueous film forming foam: Report to Congress. U.S. Department of Defense,

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for example, the Air Force funded the removal of AFFF from all fire trucks and crash response vehicles and replaced it with PFOS-free AFFF, which contains only trace quantities of PFOA. All Air Force bases except Thule Air Force Base, Greenland, have received replacement AFFF, and 97 percent of the bases have completed the transition. In addition, the Navy is updating the military specification requirements for AFFF and DoD continues its research efforts to find a PFAS-free alternative to AFFF.[120] DoD has also set up a taskforce to address PFAS on and near military bases from DoD activities.

DoD is investing over $49 million through fiscal year 2025 in research, development, testing, and evaluation in collaboration with academia and industry to identify alternative firefighting material and practices. In the meantime, DoD only uses AFFF to respond to emergency events and no longer uses it for uncontained land-based testing and training.[121]

In addition, DoD has initiated other actions to test for, investigate, and mitigate elevated levels of PFOA and PFOS at or near installations across the military departments. Following the release of EPA's LHAs for PFOA and PFOS in May 2016, each of the military departments issued guidance directing installations to test for PFOA and PFOS in their drinking water and take steps to address drinking water that contained amounts of PFOA and PFOS above EPA's health advisory level. The military departments also directed their installations to identify locations with a known or suspected prior release of PFOA and PFOS and to address any releases that pose a risk to human health.[122] As of December 31, 2021, the DoD was performing the PA/SI for PFAS at 700 DoD installations and National Guard Facilities.

• *DOE:* On September 16, 2021, the Department of Energy (DOE) issued a memo that focused on four main points; discontinue use of AFFF except in emergencies, suspend disposal of AFFF pending further guidance, establish reporting requirements for any release or spill of PFAS and establish a DOE PFAS Coordinating Committee. DOE has completed an assessment of its PFAS usage and inventory across the department and is in the process of developing a department wide report of the results of that assessment. At the request of Council on Environmental Quality, DOE, as well as other agencies and departments, is developing a PFAS Roadmap similar to EPA's that will guide future PFAS related actions for 2022–2025.FAA: On January 17, 2019, the Federal Aviation Administration (FAA) released guidance in the form of a CertAlert to all certificated Part 139 Aircraft Rescue and Firefighting departments regarding safer methods for the required bi-annual testing of AFFF for firefighting. In the guidance, the FAA suggests alternative AFFF testing systems that minimize environmental impact while still satisfying the regulatory requirement for safety testing. The recommendations include addressing environmental concerns such as establishing safe and environmentally effective handling and disposal procedures.[123]

On October 4, 2021, the FAA published a CertAlert which informs Part 139 airport operators about changes to the military specification (MIL–PRF–24385F(SH)) for firefighting foam referenced in Chapter 6 of AC No.: 150/5210–6D. While the performance standard remains the same, the military specification no longer requires the use of fluorinated chemicals. One acceptable means of satisfying 14 CFR part 139 requirements is to continue to use the existing approved foam which does contain fluorinated chemicals. However, FAA encourages certificate holders that have identified a different foam that meets the performance standard to seek approval for such foam from the FAA.[124]

• *FDA:* In 2011, FDA reached voluntary agreements with manufacturers and suppliers of long chain PFAS subject to Food Contact Notification to no longer sell those substances for use in food contact applications. In 2016, the FDA revoked the regulations authorizing the remaining uses of these long-chain PFAS in food packaging (see 81 FR 5, January 4, 2016, and 81 FR 83672, November 22, 2016). As of November 2016, long-chain PFAS are no longer used in food contact applications sold in the United States.[125]

In addition to EPA, a number of agencies including ATSDR, DoD, DOI, DOT, FDA, and USDA Have or are developing PFAS plans outlining how their agencies will address PFAS contamination.

C. State Actions

As concerns have arisen regarding PFOA and PFOS many states have taken regulatory action.

In addition to some of the states discussed in more detail below, Alabama, Arizona, Idaho, Kentucky, Nebraska, and West Virginia have opted to use EPA's 2016 LHAs of 70 ppt for PFOA and PFOS.[126] [127] [128] [129]

• *Alaska:* The Alaska Department of Environmental Conservation (ADEC) promulgated groundwater cleanup levels of 400 ppt and soil cleanup levels of 1.3 to 2.2 milligram per kilogram (mg/kg) (range depending on precipitation zone) for PFOA and PFOS, respectively, in Oil and Other Hazardous Substances Pollution Control Regulations as amended through June 2021.[130] Health-based action levels for drinking water of 70 ppt for PFOA and PFOS, individually or combined, were established by ADEC in 2018 (updated in 2019) based on EPA's 2016 LHAs.[131]

• *California:* In August 2019, the California Office of Environmental Health Hazard Assessment developed PFOA and PFOS toxicity values

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Office of the Under Secretary of Defense for Acquisition, Technology and Logistics. *https://www.denix.osd.mil/derp/home/documents/aqueous-film-forming-foam-report-to-congress/Aqueous%20Film%20Forming%20Foam%20(AFFF)%20Report%20to%20Congress_DENIX.PDF.*

[120] DoD. (2020). Per- and polyfluoroalkyl substances (PFAS) Task Force progress report. U.S. Department of Defense. *https://media.defense.gov/2020/Mar/13/2002264440/-1/-1/1/PFAS_Task_Force_Progress_Report_March_2020.pdf.*

[121] Ibid.

[122] Ibid.

[123] FAA. (2019). National part 139 CertAlert: Aqueous film forming foam (AFFF) testing at certificated part 139 airports. (No. 19–01). Federal Aviation Administration. *https://www.faa.gov/airports/airport_safety/certalerts/media/part-139-cert-alert-19-01-AFFF.pdf.*

[124] FAA. (2021). National part 139 CertAlert: Part 139 extinguishing agent requirements. (No. 21–05). Federal Aviation Administration. *https://www.faa.gov/airports/airport_safety/certalerts/media/part-139-cert-alert-21-05-Extinguishing-Agent-Requirements.pdf.*

[125] *https://www.fda.gov/food/chemical-contaminants-food/authorized-uses-pfas-food-contact-applications.*

[126] Pontius, F. (2019). Regulation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water: A comprehensive review. Water 11: 2003.

[127] Idaho DEQ. (2021). PFAS and Idaho drinking water. Idaho Department of Environmental Quality. *https://www.deq.idaho.gov/water-quality/drinking-water/pfas-and-idaho-drinking-water/.*

[128] Kentucky EEC. (2019). Evaluation of Kentucky community drinking water for per- & poly-fluoroalkyl substances. Kentucky Energy and Environment Cabinet, Department for Environmental Protection. *https://eec.ky.gov/Documents%20for%20URLs/PFAS%20Drinking%20Water%20Report%20Final.pdf.*

[129] AWWA. (2020). Per- and polyfluoroalkyl substances (PFAS): summary of state policies to protect drinking water. American Water Works Association. *https://www.awwa.org/LinkClick.aspx?fileticket=nCRhtmGcA3k%3D&portalid=0.*

[130] Alaska DEC. (2021). Oil and other hazardous substances pollution control. (Alaska Admin Code 18 AAC 75). Alaska Department of Environmental Conservation. *https://dec.alaska.gov/commish/regulations/.*

[131] Alaska DEC. (2019). Technical memorandum: Action levels for PFAS in water and guidance on sampling groundwater and drinking water. Alaska Department of Environmental Conservation. *https://dec.alaska.gov/media/15773/pfas-drinking-water-action-levels-technical-memorandum-10-2-19.pdf.*

(acceptable daily doses) of 4.5×10^{-7} mg/kg-day and 1.8×10^{-6} mg/kg-day, respectively, and reference levels based on cancer effects of 0.1 ppt and 0.4 ppt, respectively. They noted that the levels are lower than the levels of PFOA and PFOS that can be reliably detected in drinking water using currently available technologies. Thus, they recommended that the State Water Resources Control Board set notification limits at the lowest levels at which PFOA and PFOS can be reliably detected in drinking water using available and appropriate technologies.[132] The California State Water Resources Control Board issued new drinking water notification limits for local water agencies to follow for finding and reporting PFOA and PFOS of 5.1 ppt for PFOA and 6.5 ppt for PFOS. As part of these guidelines, California also established a response level of 10 ppt for PFOA and 40 ppt for PFOS.[133] [134] If this level is exceeded in drinking water provided to consumers, California recommends that the water agency remove the water source from service.[135]

In July 2021, the California Office of Environmental Health Hazard Assessment released draft Public Health Goals (PHGs) for PFOA of 0.007 ppt based on human kidney cancer data and PFOS of 1 ppt based on liver and pancreatic tumor animal data. PHGs are not regulatory requirements and are based solely on protection of public health without regard to cost impacts or other factors.[136]

California is also conducting sampling efforts targeting airports, chrome plating facilities, landfills, WWTPs and nearby water supply wells.[137]

- *Colorado:* To address known contamination in El Paso County, the Colorado Water Quality Control Commission (WQCC) adopted a site-specific groundwater quality standard of 70 ppt for PFOA and PFOS combined in 2018 based on the EPA 2016 LHAs.[138] [139] By 2019, the Colorado Department of Public Health and Environment adopted a PFAS Action Plan outlining methods by which the state planned to protect residents from PFAS. As part of this initiative, a survey was conducted regarding the use of firefighting foams that resulted in rules with respect to the registration and use of PFAS-containing foams.[140] The Colorado WQCC approved a policy interpreting the existing narrative standards for PFAS in 2020. This policy outlines the use of translation levels of 70 ppt for PFOA, PFOS, PFOA and PFOS parent constituents, and perfluorononanoic acid (PFNA), individually or combined, based on the EPA's 2016 LHAs.[141]
- Connecticut has issued a drinking water action level of 70 ppt for PFOA, PFOS, PFNA, perfluorohexanesulfonic acid (PFHxS) and perfluoroheptanoic acid (PFHpA) individually or combined. The action level is based on risk and similar health effects of the five PFAS. An interagency task force was formed that has recommended actions including take-back and safe disposal of AFFF containing PFAS from state and municipal fire departments.[142]
- *Delaware:* Based on Delaware's Department of Natural Resources and Environmental Control Hazardous Substance Cleaning Act Screening Level Table Guidance (last updated in November 2021), a screening/reporting level for PFOA and PFOS, individually or combined, of 70 ppt in groundwater is based on EPA's 2016 LHAs; and a reporting/screening level for PFOA and PFOS in the soil (of 0.13 mg/kg based on screening document and 1.3 mg/kg based on the reporting level table) is based on EPA's Regional Screening Level Calculator.[143] [144]
- Florida issued guidance identifying provisional groundwater target cleanup levels of 70 ppt for PFOA and PFOS combined, provisional soil cleanup target levels of 1.3 mg/kg for PFOA and PFOS, and surface water screening levels of 500 ppt for PFOA and 10 ppt for PFOS; these values were last updated in 2020.[145]
- *Hawaii:* In 2020, Hawaii published a memorandum identifying interim soil and water and soil environmental action levels (EALs) for PFAS. For groundwater that is a current potential source of drinking water, groundwater EALs are 40 ppt for PFOA and PFOS. Soil EALs are 0.0012 mg/kg for PFOA and 0.0075 mg/kg for PFOS.[146]
- *Illinois:* By July 2021, Illinois EPA issued statewide health advisories for six PFAS: PFOA, PFOS, PFNA, perfluorohexanoic acid (PFHxA), PFHxS and PFBS. A health advisory is a regulatory action that provides guidance to local officials and community water supply operators in protecting the health of their customers. Illinois EPA is authorized to issue a health advisory when there is a confirmed detection in a community water supply well of a chemical substance for which no

[132] OEHHA. (2019). Notification level recommendations: Perfluorooctanoic acid and perfluorooctane sulfonate in drinking water. California Office of Environmental Health Hazard Assessment. *https://oehha.ca.gov/media/downloads/water/chemicals/nl/final-pfoa-pfosnl082119.pdf.*

[133] California Water Boards. (2020). Notification level issuance: Contaminant(s): perfluorooctanoic acid (PFOA). State Water Resources Control Board. California Water Boards. *https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/pfos_and_pfoa/pfoa_nl_issuance_jan2020.pdf.*

[134] California Water Boards. (2020). Notification level issuance: Contaminant(s): perfluorooctanesulfonic acid (PFOS). State Water Resources Control Board. California Water Boards. *https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/pfos_and_pfoa/pfos_nl_issuance_jan2020.pdf.*

[135] California Water Boards. (2020). Perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). State Water Resources Control Board. California Water Boards. *https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/PFOA_PFOS.html.*

[136] OEHHA. (2021). Public health goals: First public review draft: Perfluorooctanoic acid and perfluorooctane sulfonic acid in drinking water Office of Environmental Health Hazard Assessment. California Environmental Protection Agency. *https://oehha.ca.gov/sites/default/files/media/downloads/crnr/pfoapfosphgdraft061021.pdf.*

[137] California Water Boards. (2021). GeoTracker PFAS map. State Water Resources Control Board. California Water Boards. *https://geotracker.waterboards.ca.gov/map/pfas_map.*

[138] CDPHE. (2017). Site-specific groundwater standard: PFOA/PFOS. Colorado Department of Public Health & Environment. *https://www.colorado.gov/pacific/sites/default/files/WQ_GWStandard_PFOA_100417%20FINAL.pdf.*

[139] CDPHE. (2020). Policy 20–1. Policy for interpreting the narrative water quality: Standards for per- and polyfluoroalkyl substances (PFAS). Colorado Department of Public Health & Environment, Water Quality Control Commission. *https://drive.google.com/file/d/119FjO4GZVaJtw7YFvFqs9pmlwDhDO_eG/view.*

[140] Coleman, C. (2020). Colorado enacts arsenal of laws to stop ''forever chemicals''. Water Education Colorado. *https://www.watereducationcolorado.org/fresh-water-news/colorado-enacts-arsenal-of-laws-to-stop-forever-chemicals/.*

[141] CDPHE. (2020). Policy 20–1. Policy for interpreting the narrative water quality: Standards for per- and polyfluoroalkyl substances (PFAS). Colorado Department of Public Health & Environment, Water Quality Control Commission. *https://drive.google.com/file/d/119FjO4GZVaJtw7YFvFqs9pmlwDhDO_eG/view.*

[142] CT Interagency PFAS Task Force. (2019). PFAS action plan. Connecticut Interagency PFAS Task Force. Department of Public Health & Department of Energy and Environmental Protection. *https://portal.ct.gov/-/media/Office-of-the-Governor/News/20191101-CT-Interagency-PFAS-Task-Force-Action-Plan.pdf.*

[143] DNREC. (2021). Hazardous Substance Cleanup Act: Screening level table guidance. Delaware Department of Natural Resources and Environmental Control. *https://documents.dnrec.delaware.gov/dwhs/remediation/HSCA-Screening-Level-Table-Guidance.pdf.*

[144] DNREC. (2021). Sortable HSCA reporting level table (Excel). Delaware Department of Natural Resources and Environmental Control. *https://dnrec.alpha.delaware.gov/waste-hazardous/remediation/laws-regs-guidance/.*

[145] Florida DEP. (2020). Provisional PFOA and PFOS cleanup target levels & screening levels. Florida Department of Environmental Protection. *https://floridadep.gov/waste/district-business-support/documents/provisional-pfoa-and-pfos-cleanup-target-levels-screening.*

[146] Hawai'i DOH. (2020). Interim soil and water environmental action levels (EALs) for perfluoroalkyl and polyfluoroalkyl substances (PFASs). Hawaii State Department of Health. *https://health.hawaii.gov/heer/files/2020/12/PFASs-Techncal-Memo-HDOH-Dec-2020.pdf.*

numeric groundwater standard exists. The health-based guidance level for PFOA is 2 ppt and PFOS is 14 ppt.[147] Illinois EPA is conducting a statewide investigation into the prevalence and occurrence of PFAS in finished water at entry points to the distribution system representing 1,749 community water supplies across Illinois.[148]

- *Iowa:* The Iowa Department of Natural Resources issued Statewide Standards for PFOA and PFOS in 2016. The standards were set at 70 ppt for PFOA and PFOS for a protected groundwater source, and 50,000 ppt for PFOA and 1,000 ppt for PFOS for a non-protected groundwater source. Statewide standards for soil are 35 mg/kg for PFOA and 1.8 mg/kg for PFOS.[149]
- *Kansas:* The Kansas Department of Health and Environment, the Bureau of Environmental Remediation, and the Bureau of Water are working together to address PFAS in drinking water. The process involves the development of a statewide inventory and prioritization of potential PFAS sources. This information will be used to develop a public water supply monitoring program.[150]
- Maine's Department of Environmental Protection requires the testing of all sludge material licensed for land application in the state for PFAS (including PFOA and PFOS). The governor created a task force to mobilize state agencies and other stakeholders to review the prevalence of PFAS in Maine.[151] Maine Remedial Action Guidelines (RAGs) for Sites Contaminated with Hazardous Substances (2018) identified a water RAG of 400 ppt for PFOA and PFOS and a soils (residential) RAG of 1.7 mg/kg for PFOA and PFOS.[152] In June 2021, the Governor also signed an emergency resolution establishing an interim drinking water standard of 20 ppt for 6 PFAS. The resolution also requires that the Maine Department of Health and Human Services promulgate an MCL for PFAS by June 1, 2024.
- *Massachusetts:* In December 2019, the Massachusetts Department of Environmental Protection Office of Research and Standards reassessed the toxicity information for a subgroup of longer chain PFAS. They applied a revised reference dose (RfD) of 5×10^{-6} mg/kg-day to PFOA, PFOS, PFNA, PFHxS, PFHpA and perfluorodecanoic acid (PFDA). This reassessment resulted in an MCL of 20 ppt, promulgated in October 2020.[153] [154] Also, PFAS are considered to be hazardous material subject to the notification, assessment and cleanup requirements of the Massachusetts Waste Site Cleanup Program.[155]
- Michigan derived a toxicity value of 3.9×10^{-6} mg/kg-day for PFOA and 2.89×10^{-6} mg/kg-day for PFOS.[156] Michigan's public health drinking water MCLs are 8 ppt for PFOA and 16 ppt for PFOS, effective in August 2020. The Michigan PFAS Action Response Team has coordinated many actions across the state. Michigan Department of Health and Human Services has recommended people avoid contaminant-induced foam occurring on certain PFAS-contaminated surface water bodies and has initiated a PFAS Exposure and Health Study. The Michigan Department of Environment, Great Lakes, and Energy began a statewide initiative to test drinking water from all community water supplies for PFAS and has been testing watersheds. Do not eat advisories have also been issued for deer, fish, and other wildlife in certain parts of the state.[157] [158] [159] [160] [161] [162]
- Minnesota's Department of Health (MDH) identified RfDs of 1.8×10^{-5} milligram/kilogram-day (mg/kg-day) for PFOA, adopted as Rule in August 2018 [163] and 3.1×10^{-6} mg/kg-day for PFOS, adopted as Rule in August 2020.[164] MDH developed guidance values in drinking water of 35 ppt for PFOA and 15 ppt for PFOS. The MDH is helping with drinking water well testing in certain areas of the state. Due to PFAS contamination in surface water bodies and levels of PFOS found in fish, the MDH has issued fish advisories for certain surface water bodies. Minnesota's Pollution Control Agency Toxics Reduction and Pollution Prevention program is working to reduce PFAS in firefighting foam, chrome plating, and food packaging, with related efforts in state and local government purchasing.[165]

[147] Illinois EPA. (2021). PFAS statewide health advisory. Illinois Environmental Protection Agency, Office of Toxicity Assessment. *https://www2.illinois.gov/epa/topics/water-quality/pfas/Pages/pfas-healthadvisory.aspx.*

[148] Illinois EPA. (2021). PFAS statewide investigation network: Community water supply sampling. Illinois Environmental Protection Agency, Office of Toxicity Assessment. *https://www2.illinois.gov/epa/topics/water-quality/pfas/Pages/pfas-statewide-investigation-network.aspx.*

[149] Iowa DNR. (2021). Cumulative risk calculator: Statewide standards. Iowa Department of Natural Resources. *https://programs.iowadnr.gov/riskcalc/Home/statewidestandards.*

[150] KDHE. (2021). Per- and polyfluoroalkyl substances (PFAS). Kansas Department of Health and Environment. *https://www.kdheks.gov/pws/PFAS.htm.*

[151] Maine EPA. (2021). Per- and polyfluoroalkyl substances (PFAS). Maine Department of Environmental Protection Agency. *https://www.maine.gov/dep/spills/topics/pfas/index.html.*

[152] Maine DEP. (2018). Maine remedial action guidelines (RAGs) for sites contaminated with hazardous substances. Maine Department of Environmental Protection. *https://www.maine.gov/dep/spills/publications/guidance/rags/ME-Remedial-Action-Guidelines-10-19-18cc.pdf.*

[153] MassDEP. (2019). Technical support document: Per- and polyfluoroalkyl substances (PFAS): An updated subgroup approach to groundwater and drinking water values. Massachusetts Department of Environmental Protection. *https://www.mass.gov/files/documents/2019/12/27/PFAS%20TSD%202019-12-26%20FINAL.pdf.*

[154] MassDEP. (2020). 310 CMR 22: The Massachusetts drinking water regulations. Massachusetts Department of Environmental Protection, Drinking Water Program. *https://www.mass.gov/doc/310-cmr-2200-the-massachusetts-drinking-water-regulations/download.*

[155] MassDEP. (2019). Final PFAS-related revisions to the MCP. Massachusetts Department of Environmental Protection, Drinking Water Program. *https://www.mass.gov/lists/final-pfas-related-revisions-to-the-mcp-2019.*

[156] *Michigan.gov.* (2022). Health-based drinking water value recommendations for PFAS in Michigan. Michigan Department of Environment, Great Lakes, and Energy. Science Advisory Workgroup. *https://www.michigan.gov/documents/pfasresponse/Health-Based_Drinking_Water_Value_Recommendations_for_PFAS_in_Michigan_Report_659258_7.pdf.*

[157] *Michigan.gov.* (2021). Michigan PFAS Action Response Team: Investigations. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-86511---,00.html.*

[158] *Michigan.gov.* (2021). Michigan PFAS Action Response Team: Investigations: Watershed investigations. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-86511_95792---,00.html.*

[159] *Michigan.gov.* (2018). Michigan PFAS Action Response Team: Drinking water: Public drinking water: Statewide sampling initiative: Statewide testing initiative. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-95571_95577_95587---,00.html.*

[160] *Michigan.gov.* (2021). Michigan PFAS Action Response Team: Fish and wildlife. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-86512---,00.html.*

[161] *Michigan.gov.* (2021). Michigan PFAS Action Response Team: MPART: Press releases: MDHHS recommends Michiganders avoid foam on lakes and rivers. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-86513_96296-563821--y_2018,00.html.*

[162] *Michigan.gov.* (2020). Michigan PFAS Action Response Team: MPART: Press releases: MDHHS announces launch of new PFAS health study in impacted West Michigan communities. Michigan Department of Environment, Great Lakes, and Energy. *https://www.michigan.gov/pfasresponse/0,9038,7-365-86513_96296-544808--y_2018,00.html.*

[163] MDH. (2020). Toxicological summary for: Perfluorooctanoate. Minnesota Department of Health. *https://www.health.state.mn.us/communities/environment/risk/docs/guidance/gw/pfoa.pdf.*

[164] MDH. (2020). Toxicological summary for: Perfluorooctane sulfonate. Minnesota Department of Health. *https://www.health.state.mn.us/communities/environment/risk/docs/guidance/gw/pfos.pdf.*

[165] Minnesota PCA. (2022U.S.Navy). What is Minnesota doing about PFAS? Minnesota Pollution Control Agency. *https://www.pca.state.mn.us/waste/what-minnesota-doing-about-pfas.*

• Montana Department of Environmental Quality set a Groundwater Quality Standard for PFOA and PFOS, individually or combined, of 70 ppt in 2019.[166]

• Nevada Division of Environmental Protection identified basic comparison level values of 667 ppt for PFOA and PFOS in residential water and 1.56 mg/kg in residential soil.[167] Exceedance of a basic comparison level does not automatically trigger a response action but warrants further evaluation of health risks.[168]

• New Hampshire's Department of Environmental Services recommended RfDs of 6.1×10^{-6} mg/kg/day and 3.0×10^{-6} mg/kg/day for PFOA and PFOS, respectively, in June 2019.[169] New Hampshire has undertaken sampling for PFAS at water supplies (including drinking water sources), wastewater treatment plants, fire stations, landfills and contaminated waste sites to better understand the scope of contamination in the state. The New Hampshire Department of Environmental Services filed and finalized its rulemaking to establish MCLs for PFOA of 12 ppt and PFOS of 15 ppt, as well as 11 ppt for PFNA and 18 ppt for PFHxS.[170] The MCLs initially became effective on September 30, 2019. However, on December 31, 2019, the Merrimack County Superior Court issued a preliminary injunction barring enforcement of the MCLs. The New Hampshire legislature subsequently amended the New Hampshire Safe Drinking Water Act in July 2020 establishing the 4 PFAS MCLs.

• New Jersey Department of Environmental Protection (NJDEP) identified RfDs of 2×10^{-6} mg/kg-day for PFOA and 1.8×10^{-6} mg/kg-day for PFOS.[171] [172] On June 1, 2020, the NJDEP published a health based MCL for PFOA of 14 ppt and an MCL for PFOS of 13 ppt in the New Jersey Register. New Jersey previously adopted an MCL for PFNA of 13 ppt on September 4, 2018. New Jersey uses a risk assessment approach to protect for chronic drinking water exposure when setting MCLs. The NJDEP also adopted these same levels as formal groundwater quality standards for the purposes of site remediation activities and discharges to groundwater.[173] New Jersey has added PFNA, PFOA and PFOS to its hazardous substances list.

• New Mexico Environment Department issued Risk Assessment Guidance for Site Investigations and Remediation that identified preliminary screening levels of 70 ppt for PFOA, PFOS, and PFHxS, individually or combined, in drinking water and 1.56 mg/kg for PFOA, PFOS, and PFHxS in residential soil in 2019.[174]

• New York regulates PFOA and PFOS as hazardous substances. New York finalized regulations in 2017 that specify storage and registration requirements for Class B firefighting foams containing at least one percent by volume of one or more of four PFAS (including PFOA and PFOS) and prohibits the release of one pound or more of each into the environment during use. If a release meets or exceeds the one-pound threshold, it is considered a hazardous waste spill and must be reported, and cleanup may be required under the state's Superfund or Brownfields programs. In August 2020, New York adopted MCLs of 10 ppt for both PFOA and PFOS.[175] [176]

• North Carolina's Department of Environmental Quality determined an Interim Maximum Allowable Concentration for groundwater of 2,000 ppt for PFOA (table last updated in June 2021).[177]

• Ohio Environmental Protection Agency and Ohio Department of Health released a Polyfluoroalkyl Substances Action Plan for Drinking Water in 2019. Objectives included gathering sampling data, providing private water system owners with guidelines and resources to identify and respond to PFAS contamination, identifying resources to assist public water systems in the implementation of preventative and long-term measures to reduce PFAS-related risks, increasing awareness of PFAS and associated risks, ongoing engagement, and establishing Action Levels for drinking water systems in Ohio that are protective for human health. As part of this initiative, Ohio indicated that Action Levels of 70 ppt for PFOA and PFOS, singly or combined, would be established.[178]

• Oregon Department of Environmental Quality set initiation levels (ILs) for PFOA and PFOS of 24,000 ppt and 300,000 ppt, respectively (last amended in 2019). The rule indicated that ILs referred to concentrations in effluent, that, if exceeded, requires preparation of a pollutant reduction plan.[179] [180]

[166] Montana DEQ. (2019). Circular DEQ–7. Montana numeric water quality standards. Montana Department of Environmental Quality. *https://deq.mt.gov/files/Water/WQPB/Standards/PDF/DEQ7/DEQ-7.pdf.*

[167] NDEP. (2017). Nevada Division of Environmental Protection basic comparison levels. Nevada Division of Environmental Protection. *https://ndep.nv.gov/uploads/documents/july-2017-ndep-bcls.pdf.*

[168] Pontius, F. (2019). Regulation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water: A comprehensive review. Water 11: 2003.

[169] NHDES. (2019). Technical background report for the June 2019 proposed maximum contaminant levels (MCLs) and ambient groundwater quality standards (AGQSs) for perfluorooctane sulfonic acid (PFOS), perfluorooctanoic acid (PFOA), perfluorononanoic acid (PFNA), and perfluorohexane sulfonic acid (PFHxS) and letter from Dr. Stephen M. Roberts, Ph.D. dated 6/25/2019—findings of peer review conducted on technical background report. New Hampshire Department of Environmental Services. *https://www4.des.state.nh.us/nh-pfas-investigation/wp-content/uploads/June-PFAS-MCL-Technical-Support-Document-FINAL.pdf.*

[170] NHDES. (2019). New Hampshire Code of Administrative Rules: Section Env-Dw 701.03—Units of measure for maximum contaminant levels (MCLs) and maximum contaminant level goals (MCLGs). New Hampshire Department of Environmental Services. *https://services.statescape.com/ssu/Regs/ss_858637087377920900 8.pdf.*

[171] NJDWQI. (2017). Maximum contaminant level recommendation for perfluorooctanoic acid in drinking water basis and background. New Jersey Drinking Water Quality Institute. *https://www.nj.gov/dep/watersupply/pdf/pfoa-recommend.pdf.*

[172] NJDWQI. (2017). Appendix A. Health-based maximum contaminant level support document: perfluorooctanoic acid (PFOA). New Jersey Drinking Water Quality Institute. *https://www.nj.gov/dep/watersupply/pdf/pfoa-appendixa.pdf.*

[173] NJDEP. (2020). Ground water quality standards and maximum contaminant levels (MCLs) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). New Jersey Department of Environmental Protection. *https://www.nj.gov/dep/rules/adoptions/adopt_20200601a.pdf.*

[174] NMED. (2019). Risk assessment guidance for site investigations and remediation. Volume I. Soil screening guidance for human health risk assessments. New Mexico Environment Department. *https://www.env.nm.gov/wp-content/uploads/sites/12/2016/11/Final-NMED-SSG-VOL-I_-Rev.2-6_19_19.pdf.*

[175] NYSDOH. (2020). Amendment of subpart 5–1 of title 10 NYCRR (maximum contaminant levels (MCLs)) notice of revised rulemaking. New York State Department of Health. *https://regs.health.ny.gov/sites/default/files/proposed-regulations/Maximum%20Contaminant%20Levels%20%28MCLs%29_0.pdf.*

[176] DEC. (2017). Fact sheet: Storage and use of Class B firefighting foams under new hazardous substance regulations. New York State Department of Environmental Conservation. *https://www.dec.ny.gov/docs/remediation_hudson_pdf/affffactsheet.pdf.*

[177] NCDEQ. (2021). Appendix #1: Interim maximum allowable concentrations (IMACs). North Carolina Department of Environmental Quality. *https://files.nc.gov/ncdeq/Water%20Quality/Planning/CSU/Ground%20Water/APPENDIX_I_IMAC_2-01-21.pdf.*

[178] *Ohio.gov.* (2019). Ohio per- and polyfluoroalkyl substances (PFAS) action plan for drinking water. Ohio Environmental Protection Agency. Ohio Department of Health. *https://content.govdelivery.com/attachments/OHOOD/2019/12/02/file_attachments/1335154/PFAS%20Action%20Plan%2012.02.19.pdf.*

[179] OAR. (2019). Division 45. Regulations pertaining to NPDES and WPCF permits 340–045–0100 Effect of a permit: Initiation level rule. Oregon Administrative Rule. *https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=256058.*

[180] OAR. ([2010]). OAR 340–045–0100: Table A—Persistent pollutants. Oregon Administrative Rule.

Continued

• Pennsylvania Department of Environmental Protection (PADEP) adopted a medium-specific concentration of 70 ppt in groundwater for PFOA and PFOS, individually or combined, based on EPA's 2016 LHAs. MSCs are 4.4 mg/kg for PFOA and PFOS in residential soil. PADEP has proposed rulemaking to incorporate groundwater and soil cleanup standards for PFOA, PFOS, and PFBS, and has initiated the process to set drinking water MCLs for PFOA and PFOS.[181]

• Rhode Island Department of Environmental Management (RIDEM) set Groundwater Quality Standards for PFOA and PFOS, individually or combined, of 70 ppt. RIDEM indicated that EPA's 2016 LHAs are used to determine the response to protect human health when these substances are detected in groundwater known or presumed to be suitable for drinking water use without treatment.[182]

• Texas has developed toxicity factors for PFOA and PFOS (using appropriate adjustments and uncertainty factors) for use at remediation sites. When combined with reasonable maximum long-term exposure assumptions for standard receptors (*e.g.,* residents, commercial/industrial workers) and multiple simultaneous routes of exposure (*e.g.,* incidental soil ingestion, dermal exposure), the Texas Commission on Environmental Quality believes these toxicity factors (*e.g.,* RfDs) will result in sufficiently protective environmental media (*e.g.,* soil) cleanup concentrations based on available data. Texas's RfDs for PFOA and PFOS are 1.2×10^{-05} and 2.3×10^{-05} mg/kg/day, respectively.[183] Tier 1 Protective Concentration Level (PCL) tables, released in January 2021, identified PCLs of 290 ppt for PFOA and 560 ppt for PFOS. PCLs are the default cleanup standards in the Texas Reduction Program.[184]

• Vermont's drinking water health advisory is 20 ppt for a combination of five (PFOA, PFOS, PFHxS, PFHpA and PFNA) compounds based on a combined risk assessment. Vermont has issued final rules amending a number of regulations pertaining to groundwater to set cleanup levels of 20 ppt for PFOA, PFOS, PFHxS, PFHpA and PFNA. These rules became effective on July 6, 2019. Vermont passed a law in 2019 requiring public water systems to monitor for PFAS.[185] [186] It also directed the Agency of Natural Resources to potentially regulate PFAS and report on various monitoring activities.[187]

• Washington is developing rule language to establish proposed state action levels (SALs) of 10 ppt for PFOA and 15 ppt for PFOS (also levels for 3 other PFAS). SALs are levels set for long-term daily drinking water to protect human health; systems that exceed SALs would be required to notify their customers.[188]

• Wisconsin identified a toxicity value (acceptable daily intake) of 2×10^{-6} mg/kg-day for PFOA and recommended the ATSDR value of 2×10^{-6} mg/kg-day for PFOS.[189] The Wisconsin Department of Health Services has sent to Wisconsin Department of Natural Resources recommended groundwater standards of 20 ppt for PFOA and PFOS individually and combined.[190] The Wisconsin PFAS Action Council has developed statewide initiatives to address PFAS in Wisconsin. The council led the development of a comprehensive Wisconsin PFAS Action Plan that will serve as a roadmap for how state agencies will address these emerging chemicals.[191]

D. Enforcement

Enforcement actions, both by states and EPA, have been taken to mitigate risks from PFOA and PFOS. To date, EPA has addressed PFAS in 16 cases using a variety of enforcement tools under the Safe Drinking Water Act (SDWA), TSCA, RCRA, and CERCLA,[192] as well as overseeing PFAS response actions by Federal agencies at National Priorities List sites.

For example, in 2002 the EPA entered into an emergency administrative order on consent under SDWA with E. I. du Pont de Nemours and Company. DuPont agreed to provide alternative drinking water or treatment for public or private water users living near the Washington Works facility in Washington, West Virginia, if the level of PFOA detected in their drinking water was greater than the PFOA screening level established by a C–8 Assessment of Toxicity team. The C–8 Assessment team was formed pursuant to a state order and established the screening level for PFOA at 150,000 ppt. In 2006, after the science on health effects of PFOA evolved, the EPA entered into a second emergency administrative order under SDWA with DuPont that replaced the 2002 order and established a site-specific action level equal to or greater than 500 ppt.[193]

In 2009, after EPA scientists established a provisional health advisory for PFOA of 400 ppt to address short-term exposure to PFOA, EPA entered into a third emergency administrative order under the SDWA with DuPont that replaced the 2006 order and lowered the allowable concentration of PFOA in drinking water from 500 ppt to 400 ppt in communities near the facility. The provisional health advisory for PFOA

https://secure.sos.state.or.us/oard/viewAttachment.action;JSESSIONID_OARD=kx0KPdcNidFhJyQctRxEOn3fLasJ_U1SHXoqfYc80w8WtuLnSAlk!-888754201?ruleVrsnRsn=256058.

[181] Schena, R. (2021). New Pennsylvania PFOS and PFOA cleanup standards reach final major regulatory hurdle. JD Supra. *https://www.jdsupra.com/legalnews/new-pennsylvania-pfos-and-pfoa-cleanup-3985880/.*

[182] RIDEM. (2017). Rhode Island Department of Environmental Management determination of a groundwater quality standard for: Perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Rhode Island Department of Environmental Management. *https://www.dem.ri.gov/programs/benviron/water/quality/pdf/pfoa.pdf.*

[183] TCEQ. (2016). Perfluoro compounds (PFCs): Various CASRN numbers. Texas Commission on Environmental Quality. *https://www.tceq.texas.gov/assets/public/implementation/tox/evaluations/pfcs.pdf.*

[184] TCEQ. (2021). TRRP Protective concentration levels. Texas Commission on Environmental Quality. *https://www.tceq.texas.gov/remediation/trrp/trrppcls.html.*

[185] HealthVermont. (2018). Memorandum: Drinking water health advisory for five PFAS (per- and polyfluorinated alkyl substances). Vermont Department of Health. *https://www.healthvermont.gov/sites/default/files/documents/pdf/ENV_DW_PFAS_HealthAdvisory.pdf.*

[186] Vermont ANR. (2019). Chapter 12 of the environmental protection rules: Groundwater protection rule and strategy. Vermont Agency of Natural Resources. *https://dec.vermont.gov/sites/dec/files/dwgwp/DW/2019.07.06%20-%20GWPRS.pdf.*

[187] Vermont ANR. (2019). ACT 21 (S. 49): Vermont 2019 PFAS law factsheet. Vermont Agency of Natural Resources. *https://dec.vermont.gov/sites/dec/files/PFAS/Docs/Act21-2019-VT-PFAS-Law-Factsheet.pdf.*

[188] WA DOH. (2021). PFAS and drinking water: What is a state action level? Washington State Department of Health. *https://www.doh.wa.gov/CommunityandEnvironment/Contaminants/PFAS#StateActionLevels.*

[189] Wisconsin DHS. (2019). Recommended public health groundwater quality standards: Scientific support documents for cycle 10 substances. Wisconsin Department of Health Services. *https://www.dhs.wisconsin.gov/publications/p02434v.pdf.*

[190] Wisconsin DHS. (2021). Per- and polyfluoroalkyl substances (PFAS). Wisconsin Department of Health Services. *https://www.dhs.wisconsin.gov/chemical/pfas.htm.*

[191] WisPAC. (2020). Wisconsin PFAS Action Plan. Wisconsin PFAS Action Council. Department of Natural Resources. *https://dnr.wisconsin.gov/topic/Contaminants/ActionPlan.html.*

[192] Where PFAS are commingled with CERCLA hazardous substances, EPA can require PRPs to address the PFAS. Additionally, CERCLA Section 120 federal facility agreements for federal facilities listed on the NPL require federal agencies to investigate and clean up hazardous substances, pollutants and contaminants which includes PFAS.

[193] U.S. EPA. (2021). E.I. DuPont de Nemours and Company PFOA settlements. U.S. Environmental Protection Agency. *https://www.epa.gov/enforcement/ei-dupont-de-nemours-and-company-pfoa-settlements.*

was based on available science at that time.[194]

In 2017, EPA issued an amendment to the 2009 emergency administrative order with DuPont by adding The Chemours Company as a respondent and lowering the allowable concentration of PFOA in drinking water from 400 ppt to 70 ppt in communities near the facility. The amendment, issued on May 19, 2016, was based upon current science, changed circumstances, site-specific information, and EPA's health advisories for PFOA and PFOS.[195]

Designating PFOA and PFOS as CERCLA hazardous substances will allow EPA to use its CERCLA enforcement authorities, in appropriate circumstances and where relevant statutory elements are met, which could allow a transfer of the cost-burden of response activities at privately owned sites from the taxpayers/fund to potentially responsible parties.

E. International Actions

PFAS, including PFOA and PFOS, are subject to international treaties and individual country regulations on their production, use, and release to the environment.

PFOA is identified by the United Nations Environment Programme (UNEP) as ''a substance of very high concern with a persistent, bioaccumulative and toxic structure for the environment and living organisms'' and is listed under Annex A of the Stockholm convention.[196] (Parties must take measures to eliminate production and use of the chemicals listed in Annex A.)

In November 2017, the Persistent Organic Pollutants Review Committee adopted a risk management evaluation for PFOA, its salts and PFOA-related compounds, defined as ''any substances that degrade to PFOA, including any substances (including salts and polymers) having a linear or branched perfluoroheptyl group with the moiety (C_7F_{15})C as one of the structural elements, for example: (i) Polymers with ≥C8 based perfluoroalkyl side chains; 8:2 fluorotelomer compounds; and (iii) 10:2 fluorotelomer compounds''.[197] [198] In 2019, at the 9th Conference of Parties (COP–9) meeting, the Stockholm Convention agreed to a global ban on PFOA and some related compounds for criteria including health effects such as kidney cancer, testicular cancer, thyroid disease, ulcerative colitis and pregnancy-induced hypertension. This action also included five-year exemptions for use in semiconductor manufacturing, firefighting foams, worker-safety textiles, photographic coatings for films and medical devices. While a signatory to the Stockholm Convention, the U.S. has not ratified and is therefore not a Party to the convention however; additional exemptions were requested by China, Iran and the European Union.[199]

PFOS, along with its salts and precursor POSF have been classified as a persistent, highly bioaccumulative organic pollutant and listed under Annex B of the Stockholm Convention.[200] At the 2009 Stockholm Convention COP–4 meeting, parties to the convention restricted PFOS production and use, but also included exemptions. The 2019 COP–9 meeting tightened PFOA and PFOS restrictions, but left an exemption for the pesticide sulfluramid, which is known to degrade into PFOS and PFOA.[201] [202] This pesticide is no longer registered for use in the United States.

The European Union (EU) has taken steps to regulate PFOA, its salts and related substances in a wide range of products.[203] PFOA and APFO are also required to be classified, labelled, and packaged under regulation EC No 1272/2008 [204] and there is a ban on placing these chemicals on the market as substances, constituents of other substances, or in mixtures for supply to the general public. PFNA and PFDA have been proposed for similar classification and labelling by Sweden.

In July 2020, the European Food Safety Authority [205] modified its 2018 decision to set safety levels for PFOA and PFOS to include PFNA and PFHxS, based on their observed human bioaccumulation and toxicity. A combined safety threshold or group tolerable weekly limit in food and water of 4.4 nanograms/kilogram of body weight was set for these four PFAS.

Because there are thousands of PFAS widespread in the environment and substance-by-substance risk assessments, environmental monitoring and regulation would be extremely lengthy and resource-intensive, an alternative approach has been proposed to regulate PFAS as a class, or as subgroups, based on toxicity or chemical similarities. The agreement by the European Parliament and the

[194] Ibid.

[195] U.S. EPA. (2017). News releases from Region 03 EPA amends drinking water order to DuPont. U.S. Environmental Protection Agency. *https://archive.epa.gov/epa/newsreleases/epa-amends-drinking-water-order-dupont.html*.

[196] UNEP. (2019). POPs chemicals Mandeeps. Stockholm Convention on Persistent Organic Pollutants. United Nations Environment Programme. *https://chm.pops.int/DNNADMIN/DataEntry/MandeepsHiddenModules/POPsChemicalsMandeeps/tabid/754/Default.aspx*.

[197] UNEP. (2017). Report of the Persistent Organic Pollutants Review Committee on the work of its thirteenth meeting: Addendum: Risk management evaluation on pentadecafluorooctanoic acid (CAS No: 335–67–1, PFOA, perfluorooctanoic acid), its salts and PFOA-related compounds. Stockholm Convention on Persistent Organic Pollutants. (UNEP/POPS/POPRC.13/7/Add.2). United Nations Environment Programme. *https://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC13/MeetingDocuments/tabid/6024/Default.aspx/*.

[198] UNEP. (2018). Report of the Persistent Organic Pollutants Review Committee on the work of its fourteenth meeting—Addendum to the risk management evaluation on perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds. Stockholm Convention on Persistent Organic Pollutants. (UNEP/POPS/POPRC.14/6/Add.2). United Nations Environment Programme. *https://chm.pops.int/theconvention/popsreviewcommittee/meetings/poprc14/overview/tabid/7398/default.aspx*.

[199] UNEP. (2019). Recommendation by the Persistent Organic Pollutants Review Committee to list perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in Annex A to the Convention and draft text of the proposed amendment. Stockholm Convention on Persistent Organic Pollutants. (UNEP/POPS/COP.9/14). United Nations Environment Programme. *https://chm.pops.int/TheConvention/ConferenceoftheParties/Meetings/COP9/tabid/7521/Default.aspx*.

[200] UNEP. (2019). POPs chemicals Mandeeps. Stockholm Convention on Persistent Organic Pollutants. United Nations Environment Programme. *https://chm.pops.int/DNNADMIN/DataEntry/MandeepsHiddenModules/POPsChemicalsMandeeps/tabid/754/Default.aspx*.

[201] UNEP. (2009). Listing of perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride. Stockholm Convention on Persistent Organic Pollutants. (UNEP–POPS–COP.4–SC–4–17). United Nations Environment Programme. *https://chm.pops.int/TheConvention/ConferenceoftheParties/Meetings/COP4/COP4Documents/tabid/531/Agg3187_SelectTab/4/Default.aspx*.

[202] UNEP. (2019). Evaluation of perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride pursuant to paragraphs 5 and 6 of part III of Annex B to the Convention. Stockholm Convention on Persistent Organic Pollutants. (UNEP/POPS/COP.9/7). United Nations Environment Programme. *https://chm.pops.int/TheConvention/ConferenceoftheParties/Meetings/COP9/tabid/7521/Default.aspx*.

[203] EU. (2017). Commission regulation (EU) 2017/1000 of 13 June 2017 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the registration, evaluation, authorisation and restriction of chemicals (REACH) as regards perfluorooctanoic acid (PFOA), its salts and PFOA-related substances. (Official J Eur Union L150/14). European Union. *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32017R1000*.

[204] EU. (2008). Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006. (Official J Eur Union L353/1). European Union. *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008R1272*.

[205] EFSA. (2020). Risk to human health related to the presence of perfluoroalkyl substances in food. EFSA Journal 18: e06223. *https://www.ncbi.nlm.nih.gov/pubmed/32994824*.

Council in December 2019 on the recast of the Drinking Water Directive includes a limit of 0.5 micrograms per liter for all PFAS.[206] In December 2020, the European Parliament formally adopted the revised Drinking Water Directive.[207] Based on the widespread occurrence of PFAS in the environment and their risk properties, in June 2019 the European Council of Ministers called for an action plan to eliminate all non-essential uses of PFAS.[208]

A number of countries have issued standards and guidance values for PFOA, PFOS, and other PFAS individually or cumulatively. These are summarized below.

Australia and New Zealand [209]—The Food Standards Australia New Zealand (FSANZ), a statutory authority in the Australian Government health portfolio, and the National Medical Research Council have developed health-based guidance values for PFOA, PFOS, and PFHxS for exposure from food, drinking water and surface water used for recreation. The guidance values give tolerable daily intake (TDI) for lifetime exposure levels from food or drinking water that will not result in significant risk to human health. Based on the TDI, FSANZ recommended tolerable daily intake and issued drinking water and recreational water guideline values for use in site investigations in Australia. TDI were derived from animal studies and pharmacokinetic modeling used to extrapolate to humans. For PFHxS, FSANZ concluded that the available data were insufficient to develop a TDI and that the PFOS TDI should be applied to PFHxS and a combined concentration of PFOS plus PFHxS should be used to evaluate exposure.

Health based guidance value	Total PFOS+PFHxS	PFOA
Tolerable daily intake (nanograms/kilogram of body weight per day)	20	160
Drinking water quality guideline value (nanograms per liter)	70	560
Recreational water quality guideline value (nanograms per liter)	2,000	10,000

Canada—PFOA, its salts and precursors, as well as long-chain perfluorocarboxylic acids, their salts and precursors were assessed in 2012. These substances are prohibited for import and use with a limited number of exemptions under the *Prohibition of Certain Toxic Substances Regulations, 2012*. In 2018 additional proposed amendments to the Canadian Environmental Protection Act, 1999, to regulate additional PFAS were postponed to late 2021. The proposed amendments include PFOS, its salts and precursors that contain one of the following groups: $C_8F_{17}SO_2$, $C_8F_{17}SO_3$ or $C_8F_{17}SO_2N$ (PFOS), PFOA and its salts and precursors. It also includes all longer chain perfluorocarboxylic acids having the molecular formula $C_nF_{2n+1}CO_2H$ in which $8 \leq n \leq 20$, their salts and precursors.[210] [211]

Guidelines for Canadian Drinking Water Quality set the maximum acceptable concentration (MAC) for PFOA in drinking water at 200 ppt [212] and PFOS in drinking water at 600 ppt.[213] These MACs are based on exposure to individual chemicals. Because the toxicological effects of PFOA and PFOS are additive they should be evaluated together, and the ratio of the observed concentration for PFOS to its MAC plus the ratio of the observed concentration for PFOA to its MAC should be below 1 for drinking water to considered safe.[214] [215] For other PFAS with a more limited database, drinking water screening values were developed.

Peoples Republic of China—The ''Industrial Recon-structuring Guide Directory'' [216] restricted the production of PFOS and PFOA. In 2014, the Ministry of Environmental Protection announcement No. [2014]21, banned ''production, transportation, application, imports and exports of PFOS, its salts, and POSF, except for specific exemptions and acceptable use.''

Denmark—Based on toxicity the Danish Environmental Protection Agency [217] has identified health-based criteria or limit values for drinking water, groundwater used for drinking water and soil. Criteria or limit values for drinking water and groundwater used for drinking water are 100 nanograms per liter for PFOS and/or PFOSA (a PFOS precursor) and 300

[206] EEA. (2019). Emerging chemical risks in Europe—'PFAS'. European Environment Agency. European Union. *https://www.eea.europa.eu/ds_resolveuid/a8da291194084d2eaa5bb0a9147e793a.*

[207] EC. (2020). Review of the drinking water directive. European Commission. *https://ec.europa.eu/environment/water/water-drink/review_en.html.*

[208] EU. (2019). Outcome of proceedings: Subject: Towards a sustainable chemicals policy strategy of the Union—Council conclusions. Council of the European Union. *https://www.consilium.europa.eu/media/40042/st10713-en19.pdf.*

[209] Australian Government. (2019). Health based guidance values for PFAS. Australian Government, Department of Health. *https://www1.health.gov.au/internet/main/publishing.nsf/Content/2200FE086D480353CA2580C900817CDC/$File/HBGV-Factsheet-20190911.pdf.*

[210] Environment and Climate Change Canada. (2021). Toxic substances list: long-chain perfluorocarboxylic acids. Environment and Climate Change Canada, Government of Canada. *https://www.canada.ca/en/environment-climate-change/services/management-toxic-substances/list-canadian-environmental-protection-act/long-chain-perfluorocarboxylic-acids.html.*

[211] Environment and Climate Change Canada. (2021). Toxic substances list: PFOS. Environment and Climate Change Canada, Government of Canada. *https://www.canada.ca/en/environment-climate-change/services/management-toxic-substances/list-canadian-environmental-protection-act/perfluorooctane-sulfonate.html.*

[212] Health Canada. (2018). Guidelines for Canadian drinking water quality: Guideline technical document—perfluorooctanoic acid (PFOA). Health Canada. Minister of Health. *https://www.canada.ca/en/health-canada/services/publications/healthy-living/guidelines-canadian-drinking-water-quality-technical-document-perfluorooctanoic-acid/document.html.*

[213] Health Canada. (2018). Guidelines for Canadian drinking water quality: Guideline technical document—perfluorooctane sulfonate (PFOS). Health Canada. Minister of Health. *https://www.canada.ca/en/health-canada/services/publications/healthy-living/guidelines-canadian-drinking-water-quality-guideline-technical-document-perfluorooctane-sulfonate/document.html.*

[214] Health Canada. (2018). Guidelines for Canadian drinking water quality: Guideline technical document—perfluorooctanoic acid (PFOA). Health Canada. Minister of Health. *https://www.canada.ca/en/health-canada/services/publications/healthy-living/guidelines-canadian-drinking-water-quality-technical-document-perfluorooctanoic-acid/document.html.*

[215] Health Canada. (2018). Guidelines for Canadian drinking water quality: Guideline technical document—perfluorooctane sulfonate (PFOS). Health Canada. Minister of Health. *https://www.canada.ca/en/health-canada/services/publications/healthy-living/guidelines-canadian-drinking-water-quality-guideline-technical-document-perfluorooctane-sulfonate/document.html.*

[216] OECD. (2021). Portal on per and poly fluorinated chemicals: Country information: People's Republic of China. Organisation for Economic Co-operation and Development. *https://www.oecd.org/chemicalsafety/portal-perfluorinated-chemicals/countryinformation/china.htm.*

[217] Danish Ministry of the Environment. (2015). Perfluoroalkylated substances: PFOA, PFOS and PFOSA: Evaluation of health hazards and proposal of a health based quality criterion for drinking water, soil and ground water. (Environmental project No. 1665). Copenhagen, Denmark: The Danish Environmental Protection Agency. *https://www2.mst.dk/Udgiv/publications/2015/04/978-87-93283-01-5.pdf.*

nanograms per liter for PFOA. For cumulative exposure the ratio of the sum of concentration/limit value ratios for PFOA, PFOS and PFOSA should be below 1.

The health-based criteria or limit value for soil is 390 micrograms per kilogram for PFOS and PFOSA and 1,300 micrograms per kilogram for PFOA and its salts. Cumulatively the sum of concentration/limit value ratios for PFOA, PFOS and PFOSA should be below 1.[218]

The Danish Ministry of the Environment and Food [219] banned food contact paper and cardboard in which per and polyfluoro chemicals, including PFOA and PFOS and their salts and precursors, have been used unless they incorporate a barrier to prevent migration into food.

Japan—In 2010, Japan designated PFOS, its salts, and POSF as Class I Specified Chemical Substances following their addition to the Stockholm Convention on Persistent to Organic Pollutants Annex B regulating manufacture, use, export, and import of PFOA and its salts.[220]

Norway—Norway listed PFOA and PFOS on its national list of priority substances [221] based on monitoring data that showed high levels of these substances in the environment as well as their toxicological profiles. In 2014, Norway banned manufacturing, production, import and retail of consumer products containing PFOA.[222]

VIII. Statutory and Executive Order Reviews

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

[218] Ibid.

[219] *PackingLaw.com.* (2020). Denmark's PFAS ban in paper and cardboard effective in July 2020. Keller and Heckman LLP. *https://www.packaginglaw.com/news/denmarks-pfas-ban-paper-and-cardboard-effective-july-2020.*

[220] Ministry of the Environment of Japan. (2013). Summary of the guideline on the treatment of wastes containing perfluorooctane sulfonic acid (PFOS), and its salts in Japan. Ministry of the Environment of Japan. *https://www.env.go.jp/en/focus/docs/files/201304-89.pdf.*

[221] OECD. (2021). Portal on per and poly fluorinated chemicals: Country information: Norway. Organisation for Economic Co-operation and Development. *https://www.oecd.org/chemicalsafety/portal-perfluorinated-chemicals/countryinformation/norway.htm.*

[222] UL. (2013). Norway introduces restrictions on PFOA. UL, LLC. *https://www.ul.com/news/norway-introduces-restrictions-pfoa.*

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

This action is a significant regulatory action that was submitted to the OMB for review. While EPA is not considering costs in its hazardous substance designation decisions in this proposed rule, and despite that there is still significant uncertainty and lack of data as discussed in the economic analysis (EA), OMB designated this proposed rulemaking as an economically significant action. Any changes made in response to the OMB recommendations have been documented in the docket. Although CERCLA section 102(a) precludes EPA from taking cost into account in the designation of a hazardous substance, to inform the public, EPA prepared an EA of the potential costs, benefits, and impacts associated with this action. This analysis, *Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances* is available in the docket for this action. The EA includes request for comments on several topics that EPA does not currently have robust information about. Please see Section ES–5 of the EA for specific details.

If finalized, this proposed CERCLA designation is estimated to have a quantifiable direct annual social cost of approximately $370,000 from reporting releases at or above the RQ. Additional, unquantifiable future costs may occur when Federal agencies sell or transfer real property where PFOA or PFOS was stored, released or disposed of as specified by CERCLA section 120(h). There is also the direct effect resulting in an obligation of DOT to list and regulate CERCLA-designated hazardous substances as hazardous materials under the Hazardous Materials Transportation Act (see CERCLA Section 306(a)). EPA estimates these incremental costs associated with the DOT rulemaking as zero or negligible. This action's direct benefits from release reporting include improved quality of information providing a more comprehensive understanding of the number and location of PFOA and PFOS releases meeting or exceeding the RQ. An important benefit of this information is that it may lead to more efficient property and capital markets. Another potential direct benefit from the proposed reporting requirement is better waste management and/or treatment by facilities handling PFOA or PFOS. Greater transparency provided by release reporting can lead to fewer releases to the environment and thus to health benefits associated with avoided exposure.

Designating PFOA and PFOS as hazardous substances may also have indirect, indeterminate impacts associated with potential increases in the speed of response activity and in the total number of response actions taken to address PFOA and PFOS releases. Both potential increases may lead to health benefits associated with avoided risks. Other indirect effects may be experienced as a result of the movement forward in time of assessment and cleanup costs. The proposed designation would also improve the Agency's ability to transfer response costs from the public to polluters contingent upon specific statutory requirements being met and discretionary actions by EPA. These indirect costs, benefits, and transfers cannot be quantified due to significant uncertainties about each. The full discussion of these impacts can be found in the EA.

B. Paperwork Reduction Act

The information collection activities in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2708.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

If finalized, the designation of PFOA and PFOS, and their salts and structural isomers, as hazardous substances would require any person in charge of a vessel or facility that identifies a release of one pound or more within a 24-hour period of these substances to report the release to the NRC under section 103 of CERCLA and to the SERC (or TERC) and LEPC (or TEPC) under section 304 of EPCRA. The implementing regulations of CERCLA section 103 and EPCRA section 304 are codified at 40 CFR parts 302 and 355, respectively.

Respondents/affected entities: Any person in charge of a vessel or facility from which there is a release of PFOA or PFOS and their salts and structural isomers, equal to or greater than the RQ of one pound within 24 hours.

Respondent's obligation to respond: Mandatory under section 103 of CERCLA and section 304 of EPCRA.

Estimated number of respondents: From 0 to 660 releases per year.

Frequency of response: Varies.

Total estimated burden: 6,415 hours (per year) maximum. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $370,000 (per year) maximum, includes $3,503 annualized operation and maintenance costs (and no capital costs).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 6, 2022. The EPA will respond to any ICR-related comments in the final rule.

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. The small entities subject to the requirements of this action are: (1) producers and importers of PFOA and PFOS, (2) producers and users of PFOA or PFOS-containing articles, and (3) waste management and wastewater facilities. The Agency has estimated that there may be up to 660 reported releases of PFOA or PFOS in any one year and that an indeterminate number, but small percentage, of the annual reports will be submitted by small entities. The estimated cost of $561 to report a release of PFOA or PFOS is not greater than 1% of the annual revenues per small entity in any impacted industry. Details of this analysis are presented in the *Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate Perfluorooctanoic Acid and Perfluorooctanesulfonic Acid as Hazardous Substances.* We have therefore concluded that this action will not have a significant regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action is expected to result in reporting costs of $561 per release that meets or exceeds the RQ, and the estimated annual cost of the proposed rule is not expected to exceed $370,000 per year.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175 because it does not have substantial direct effects on one or more Tribal Nations, on the relationship between the Federal Government and Tribal Nations, or on the distribution of power and responsibilities between the Federal Government and Tribal Nations. EPA does not expect that it would result in any adverse impacts on tribal entities. Thus, Executive Order 13175 does not apply to this action.

Consistent with the EPA Policy on Consultation with Tribal Nations, the EPA intends to consult with and request comments from tribal officials.

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

This action, which proposes to designate PFOA and PFOS as hazardous substances, does not itself address environmental health or safety risks. Beyond the requirements of E.O. 13045, EPA's *2021 Policy on Children's Health* (October 5, 2021) [223] requires EPA to consider early life exposures and lifelong health consistently and explicitly in all human health decisions. The EPA believes that the environmental health or safety risk posed by exposure to PFOA and/or PFOS may have a disproportionate effect on children. A discussion of health and risk assessments related to PFOA and PFOS, including developmental and reproductive health effects, are contained in EPA's Health Effects Support Documents for PFOA and PFOS (2016).

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action proposes to designate PFOA and PFOS as hazardous substances, and thus, does not involve the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act

This action does not involve technical standards.

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

The EPA is unable to determine if this action does or does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

Several key demographic categories were analyzed relative to facilities with known historical use and/or releases of PFOA and PFOS.[224] Because the location of future releases of PFAS is uncertain, this analysis considers populations around facilities in sectors associated with widespread historical uses and releases of PFAS as proxies for facilities that may have future releases of the PFAS considered in the proposed rule. This analysis examines the following site types as proxies for facilities that are known to have commonly used PFAS:

- Operating Department of Defense (DOD) facilities
- Operating U.S. airports and airfields

[223] U.S. EPA. (2021). The administrator: 2021 policy on children's health. Washington, DC: U.S. Environmental Protection Agency. *https://www.epa.gov/system/files/documents/2021-10/2021-policy-on-childrens-health.pdf.*

[224] U.S. EPA. ([2021]). Assessment of the potential costs and other impacts of the proposed rulemaking to designate perfluorooctanoic acid and perfluorooctanesulfonic acid as hazardous substances. U.S. Environmental Protection Agency.

- Plastics material and resin manufacturing firms identified as having produced PFOS and/or PFOA,
- 2020 PFOS and PFOA releases reported to EPA's Toxic Release Inventory (TRI)

On average, airports across the U.S. are surrounded by populations that reflect national averages in relevant demographic categories. Large airports, however, are more likely to be surrounded by minority and low-income populations than medium or small airports. Some DOD sites are surrounded by populations with higher concentrations of minority and low-income residents, but the majority of these sites are below the national averages for these metrics. In contrast, areas around plastics material and resin manufacturer sites and/or sites reporting releases to TRI, on average, are in areas with higher concentrations of minority residents and households experiencing poverty than the U.S. averages for these demographics, suggesting that releases related to manufacturing facilities could have environmental justice implications. A complete discussion of the analysis behind these findings is available in Section 4.3 of the EA accompanying this rulemaking. These findings, combined with the uncertainty surrounding the location of future releases, are indicative of potential impacts but do not provide a clear indication of the type of disparities related to potential exposure to PFAS. Consistent with the priorities outlined in Executive Orders 12898 [225] and 14008,[226] it is unclear whether this proposed regulation will have a significant impact on disadvantaged populations or communities with environmental justice (EJ) concerns relative to other communities. While the locations that may report releases are unknown, to the extent that these proxy locations are representative of likely reporting locations, this screening analysis suggests that the reporting required under the rule may provide better information to nearby populations potentially at risk of exposure, including communities with EJ concerns. To the extent that PFAS releases are consistent with the broader releases reported to TRI and typically involve disposal or manufacturing sites, demographic data around plastics material and resin manufacturer sites and historical releases may be a more reliable predictor of the type of community potentially affected by this proposed rulemaking. Specific site conditions and demographic patterns may become clear as reporting occurs following completion of a final rule. Once available, this information would improve EPA's ability to examine disparate impacts on EJ communities. This improved information would not increase risk for communities with EJ concerns and may improve the speed and design of remediation. EPA is committed to minimizing and/or eliminating existing barriers and burdens that communities with EJ concerns may encounter related to accessing data and information collected as a result of this rulemaking, if finalized. EPA seeks comment on strategies to improve access to the reporting data expected to be collected, if designation of PFOA and PFOS as hazardous substances is finalized, for communities with environmental justice concerns.

Further, the documentation for this decision is contained in the following sections in the preamble to this action: II.C., VI.A. and B. These sections explain that the designation of PFOA and PFOS as hazardous substances, if finalized, and the required reporting and notification requirements, will result in more information about the location and extent of releases. This improved information does not increase risk or result in any adverse environmental justice impacts.

List of Subjects in 40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 302 as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

■ 1. The authority citation for part 302 continues to read as follows:

Authority: 33 U.S.C. 1251 *et. seq.,* 42 U.S.C. 9601, *et seq.,* 42 U.S.C. 9602, 42 U.S.C. 9603.

■ 2. Amend § 302.4 by:

■ a. Revising in paragraph (b) the Note II to Table;

■ b. Adding in the Table—List of Hazardous Substances and Reportable Quantities in alphabetical order the following new entries for ''Perfluorooctanesulfonic acid, salts, & structural isomers'' and ''Perfluorooctanoic acid, & salts, & structural isomers'';

■ c. Adding in Appendix A—Sequential CAS Registry Number List of CERCLA Hazardous Substances in numerical order the new entries for ''335–67–1'' and ''1763–23–1''.

The revisions read as follows:

§ 302.4 [Amended]

* * * * *

(b) * * *

Note II to Table 302.4

Hazardous substances are given a Statutory Code based on their statutory source. The ''Statutory Code'' column indicates the statutory source for designating each substance as a CERCLA hazardous substance. Statutory Code ''1'' indicates a Clean Water Act (CWA) Hazardous Substance. Statutory Code ''2'' indicates a CWA Toxic Pollutant. Statutory Code ''3'' indicates a CAA HAP. Statutory Code ''4'' indicates Resource Conservation and Recovery Act (RCRA) Hazardous Wastes. Statutory Code ''5'' indicates a hazardous substance designated under section 102(a) of CERCLA. The ''RCRA waste No.'' column provides the waste identification numbers assigned by RCRA regulations. The ''Final RQ [pounds (kg)]'' column provides the reportable quantity for each hazardous substance in pounds and kilograms.

* * * * *

[225] The White House. (1994). Presidential documents: Executive order 12898 of February 11, 1994: Federal actions to address environmental justice in minority populations and low-income populations. **Federal Register** 59: 7629. *https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf.*

[226] *WH.gov.* (2021). Executive order on tackling the climate crisis at home and abroad. Washington, DC: The White House. *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/.*

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES
[All comments/notes are located at the end of this table]

Hazardous substance	CASRN	Statutory code †	RCRA waste No.	Final RQ [pounds (kg)]
* * * * * * * *				
Perfluorooctanesulfonic acid, & salts, & structural isomers	1763–23–1	5	.....	## (0.454)
Perfluorooctanoic acid, & salts, & structural isomers	335–67–1	5	.....	## (0.454)
* * * * * * * *				

* * * * *

Appendix A to § 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances

CASRN	Hazardous substance
335–67–1	Perfluorooctanoic acid, & salts, & structural isomers.
1763–23–1	Perfluorooctanesulfonic acid, & salts, & structural isomers.

[FR Doc. 2022–18657 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

[DOI–2022–0007; 223D0102DM, DLSN00000.000000, DS65100000, DX.65101]

RIN 1090–AB16

Privacy Act Regulations; Exemption for the Personnel Security Program Files System

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Interior (DOI) is proposing to amend its regulations to exempt certain records in the INTERIOR/DOI–45, Personnel Security Program Files, system of records from one or more provisions of the Privacy Act of 1974 because of criminal, civil, and administrative law enforcement requirements.

DATES: Submit comments on or before November 7, 2022.

ADDRESSES: You may submit comments, identified by docket number [DOI–2022–0007] or [Regulatory Information Number (RIN) 1090–AB16], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2022–0007] or RIN 1090–AB16 in the subject line of the message.
- *U.S. Mail or Hand-Delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2022–0007] or RIN 1090–AB16 for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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

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

SUPPLEMENTARY INFORMATION:

Background

The Privacy Act of 1974, as amended, 5 U.S.C. 552a, governs the means by which the U.S. Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information about individuals that is maintained in a ''system of records.'' A system of records is a group of any records under the control of an agency from which information about an individual is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. See 5 U.S.C. 552a(a)(4) and (5).

Individuals may request access to records containing information about themselves under the Privacy Act, 5 U.S.C. 552a(b), (c) and (d). However, the Privacy Act authorizes Federal agencies to exempt systems of records from access by individuals under certain circumstances, such as where the access or disclosure of such information would impede national security or law enforcement efforts. Exemptions from Privacy Act provisions must be established by regulation, 5 U.S.C. 552a(j) and (k).

The DOI Office of Law Enforcement and Security (OLES) maintains the INTERIOR/DOI–45, Personnel Security Program Files, system of records. This system supports the DOI bureau and office Personnel Security Program functions to determine suitability, eligibility, and fitness for service of applicants for Federal employment and contract positions who require access to Departmental facilities and information systems and networks. The system also helps OLES manage a National Security Program to document and support decisions regarding clearance access to classified information and implement provisions that apply to Federal employees and contractors who access classified information or materials and participate in classified activities that impact national security, and ensure the safety, storage of classified information and security of Departmental facilities, information systems and networks, occupants, and users.

The Personnel Security Program Files system will contain records created and managed by DOI bureaus and offices to support personnel security activities and document evaluations and decisions regarding suitability, eligibility, and fitness for service of applicants for Federal employment and contract positions to the extent necessary to manage secure access to Departmental facilities, information systems and networks, and to manage access to classified information and reciprocity. These records may include information about individuals related to possible violations of Federal laws and

regulations, potential incidents, investigations, and criminal activity. The system notice for INTERIOR/DOI–45, Personnel Security Program Files, system of records was last published in the **Federal Register** at 72 FR 11036 (March 12, 2007), modification published at 86 FR 50156 (September 7, 2021). An updated system of records notice was published elsewhere in the **Federal Register** denoting updates to the modified system of records for INTERIOR/DOI–45, Personnel Security Program Files.

Under 5 U.S.C. 552a(k), the head of a Federal agency may promulgate rules to exempt a system of records from certain provisions of the Privacy Act. In this notice of proposed rulemaking, DOI is proposing to exempt portions of the system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5) and (k)(6) due to criminal, civil, and administrative law enforcement requirements. DOI is proposing to revise the Privacy Act regulations at 43 CFR 2.254 to add a new paragraph (f) for records maintained in connection with testing and examination material that are exempt under 5 U.S.C. 552a(k)(6) and to claim additional exemptions under the Privacy Act pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), and (k)(5) as described in this document.

Because this system of records contains material that support activities related to investigations, adjudication, continuous vetting, and national security purposes under the provisions of 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5) and (k)(6), DOI proposes to exempt portions of the Personnel Security Program Files system from one or more of the following provisions: 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1) through (e)(3), (e)(4)(G) through (e)(4)(I), (e)(5), (e)(8), (f), and (g). Where a release would not interfere with or adversely affect investigations, reveal investigatory material compiled for law enforcement purposes, reveal investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, or affect national security activities, including but not limited to revealing sensitive information or compromising confidential sources, the exemption may be waived on a case-by-case basis. Exemptions from these particular subsections are justified for the following reasons:

1. 5 U.S.C. 552a(c)(3). This section requires an agency to make the accounting of each disclosure of records available to the individual named in the record upon request. Personnel investigations and vetting records may contain classified information or investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Release of accounting of disclosures would alert the subjects of an investigation to the existence of the investigation, law enforcement activity or counterintelligence investigation, and the fact that they are subjects of the investigation, or could disclose classified or confidential information that could be detrimental to national security. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature and scope of an investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

2. 5 U.S.C. 552a(c)(4); (d); (e)(4)(G) and (e)(4)(H); (f); and (g). These sections require an agency to provide notice and disclosure to individuals that a system contains records pertaining to the individual, as well as providing rights of access and amendment. Personnel investigation and vetting records may contain information classified pursuant to Executive Order, investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), information pertaining to protective services pursuant to 18 U.S.C. 3056, investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, or testing and examination material used to determine individual qualifications. Granting access to these records in the Personnel Security Program Files system could inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, the nature and scope of the information and evidence obtained, of the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, as well as their families; lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential information that impact national security or could constitute an unwarranted invasion of the personal privacy of others.

3. 5 U.S.C. 552a(e)(1). This section requires the agency to maintain information about an individual only to the extent that such information is relevant or necessary. The application of this provision could impair investigations and authorized vetting purposes because it is not always possible to determine the relevance or necessity of specific information in the early stages of an investigation or adjudication. Relevance and necessity are often questions of judgment and timing, and it is only after information is evaluated that the relevance and necessity of such information can be established for an investigation or adjudication. In addition, during the course of an investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

4. 5 U.S.C. 552a(e)(2). This section requires the agency to collect information directly from the individual to the greatest extent practical when the information may result in an adverse determination. During a background investigation or vetting process, it is not always possible or appropriate to collect information from the individual who is the subject of the investigation. The application of this provision could impair investigations and vetting activities by the Department when making suitability, eligibility, fitness, and credentialing determinations. In certain circumstances, the subject of an investigation cannot be required to provide information to investigators, and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

5. 5 U.S.C. 552a(e)(3). This section requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for

which the information is intended to be used; of the routine uses which may be made of the information; and the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature and scope of that investigation, could provide information to enable the subject to avoid detection or apprehension, seriously impede or compromise an investigation, or the fabrication of testimony, and disclose investigative techniques and procedures.

6. 5 U.S.C. 552a(e)(4)(I). This section requires an agency to provide public notice of the categories of sources of records in the system. The application of this provision could provide the subject of an investigation with substantial information about the nature and scope of that investigation, could provide information to enable the subject to avoid detection or apprehension, seriously impede or compromise an investigation, or the fabrication of testimony, and disclose investigative techniques and procedures. Additionally, the application of this section could cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promise(s) of anonymity and confidentiality. This could compromise DOI's ability to conduct investigations and to identify, detect and apprehend violators.

7. 5 U.S.C. 552a(e)(5). This section requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. In collecting information for investigations, vetting, adjudications, or law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Material that may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as the investigation progresses. The application of this provision could impair investigations and authorized vetting because it is not always possible to determine accuracy, timeliness or completeness of specific information in the early stages of an investigation or adjudication. It is only after information is evaluated that such information can be established as accurate, timely or complete for an investigation or adjudication. The application of this provision during an investigation or vetting process would impose an impracticable administrative burden on the agency.

8. 5 U.S.C. 552a(e)(8). This section requires an agency to make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when that process becomes a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

Procedural Requirements

1. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

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

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

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221)). This proposed rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule. The exemptions to the Privacy Act apply to individuals, and individuals are not covered entities under the Regulatory Flexibility Act. This proposed rule is not a major rule under 5 U.S.C. 804(2). This proposed rule:

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

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

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

3. Unfunded Mandates Reform Act

This proposed rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $100 million per year. The proposed rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This proposed rule makes only minor changes to 43 CFR part 2. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

4. Takings (E.O. 12630)

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. This proposed rule makes only minor changes to 43 CFR part 2. A takings implication assessment is not required.

5. Federalism (E.O. 13132)

In accordance with Executive Order 13132, this proposed rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The proposed rule is not associated with, nor will it 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. A Federalism Assessment is not required.

6. Civil Justice Reform (E.O. 12988)

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

(a) Does not unduly burden the Federal judicial system.

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

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

7. Consultation With Indian Tribes (E.O. 13175)

In accordance with Executive Order 13175, the Department of the Interior

has evaluated this proposed rule and determined that it would have no substantial effects on Federally Recognized Indian Tribes.

8. Paperwork Reduction Act

This proposed rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is not required.

9. National Environmental Policy Act

This proposed rule does not constitute a major Federal Action significantly affecting the quality for the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.,* is not required because the proposed rule is covered by a categorical exclusion. We have determined the proposed rule is categorically excluded under 43 CFR 46.210(i) because it is administrative, legal, and technical in nature. We also have determined the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

10. Effects on Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

11. Clarity of This Regulation

We are required by Executive Order 12866 and 12988, the Plain Writing Act of 2010 (Pub. L. 111–274), and the Presidential Memorandum of June 1, 1998, to write all proposed rules in plain language. This means each proposed rule we publish must:

—Be logically organized;
—Use the active voice to address readers directly;
—Use clear language rather than jargon;
—Be divided into short sections and sentences; and
—Use lists and table wherever possible.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Confidential information, Courts, Freedom of Information Act, Privacy Act.

For the reasons stated in the preamble, the Department of the Interior proposes to amend 43 CFR part 2 as follows:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

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

Authority: 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 3717; 43 U.S.C. 1460, 1461.

■ 2. Amend § 2.254 by adding new paragraphs (b)(2), (c)(20), (d)(2), (e)(7), and add new paragraph (f) to read as follows:

§ 2.254 Exemptions.

* * * * *

(b) *Classified records exempt under 5 U.S.C. 552a(k)(1).*

* * * * *

(2) INTERIOR/DOI–45, Personnel Security Program Files.

(c) *Law enforcement records exempt under 5 U.S.C. 552a(k)(2).*

* * * * *

(20) INTERIOR/DOI–45, Personnel Security Program Files.

(d) *Records maintained in connections with providing protective service exempt under 5 U.S.C. 552a(k)(3).*

* * * * *

(2) INTERIOR/DOI–45, Personnel Security Program Files.

(e) *Investigatory records exempt under 5 U.S.C. 552a(k)(5).*

* * * * *

(7) INTERIOR/DOI–45, Personnel Security Program Files.

(f) *Records maintained on testing and examination material exempt under 5 U.S.C. 552a(k)(6).* Pursuant to U.S.C. 552a(k)(6), the following systems of records have been exempted from paragraphs (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a and the provisions of the regulations in this subpart implementing these paragraphs.

(1) INTERIOR/DOI–45, Personnel Security Program Files.

* * * * *

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2022–19078 Filed 9–2–22; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648–BL48

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Amendment 30; 2023–2024 Biennial Specifications and Management Measures; Notice of Availability

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council has submitted Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan to the Secretary of Commerce for review. If approved, Amendment 30 would specify a shortbelly rockfish catch threshold to initiate Council review; extend the length of the limited entry fixed gear sablefish primary season; change the use of Rockfish Conservation Area boundaries; expand the use of Block Area Closures to control catch of groundfish; and correct the definition of Block Area Closures. Amendment 30 is necessary to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure management measures are based on the best scientific information available. It is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan.

DATES: Comments on Amendment 30 must be received no later than November 7, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0080, by the following method:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2022–0080 in the Search box. Click the ''Comment'' icon, complete the required fields, 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. 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 NMFS will post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register

website at *https://www.federalregister.gov/*. Background information and documents including an analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) are available from the Pacific Fishery Management Council's website at *http://www.pcouncil.org*. The draft Environmental Assessment (EA) which addresses the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act, is accessible via the internet at the NMFS West Coast Region website at *https://www.fisheries.noaa.gov/region/west-coast*. The final 2022 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's (Council's) website at *http://www.pcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Brian Hooper, Fishery Management Specialist, at 206–526–6117 or *brian.hooper@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) seaward of Washington, Oregon, and California under the Pacific Coast Groundfish fishery management plan (PCGFMP). The Council prepared and NMFS implemented the PCGFMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act 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. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notice announces that the proposed Amendment 30 to the 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 30 to the FMP.

Amendment 30 would make five changes to the PCGFMP. Amendment 30 would (1) specify a shortbelly rockfish catch threshold to initiate Council review; (2) extend the length of the limited entry fixed gear (LEFG) sablefish primary season; (3) change the use of Rockfish Conservation Area (RCA) boundaries; (4) expand the use of Block Area Closures (BACs) to control catch of groundfish; and (5) correct the definition BACs.

Shortbelly Rockfish Catch Threshold To Initiate Council Review

Shortbelly rockfish is one of the most abundant rockfish species in the California Current Ecosystem and is a key forage species for many fish, birds, and marine mammals. The Council recommended and NMFS approved the designation of shortbelly rockfish as an ecosystem component (EC) species through Amendment 29 to the PCGFMP, as part of the 2021–2022 groundfish management measure process (85 FR 79880, December 11, 2020). The Notice of Availability for Amendment 29 (85 FR 54529, September 2, 2020) provides additional background on shortbelly rockfish. The Council monitors and tracks shortbelly rockfish mortality inseason. Shortbelly rockfish are not, and have not historically been, a directed target of commercial or recreational fisheries. Due to their small size, shortbelly rockfish are not currently marketable. However, concerns over the potential future development of a directed fishery prompted the Council to note during the 2021–2022 groundfish management measure process that it would consider taking action if mortality of shortbelly rockfish in the fishery exceeds, or is projected to exceed, 2,000 metric tons (mt) in a calendar year. This guidance was not formalized in the PCGFMP as part of Amendment 29. Therefore, Amendment 30 would amend the PCGFMP to add language stating that if shortbelly rockfish mortalities exceed, or are projected to exceed 2,000 mt in a calendar year, the Council would review relevant fishery information and consider if management changes were warranted, including, but not limited to reconsideration of its current classification as an EC species. Relevant information could include but would not be limited to, survey abundance trends and other stock status information, changes in fishing behavior, and changes in the market interest for shortbelly rockfish. In response to the review of the information, the Council would consider voluntary measures taken by the fishing industry to reduce bycatch, and consider other management measures including, but not limited to, area closures, gear prohibitions, bycatch limits and seasonal restrictions as deemed necessary to reduce shortbelly rockfish mortality.

NMFS notes that routine management measures as laid out in 50 CFR 660.60(c) are not currently available for shortbelly rockfish management because shortbelly rockfish is an EC species. Shortbelly rockfish would need to be redesignated as ''in the fishery'' prior to routine management measures being available for inseason use. However, the Council could recommend, consistent with the points of concern framework (PCGFMP Section 6.2.2), management measures to minimize bycatch or bycatch mortality of EC species as laid out in 50 CFR 600.305(c)(5). Depending on the issue triggering the need for management measures, this pathway might require revisiting the EC designation.

LEFG Sablefish Primary Season Extension

Amendment 30 would permanently extend the LEFG primary sablefish tier fishery (hereinafter referred to as primary fishery) season end date from October 31 to December 31. The primary fishery would close on December 31, or close for an individual vessel owner when the tier limit for the sablefish endorsed permit(s) registered to the vessel has been reached, whichever is earlier.

The primary sablefish fishery tier program is a limited access privilege program set up under Amendment 14 to PCGFMP (66 FR 41152, August 7, 2001). Participants hold limited entry permits with a pot gear and/or longline gear endorsement and a sablefish endorsement.

Under Amendment 14, as set out in 50 CFR 660.231, the permit holder of a sablefish-endorsed permit receives a tier limit, which is an annual share of the sablefish catch allocation to this sector. NMFS sets three different tier limits through the biennial harvest specifications and management measures process; and up to three permits may be stacked at one time on a vessel participating in the fishery. Stacked tier limits are combined to provide a cumulative catch limit for that vessel. After vessels have caught their full tier limits, they are allowed to move into other fisheries for sablefish, specifically the limited entry or open access trip limit fishery, or fisheries for other species.

Under Amendment 14, the sablefish primary season has historically been open from April 1 through October 31 of each year, though individual permit holders may only fish up to their tier limits so may be required to cease fishing prior to October 31. These season dates were put into regulation

during the development and implementation of the fishery under Amendment 14. Prior to the implementation of Amendment 14, the sablefish fishery had operated as a 'derby' style fishery, with a season length lasting a few weeks to a few days. Under Amendment 14, the fishery began operating under a seven-month season. The seven-month season structure, as opposed to a year-long season, was intended to allow for timely catch accounting so that the sector allocation was not exceeded. As of 2017, commercial vessels landing sablefish are required to submit e-tickets within 24 hours of offload, ''to improve timeliness and accuracy of sablefish catch reporting in the limited entry fixed gear fisheries and open access fisheries'' (§ 660.213). Given the increase in speed of modern catch accounting, the original reason for the seven-month season is no longer applicable.

In response to industry requests and Council recommendation, NMFS issued emergency rules in 2020 and 2021 (85 FR 68001, October 27, 2020; 86 FR 59873, October 29, 2021) to temporarily extend the sablefish primary fishery from October 31 to December 31. These emergency actions were intended to mitigate COVID–19 pandemic related disruptions in the fishery by allowing participants more time to harvest their full tier limits.

The Analysis discusses that the primary fishery has experienced lower than average attainment since 2019 amidst higher than average sablefish allocations. Even with the season extension in 2020 and 2021, attainment was only 80 and 74 percent of the sector allocation, respectively. A season extension could provide opportunity and flexibility for vessels to fish their full tier limits and maximize economic benefits.

Novel Utilization of Existing Rockfish Conservation Area Boundary Lines

The Council recommended a novel utilization of the previously established RCA boundary lines for the California recreational fishery (§ 660.360(c)(3)). Recreational RCA boundary lines are a set of connecting waypoints which approximate a depth contour (§ 660.71 through § 660.73). These lines have historically been used to allow fishing shoreward of a specific RCA boundary line and prohibit fishing seaward of that line. Amendment 30 would modify the PCGFMP to also allow fishing seaward of a specified RCA boundary line and prohibit fishing shoreward of that line. For example, fishing could be prohibited in Federal waters shoreward of the 30, 40, 50, 60, 75, 100, or 125, fathom line. Amendment 30 would modify the PCGFMP to allow RCAs to be used to control catch of groundfish species. This would provide logistical flexibility for the management of overfished species like yelloweye rockfish (current RCA utilization) and non-overfished species that include species of concern such as quillback rockfish, copper rockfish, or cowcod (novel RCA utilization). This new management measure, if approved, may be used during the regular season setting process through the biennial specifications and management measures or as an inseason action to achieve harvest specifications.

This proposed measure is intended to be a tool to reduce mortality for nearshore rockfish species of concern (such as quillback rockfish, copper rockfish, or cowcod) or rebuilding yelloweye rockfish by shifting fishing effort away from the habitats and depths where those stocks are most commonly encountered, and onto shelf and slope waters to target other, healthier groundfish stocks. This measure would provide more flexibility in managing groundfish fisheries in California and is designed to be combined with other season structure options and bag limit options to create a suite of management measures which take steps to achieve harvest specifications and minimize negative impacts to California fisheries and coastal communities. The effectiveness of this proposed management tool would be limited based on the prevalence of each species in state waters as compared to in the EEZ. The majority of fishery effort for copper and quillback rockfish off California is in state waters, therefore, the overall effectiveness of this management measure may be constrained.

The Analysis discusses uncertainty with model projections when RCA boundary lines are utilized in this novel way, especially for species with a deeper depth distribution, like cowcod and yelloweye rockfish. The California Department of Fish and Wildlife's weekly and monthly tracking processes have been an effective and reliable tool to closely monitor recreational inseason mortality and provide timely and accurate information to apply inseason adjustments, such as changes to depth limits, season length, or bag limits, to fisheries.

This proposed measure is intended to limit the negative socioeconomic impacts that could otherwise occur as a result of the need to reduce mortality for quillback and copper rockfishes, and stay within harvest guidelines for yelloweye rockfish and cowcod. The Analysis discusses the impact of this measure on the recreational boat-based groundfish fisheries in California.

Block Area Closures for Groundfish Mitigation

Amendment 30 would modify the PCGFMP to make BACs available as a routine management measure to control catch of groundfish by midwater trawl and bottom trawl vessels. BACs could be implemented in the EEZ off Washington, Oregon, and California. BACs could be implemented within tribal Usual and Accustomed (U&A) fishing areas but would only apply to non-tribal vessels. This proposed rule would prohibit midwater trawl and/or bottom trawl fishing within the BAC boundaries.

BACs are size variable spatial closures bounded by latitude lines, defined at 50 CFR 660.11, and depth contour approximations defined at 50 CFR 660.71 through 660.74 (10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1280 m)). Amendment 28 to the PCGFMP (84 FR 63966, November 19, 2019) first established BACs as a management tool. The salmon bycatch minimization measures action (86 FR 10857, February 23, 2021) established BACs as a tool to minimize salmon bycatch. This proposed measure would align the outermost available depth boundaries (*i.e.,* 700 fathoms) across all midwater and bottom trawl BACs used to control groundfish catch.

The BAC tool would allow the Council to recommend and NMFS to implement size variable area closures as a routine management measure to address specific areas of high catch or bycatch of one or more specific groundfish species rather than large fixed closure areas (*e.g.,* Bycatch Reduction Area or BRA). BACs would allow for the trawl fishery to remain open in areas outside of the BACs.

This measure is needed because fishery managers do not currently have appropriate scaled spatial tools to mitigate trawl-based groundfish catches, while also minimizing economic impacts to the fishing industry. BACs could be an important tool to manage a species like Pacific spiny dogfish, which exhibit spatial and seasonal aggregations, that may be limiting based on recent stock assessment outlook.

During development of this measure the Council noted BACs should be considered a last-resort measure behind industry implemented avoidance measures. The Council also noted BAC were not intended to be used for habitat protection because of their flexible nature.

Correction to the Definition of Block Area Closures

Amendment 30 would modify the PCGFMP to correct a mismatch between the PCGFMP and current regulations regarding the definition of BACs. The salmon bycatch minimization measures action (86 FR 10857, February 23, 2021) established BACs as a tool to minimize salmon bycatch. BACs are described in multiple regulation sections (*e.g.,* 50 CFR 660.11 Conservation area(s); § 660.111 Block area closures; § 660.60(c)(3)(i)). The regulations articulate the Council's intent to manage incidental salmon bycatch by vessels using groundfish midwater trawl gear in the EEZ off of Washington, Oregon, and California with Block Area Closures (BACs). However, inadvertently, the FMP was not updated to be consistent with regulations. To avoid potential future implementation delays, updates would be made to the PCGFMP that are consistent with Council intent described in the salmon bycatch mitigation rulemaking document (86 FR 10857, February 23. 2021). The PCGFMP would be revised to include language that BACs are available in the EEZ seaward of Washington, Oregon and California state waters for vessels using limited entry bottom trawl gear and in the EEZ seaward of Washington, Oregon and California state waters for vessels using midwater trawl gear.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period stated in this notice of availability. A proposed rule to implement Amendment 30 and the 2023–2024 groundfish biennial harvest specifications and management measures has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 30 in the near future. For public comments on the proposed rule to be considered in the approval or disapproval decision on Amendment 30, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision of the FMP amendment. To be considered, 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 31, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–19158 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 171
Tuesday, September 6, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Public Availability of FY 2020 Service Contract Inventory

AGENCY: Office of Contracting and Procurement, Departmental Administration, Office of the Secretary, Department of Agriculture.

ACTION: Notice of public availability FY 2020 Service Contract Inventories.

SUMMARY: In accordance with Division C of the Consolidated Appropriations Act of 2010, the Department of Agriculture is publishing this notice to advise the public of access to the FY 2019 Service Contract Inventory. This inventory provides information on FY 2020 Service Contract actions with a dollar value over $25,000. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory was developed in accordance with guidance issued on September 7, 2018, by the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP). The Department of Agriculture has posted its inventory at the Office of Contracting and Procurement homepage. The 2020 inventory is accessible at the following link: Service Contract Inventories | USDA.

FOR FURTHER INFORMATION CONTACT: Contact Curt Brown, Office of Contracting & Procurement, at (202) 309–0929, or *Curt.Brown@usda.gov* with questions, comments, or additional information request.

Signed in Washington, DC.

Tiffany Taylor,

Director, Office of Contracting & Procurement.

[FR Doc. 2022–19173 Filed 9–2–22; 8:45 am]

BILLING CODE 3410–T–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Information (RFI) Inviting Input on the Sugar Re-Export Programs

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Request for information.

SUMMARY: The Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture is requesting public comments from interested parties on administration of the Sugar Re-Export Programs, which include the Refined Sugar Re-Export Program, the Sugar Containing Products Re-Export Program, and the Polyhydric Alcohol Program. This request for information (RFI) seeks voluntary comment from interested stakeholders and members of the public on these re-export programs.

DATES: Comments on this notice must be received by November 7, 2022 to be assured of consideration.

ADDRESSES: USDA invites submission of comments through one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* FAS will accept electronic comments emailed to *FAS.Sugars@usda.gov.* The email should contain the subject line, ''Response to RFI: Inviting Input on the Sugar Re-Export Programs''.

Instructions: Response to this RFI is voluntary. All comments submitted in response to this RFI will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. USDA will make the comments publicly available via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William Janis, U.S. Department of Agriculture, Foreign Agricultural Service, telephone 202–720–2194, email *FAS.Sugars@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Sugar Re-Export Programs

Pursuant to Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), FAS administers and manages three inter-related programs in the sugar market: the Refined Sugar Re-Export Program, the Sugar Containing Products Re-Export Program, and the Polyhydric Alcohol Program (collectively ''Sugar Re-Export Programs'') (7 CFR part 1530). FAS issues licenses to qualified sugar refiners, manufacturers of sugar-containing products (SCP), and producers of polyhydric alcohol not for human consumption that apply for these programs.

Under the Refined Sugar Re-Export Program, USDA issues licenses to sugar refiners to import low-duty raw sugar unrestricted by the raw sugar TRQ provided for in Additional U.S. Note 5(a)(i) in chapter 17 of the HTSUS and exempt from the requirement that imports be accompanied by a Certificate for Quota Eligibility (CQE) issued to the foreign exporter in accordance with 15 CFR part 2011. An equivalent quantity of domestically produced refined sugar must either be exported by the licensee or provided by the licensee to licensed U.S. manufacturers for use in exported SCP or licensed producers for use in polyhydric alcohol for non-food purposes.

Under the Sugar-Containing Products Re-Export Program, USDA issues licenses to U.S. manufacturers of SCP to purchase refined sugar from refiners with refined sugar re-export licenses for use in SCP to be exported to the world market.

Under the Polyhydric Alcohol Program, USDA issues licenses to U.S. producers of polyhydric alcohols to purchase refined sugar from refiners with refined sugar re-export licenses for use in the production of polyhydric alcohols, except polyhydric alcohols used as a substitute for sugar in human food consumption.

By statute, ''for purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable

for the export of sugar and sugar-containing products under those programs.'' (7 U.S.C. 7272(h))

Request for Information

This RFI is a general solicitation for public comment, including from stakeholders involved directly or indirectly in the Sugar Re-Export Programs. This input will inform FAS on the public's views of the current administration of these programs. Specific questions to which comments are requested are listed below. Respondents may provide non-confidential input concerning any or all of these questions. We also welcome comment on any topics related to the Sugar Re-Export Programs but not covered in these questions.

The Sugar Re-Export Programs

1. The Sugar Re-Export Programs regulations define ''Refiner'' to mean ''any person in the U.S. Customs Territory that refines raw cane sugar through affination or defecation, clarification, and further purification by absorption or crystallization.'' (7 CFR 1530.101). We seek the public's views on this definition.

a. What role does ''absorption'' play, if any, within the sugar refining purification process? In particular, please comment on what production steps ''absorption'' entails and whether and how it is possible for a refiner to purify raw cane sugar by using absorption as part of the sugar refining purification process. Please provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

b. What role does ''adsorption'' play, if any, within the sugar refining purification process. In particular, please comment on what production steps ''adsorption'' entails and whether and how it is possible for a refiner to purify raw cane sugar by using adsorption as part of the sugar refining purification process. Please provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

c. Is it possible to use both absorption and adsorption during the sugar refining purification process? When and in what context? Please explain and provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

d. Should sugar refining be redefined to include purification by ''adsorption and crystallization'' rather than ''absorption or crystallization''? Please explain and provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

e. To account for future technological advancements in refining sugar, should a performance-driven definition replace the current process-based definition of refiner? If so, please describe your recommended approach or performance-based definition and any relevant accredited standards, international standards, or other scientific guides, or links thereto. One example of a performance-driven definition is: ''*Refiner* means any entity that increases the polarity of raw cane sugar for further processing from less than 99.5 to 99.8 (99.86% sucrose by volume) or more, determined on a dry basis, and produces sugar with ICUMSA Color Units of 45 or lower.''

2. Pursuant to 7 CFR 1530.105(m) and 7 CFR 1530.113, the Licensing Authority has waived paragraph (k) of section 1530.105, which requires that a licensee must retain ownership for the product until exported from the U.S. Customs Territory. This waiver is available at *https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002.* Under this waiver, licensed refiners and manufacturers may sell refined sugar and SCP to a U.S. order party (*e.g.,* a broker, wholesaler/distributor), who has arranged for the sale and export of the merchandise to a foreign buyer, or to a foreign entity in the United States, who has purchased the merchandise for export (''third party exporters'').

a. Please comment on the extent to which licensed refiners and manufacturers use third party exporters.

b. Please provide your views on the benefits of or issues raised by this activity, if any.

3. Pursuant to 7 CFR 1530.105(m) and 7 CFR 1530.113, the Licensing Authority has waived paragraph (l) of section 1530.105, which prohibits a refiner from assigning its license without the written permission of the Licensing Authority, and the definitions of ''transfer'' and ''date of transfer'' in section 1530.101 whereby a ''transfer'' requires the transfer of legal title of the program sugar from a licensed refiner to a licensed SCP manufacturer or polyhydric alcohol producer. These waivers are available at *https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002.* Under the waivers, an SCP manufacturer or polyhydric producer may purchase raw cane sugar in foreign markets and import it using a refiner's license under the Refined Sugar Re-export Program. The SCP manufacturer or polyhydric alcohol producer may maintain legal title of the imported sugar throughout the entire process, from importation as raw cane sugar, through refining, and final transfer to the license of the SCP manufacturer or polyhydric alcohol producer. This practice has become known as ''toll refining.''

a. Please comment on the extent to which licensees are engaging in toll refining.

b. Please provide your views on the benefits of or issues raised by toll refining, if any.

4. Pursuant to section 1530.113, the Licensing Authority has waived the definition of ''refined sugar'' in section 1530.101, which provided that ''Refined sugar means any product that is produced by a refiner by refining raw cane sugar and that can be marketed as commercial, industrial or retail sugar.'' The Licensing Authority redefined ''refined sugar'' to mean ''sugar whose content of sucrose by weight, in a dry state, corresponds to a polarimeter reading of 99.5 degrees or more, or any brown sugar regardless of polarity manufactured from refined sugar.'' The waiver and definition are available at *https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002.* Please provide your views on this definition of ''refined sugar.''

5. Do you have any other comments, concerns or suggested improvements regarding the Sugar Re-export Programs?

Any information obtained from this RFI is intended to be used by the Government on a non-attribution basis for reviewing operation of the Sugar Re-Export Programs. This RFI does not constitute a formal solicitation for proposals or abstracts. Your response to this notice will be treated as information only. FAS will not reimburse any costs incurred in responding to this RFI. Respondents are advised that FAS is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind FAS to any further actions related to this topic. Responses will become government property.

No confidential information, such as confidential business information or proprietary information, should be submitted in comments for this RFI. Comments received in response to this notice will be a matter of public record and will be made available for public inspection and posted without change and as received, including any business information or personal information provided in the comments, such as

names and addresses. Please do not include anything in your comment submission that you do not wish to share with the general public.

Aileen Mannix,

Acting Licensing Authority, Foreign Agricultural Service.

[FR Doc. 2022–19134 Filed 9–2–22; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of proposed new fee sites.

SUMMARY: The Mt. Baker-Snoqualmie National Forest is proposing to charge new fees at multiple recreation sites listed in **SUPPLEMENTARY INFORMATION** of this notice. Funds from fees would be used for operation, maintenance, and improvements of these recreation sites. Many sites have recently been reconstructed or amenities are being added to improve services and experiences. An analysis of nearby developed recreation sites with similar amenities shows the proposed fees are reasonable and typical of similar sites in the area.

DATES: If approved, the new fee would be implemented no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Mt. Baker-Snoqualmie National Forest, 2930 Wetmore Avenue, Suite 3A, Everett, Washington 98201.

FOR FURTHER INFORMATION CONTACT: Amy Linn, Recreation Program Manager, 503–307–7002 or *amy.linn@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fee areas are established. The fees are only proposed at this time and will be determined upon further analysis and public comment. Reasonable fees, paid by users of these sites, will help ensure that the Forest can continue maintaining and improving recreation sites like this for future generations.

As part of this proposal, the Evans Creek, Lower Sandy, and Ranger Creek Campgrounds are proposed at $20 per night. The Evans Creek and Ranger Creek group campgrounds are proposed at $75 per night with group sizes of 40 and 70 people respectively. A $5 day-use fee per vehicle is proposed at Beaver Lake, Cable Drop, Camp Brown, Deception Falls, Dingford Creek, Frog Mountain, Garfield Ledges, Government Meadows Horse Camp, Jennifer Dunn, Lonesome Lake, Pratt Bar, Sauk Mountain, and White Chuck Overlook Day use areas. Lower Sauk, Marblemount, Old Sauk Universal Access, and White Chuck boat launches would be added to improve services and facilities. The Northwest Forest Pass and the full suite of Interagency passes would be honored.

New fees would provide increased visitor opportunities, as well as increased staffing to address operations and maintenance needs that are intended to enhance customer service. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Advanced reservations for campgrounds and group sites will be available through *www.recreation.gov* or by calling 1–877–444–6777. The reservation service charges an $8.00 fee for reservations.

Dated: August 30, 2022.

Sandra Watts,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–19186 Filed 9–2–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of proposed new fee sites.

SUMMARY: The Mt. Hood National Forest is proposing to charge new fees at multiple recreation sites listed in **SUPPLEMENTARY INFORMATION** of this notice. Funds from fees would be used for operation, maintenance, and improvements of these recreation sites. Many sites have recently been reconstructed or amenities are being added to improve services and experiences. An analysis of nearby developed recreation sites with similar amenities shows the proposed fees are reasonable and typical of similar sites in the area.

DATES: If approved, the new fee would be implemented no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Mt. Hood National Forest, 16400 Champion Way, Sandy, OR 97055.

FOR FURTHER INFORMATION CONTACT: Mt. Hood National Forest, Headquarters, 16400 Champion Way, Sandy, OR 97055 or (503) 668–1700.

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fee areas are established. The fees are only proposed at this time and will be determined upon further analysis and public comment. Reasonable fees, paid by users of these sites, will help ensure that the Forest can continue maintaining and improving recreation sites like this for future generations.

As part of this proposal, the Two Rivers, Polallie, Little John Sno-Park, Keeps Mill, Badger Lake, Bonney Meadows, Fifteen Mile, Underhill, Little Badger and White River Station Campgrounds are proposed at $10 per night. In addition, this proposal would implement new fees at one recreation rental: Trillium Yurt, proposed at $100 a night. A proposed $5 per vehicle day-use fee at Lolo Pass, East Fork, Fifteen Mile, Badger Lake, Little Badger, Bonney Meadows, and Underhill Trailheads; Little Fan Creek and Peg Leg picnic sites; and Rock Creek, McCubbins Day Use, and La Dee Flat Off-Highway Vehicle (OHV) Staging Area would be added to improve services and facilities. The full suite of Interagency passes would be honored. A new special recreation climbing permit: Mt. Hood Climbing Permit is being proposed at $20 per person for a two-day permit with a $100 annual pass also available.

New fees would provide increased visitor opportunities, as well as increased staffing to address operations and maintenance needs that are intended to enhance customer service. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Advanced reservations for the campgrounds and the yurt will be available through *www.recreation.gov* or by calling 1–877–444–6777. The reservation service charges an $8.00 fee for reservations.

Dated: August 30, 2022.

Sandra Watts,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–19184 Filed 9–2–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–19–MFH–0024]

Change in the Lease-Up Reserve Calculation for the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is announcing a new calculation of the required Lease-up Reserve for the Section 538 Guaranteed Rural Rental Housing Program (GRRHP).

DATES: The effective date of the new calculation is September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Tammy Daniels, Finance and Loan Analyst, Multi-Family Housing Production and Preservation Division, Rural Housing Service, USDA, STOP 0781, 1400 Independence Avenue SW, Washington, DC 20250–0781, Telephone: (202) 720–0021 (this is not a toll-free number); email: *tammy.daniels@usda.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The RHS administers the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) loans under the authority of the Housing Act of 1949, as amended (42 U.S.C. 1490p–2) and is implemeted under 7 CFR part 3565.

Background

RHS administers the Section 538 GRRHP under the authority of the Housing Act of 1949, as amended (42 U.S.C. 1490p–2). The purpose of the GRRHP is to increase the supply of affordable rural rental housing, using loan guarantees that encourage partnerships between the RHS, private lenders, and public agencies.

Lease-Up Reserve and Formula

As a condition to making the loan, the RHS Section 538 GRRHP may require borrowers to establish a lease-up reserve account to help pay operating costs and debt service costs at the initiation of operations while units are being leased to their initial occupants. It is an additional amount (cash deposit), over and above the required initial operating and maintenance contribution. In short, its purpose is to ensure that adequate funds are available for unexpected costs. 7 CFR 3565.303(d)(3) requires the project to either attain a minimum level of acceptable occupancy of 90% for 90 continuous days within the 120-day period immediately preceding the issuance of the permanent guarantee or establish a lease-up reserve in an amount the Agency determines is necessary to cover projected shortfalls. The current lease-up reserve calculation is based on the appraised value of the project or the total development cost, whichever is greater and produces an inflated amount the Agency has determined to be disproportionate. In addition, the current calculation fails to contemplate a property's specific operating needs during lease up and bears no correlation to the timeframe identified in the other acceptable Loan Note Guarantee (LNG) issuance threshold, which is sustained occupancy at 90% for a period of 90 days. To align the agency's LNG issuance thresholds and reduce the burden to the borrower, the new lease up reserve calculation described below, will represent an on-average savings to the borrower of approximately $100,000 per transaction, while adding a truer level of protection for project operations (this is based off of a random sampling of prior transactions).

As set forth in 7 CFR part 3565, the Agency is required to announce when there is a change in its calculation for the required amount of the lease-up reserve. To calculate the new required minimum lease-up reserve amount, add the monthly amount of the Operations and Maintenance (O&M) expense, the monthly amount of the Debt Service Cost, and the monthly amount of the Reserve Deposit, then multiply this sum by three. The calculation may be written as follows:

(Monthly O&M Expense + Monthly Debt Service Amount + Monthly Reserve Deposit) × 3 = Minimum Required 538 Lease-Up Reserve Amount.

Paperwork Reduction Act

This notice contains no new reporting or recordkeeping burdens under Office of Management and Budget (OMB) control number 0575–0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or (2) Fax: (833) 256–1665 or (202) 690–7442; or (3) Email: *OASCR.Program-program.intake@usda.gov.*

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2022–19019 Filed 9–2–22; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Wyoming Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting link & meeting ID.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Wednesday, August 10, 2022, concerning a meeting of the Wyoming Advisory Committee. The meeting link and meeting ID have since been updated.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, 434–515–2395, *kfajota@usccr.gov.*

Correction: In the **Federal Register** on Wednesday, August 10, 2022, in FR Document Number 2022–17165, on page 48620, third column, correct the meeting link to: *https://tinyurl.com/5fytusya;* correct the meeting ID to: 161 696 6905; correct the phone number to: (833) 435–1820.

Dated: August 30, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–19070 Filed 9–2–22; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting link & meeting ID.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Friday, July 22, 2022, concerning a meeting of the New York Advisory Committee. The meeting link and meeting ID have since been updated.

FOR FURTHER INFORMATION CONTACT: Ana Fortes, 312–353–8311, *afortes@usccr.gov.*

Correction: In the **Federal Register** on Friday, July 22, 2022, in FR Document Number 2022–15638, on page 43784, first column, correct the meeting link to: *https://tinyurl.com/tep964rz;* correct the meeting ID to: 161 982 8516; correct the phone number to: (833) 435–1820.

Dated: August 30, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–19069 Filed 9–2–22; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting link & meeting ID.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Monday, July 11, 2022, concerning a meeting of the Illinois Advisory Committee. The meeting link and meeting ID have since been updated.

FOR FURTHER INFORMATION CONTACT: Ana Fortes, 312–353–8311, *afortes@usccr.gov.*

Correction: In the **Federal Register** on Monday, July 11, 2022, in FR Document Number 2022–14624, on page 41108, first column, correct the meeting link to: *https://tinyurl.com/26uwpb3p;* correct the meeting ID to: 161 627 6808; correct the phone number to: (833) 435–1820.

Dated: August 30, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–19072 Filed 9–2–22; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893, A–533–840, A–549–822, A–552–802]

Certain Frozen Warmwater Shrimp From the People's Republic of China, India, Thailand, and the Socialist Republic of Vietnam: Final Results of Expedited Third Sunset Review of Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders would be likely to lead to continuation or recurrence of dumping at the dumping margins identified in the ''Final Results of Reviews'' section of this notice.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Andrew Hart, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1058.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2022, Commerce published the notice of initiation of the third sunset review of the AD orders on certain frozen warmwater shrimp from the People's Republic of China (China), India, Thailand, and the Socialist Republic of Vietnam (Vietnam) [1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

In May 2022, the Ad Hoc Shrimp Trade Action Committee (AHSTAC) and the American Shrimp Processors Association (ASPA) (collectively, the domestic interested parties) notified Commerce of their intent to participate within the 15-day period specified in 19 CFR 351.218(d)(1). The domestic interested parties claimed interested party status under sections 771(9)(C) and (E) of the Act as producers of domestic like product and a trade association, the majority of whose members are producers and/or processors of a domestic like product, in the United States, respectively.

On May 27 and June 2, 2022, Commerce received complete substantive responses to the *Notice of Initiation* with respect to the *Orders* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).[3] Commerce

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China,* 70 FR 5149 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand,* 70 FR 5145 (February 1, 2005); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) (collectively, *Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 25617 (May 2, 2022) (*Notice of Initiation*).

[3] *See* AHSTAC's Letters, ''Third Sunset Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from the People's Republic of China: Substantive Response to Notice of Initiation''; ''Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India: Substantive Response to Notice of Initiation''; ''Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Thailand: Substantive Response to Notice of Initiation''; and ''Third Sunset Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation,'' each dated May 27, 2022; *see also* ASPA's Letters, ''Third Five-Year ('Sunset') Review of Antidumping Order on Frozen Warmwater Shrimp from China: ASPA's Substantive Response to Notice of Initiation''; ''Third Five-Year ('Sunset') Review of Antidumping Duty Order on Frozen Warmwater Shrimp from India: ASPA's Substantive

Continued

received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(8) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders.*

Scope of the Orders

The scope of the *Orders* is certain frozen warmwater shrimp from China, India, Thailand, and Vietnam. For a complete description of the scope of the *Orders, see* the appendix to this notice.

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews is provided in the accompanying Issues and Decision Memorandum.[4] The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Orders* were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 112.81 percent for China, up to 110.90 percent for India, up to 5.34 percent for Thailand, and up to 25.76 percent for Vietnam.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing the results in accordance with sections 751(c), 752(c), and 771(i)(1) of the Act and 19 CFR 351.218.

Dated: August 30, 2022.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix—Scope of the Orders

The products covered by the *Orders* include certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[5] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the *Orders,* regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn *(Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp *(Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the *Orders.* In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the *Orders.*

Excluded from the *Orders* are: (1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) Lee Kum Kee's shrimp sauce;[6] (7) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); and (8) certain battered shrimp. Battered shrimp is a shrimp-based product: (1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and ten percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

On February 1, 2005, Commerce excluded canned warmwater shrimp and prawns from the scope of the *Orders* pertaining to India, China, Thailand, and Vietnam to reflect the International Trade Commission's (ITC's) determination that a domestic industry in the United States was not materially injured or threatened with material injury by reason of imports of canned warmwater shrimp and prawns from India, China, Thailand, or Vietnam.[7]

On January 23, 2007, Commerce issued amended *Orders* clarifying that only frozen warmwater shrimp and prawns are subject to the *Orders*.[8] On July 1, 2009, Commerce filed the Final Results of Redetermination Pursuant to Court Remand with the Court of International Trade in which Commerce determined that ''dusted'' shrimp is included within the scope of the investigations.[9]

Response to Notice of Initiation''; ''Third Five-Year ('Sunset') Review of Antidumping Order on Frozen Warmwater Shrimp from Thailand: ASPA's Substantive Response to Notice of Initiation''; and ''Third Five-Year Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from Vietnam: ASPA's Substantive Response to Notice of Initiation,'' each dated June 2, 2022.

[4] See Memorandum, ''Issues and Decision Memorandum for the Final Results of Expedited Third Sunset Reviews of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from the People's Republic of China, India, Thailand, and the Socialist Republic of Vietnam,'' dated concurrently with, and hereby adopted by, this notice.

[5] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

[6] The specific exclusion for Lee Kum Kee's shrimp sauce applies only to the scope of the *China Order.*

[7] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China,* 70 FR 5149 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand,* 70 FR 5149 (February 1, 2005); *and Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam,* 70 FR 5149 (February 1, 2005).

[8] *See Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam; Amended Orders,* 72 FR 2857 (January 23, 2007).

[9] *See Ad Hoc Shrimp Trade Action Committee, et. al* v. *United States Court* No. 05–00192 Slip Op. 09–60 (CIT July 1, 2009).

The products covered by these *Orders* are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of these *Orders* is dispositive.

[FR Doc. 2022–19125 Filed 9–2–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–826]

White Grape Juice Concentrate From Argentina: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of white grape juice concentrate from Argentina. The period of investigation is January 1, 2021, through December 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On April 20, 2022, Commerce initiated a countervailing duty (CVD) investigation of imports of white grape juice concentrate from Argentina.[1] On June 9, 2022, Commerce postponed the preliminary determination until August 29, 2022.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Determination Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is white grape juice concentrate from Argentina. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the Preamble to Commerce's regulations,[4] Commerce set aside a period of time in the *Initiation Notice* for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Commerce received no comments from interested parties concerning the scope of the concurrent antidumping duty and CVD investigations of WGJC from Argentina.[6]

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated countervailable subsidy rates for Cepas Argentinas S.A. (Cepas) and for Federacion de Cooperativas Vitivinicolas Argentinas Coop. Ltda (Fecovita), the two individually-examined exporters/producers, that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged sales values for the merchandise under consideration.[8]

Preliminary Determination

Commerce preliminarily determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Cepas Argentinas S.A. [9]	3.71
Federacion de Cooperativas Vitivinicolas Argentinas Coop. Ltda [10]	7.16
All Others	5.54

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act,

[1] *See White Grape Juice Concentrate from the Republic of Argentina: Initiation of Countervailing Duty Investigation,* 87 FR 24945 (April 27, 2022) (*Initiation Notice*).

[2] *See White Grape Juice Concentrate from Argentina: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 87 FR 35164 (June 9, 2022).

[3] *See* Memorandum, ''Decision Memorandum for the Affirmative Preliminary Determination in the Countervailing Duty Investigation of White Grape Juice Concentrate from Argentina,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 87 FR at 24946.

[6] Although Commerce received comments within this deadline from Delano Growers Grape Products, LLC (the petitioner), these comments did not relate to the scope language published in the *Initiation Notice. See* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina,'' dated May 24, 2022.

[7] *See* section 771(5)(B) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. For a complete analysis of the data, *see* Memorandum, ''Preliminary Determination of Subsidy Rate for All Others,'' dated April 29, 2022.

[9] As discussed in the Preliminary Decision Memorandum, Commerce has preliminarily found Cepas Argentinas S.A. and San Lamberto Inversiones S.A. to be cross-owned, pursuant to 19 CFR 351.525(b)(6)(vi).

[10] Fecovita is also known as ''Fecovita Coop Ltd.'' *See* Memorandum, ''Respondent Selection,'' dated June 3, 2022.

Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed in this preliminary determination to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[11] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of white grape juice concentrate from Argentina are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: August 29, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers white grape juice concentrate with a Brix level of 65 to 68, whether in frozen or non-frozen forms. White grape juice concentrate is concentrated grape juice produced from grapes of the Vitis vinifera L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.,* Thompson Seedless), as well as several varietals of wine grapes (*e.g.,* Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this investigation covers white grape juice concentrate regardless of whether it has been certified as kosher, organic, or organic kosher. The white grape juice concentrate subject to this investigation consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included.

The scope does not cover white grape juice concentrate produced from grapes of the Vitis labrusca species (*e.g.,* Niagara).

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–19190 Filed 9–2–22; 8:45 am]

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[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–895]

Low Melt Polyester Staple Fiber From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole producer/exporter subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) August 1, 2020, through July 31, 2021. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Melissa Porpotage, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–1413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2021, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order [1] on low melt polyester staple fiber (low melt PSF) from the Republic of Korea (Korea).[2] The review covers one producer/exporter of the subject merchandise, Toray Advanced Materials Korea, Inc. (TAK). On April 20, 2022, Commerce extended the preliminary results of this review by 120 days, until August 31, 2022.[3] For a complete

[1] *See Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Antidumping Duty Orders,* 83 FR 40752 (August 16, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 55811, 55814 (October 7, 2021).

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2020–2021 Antidumping Duty Administrative Review,'' dated April 20, 2022.

description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order

The merchandise subject to this *Order* is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). The scope includes bi-component polyester staple fibers of any denier or cut length. The subject merchandise may be coated, usually with a finish or dye, or not coated.

Low melt PSF is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 5503.20.0015. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for TAK for the period August 1, 2020, through July 31, 2021:

Exporter/producer	Weighted-average dumping margin (percent)
Toray Advanced Materials Korea, Inc.	1.89

Disclosure

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[5]

Verification

As provided in section 782(i)(3)(A) and (B) of the Act, Commerce intends to verify the information relied upon for its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date.[6] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] Case and rebuttal briefs should be filed using ACCESS.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[10] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing.[11]

An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[13]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, ADs on all appropriate entries.[14]

Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondent did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to ADs.

The final results of this review shall be the basis for the assessment of ADs on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by TAK for which it did not know that the merchandise it sold to an intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[15]

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Low Melt Polyester Staple Fiber from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* 19 CFR 351.224(b).

[6] *See* 19 CFR 351.309(c).

[7] Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *See* 19 CFR 351.303.

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[13] *See* section 751(a)(3)(A) of the Act.

[14] *See* 19 CFR 351.212(b).

[15] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for TAK will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 16.27 percent, the all-others rate established in the LTFV investigation.[16] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of ADs prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of ADs occurred and the subsequent assessment of double ADs.

[16] *See Order.*

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–19194 Filed 9–2–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038, C–570–039]

Certain Amorphous Silica Fabric From the People's Republic of China: Preliminary Affirmative Determinations of Circumvention

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that amorphous silica fabric with 70–90 percent silica content (70–90 percent ASF) from the People's Republic of China (China) is circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain amorphous silica fabric (ASF) from China.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1121.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 2017, Commerce published the AD and CVD orders on imports of ASF from China.[1] On August 20, 2021, Auburn Manufacturing, Inc., the petitioner in the AD and CVD investigations, requested that Commerce initiate circumvention inquiries with regard to 70–90 percent ASF that is exported to the United States from China.[2] In its allegation, Auburn Manufacturing, Inc. (the petitioner) alleged that 70–90 percent ASF constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Orders,* pursuant to section 781(c) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.225(i). In addition, the petitioner alleged that 70–90 percent ASF is later-developed merchandise and should be included within the scope of the *Orders,* pursuant to section 781(d) of the Act and 19 CFR 351.225(j). The petitioner requested that Commerce conduct these circumvention inquiries on an order-wide basis.[3]

On November 24, 2021, Commerce published in the **Federal Register** the notice of initiation of these circumvention inquiries.[4] In that notice, Commerce initiated the circumvention inquiries on the basis of the minor alterations allegation, pursuant to section 781(c) of the Act and 19 CFR 351.225(i).[5] However, Commerce declined to initiate the circumvention inquiries on the basis of the later-developed merchandise allegation, pursuant to section 781(d) of the Act and 19 CFR 351.225(j).[6] Commerce initiated the inquiries on a country-wide basis.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[7] A list of topics

[1] *See Certain Amorphous Silica Fabric from the People's Republic of China: Antidumping Duty Order,* 82 FR 14314 (March 17, 2017); and *Certain Amorphous Silica Fabric from the People's Republic of China: Countervailing Duty Order,* 82 FR 14316 (March 17, 2017) (collectively, *Orders*).

[2] *See* Petitioner's Letter, ''Certain Amorphous Silica Fabric from the People's Republic of China: Request for Anti-Circumvention Inquiry,'' dated August 20, 2021 (Petitioner's Request).

[3] *Id.* at 2.

[4] *See Certain Amorphous Silica Fabric Between 70 and 90 Percent Silica, from the People's Republic of China: Initiation of Circumvention Inquiry of Antidumping and Countervailing Duty Orders—70–90 Percent Amorphous Silica Fabric,* 86 FR 67022 (November 24, 2021) (*Initiation Notice*), and accompanying Initiation Decision Memorandum. Although Commerce recently published revisions to its circumvention regulations, under 19 CFR 351.226, the new circumvention regulations apply to circumvention inquiries for which a circumvention request is filed on or after November 4, 2021. *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (''{a}mendments to § 351.226 . . . apply to circumvention inquiries for which a circumvention request is filed . . . on or after November 4, 2021''). Because Auburn Manufacturing, Inc. (the petitioner) filed its request on August 20, 2021, before the effective date of the new regulations, these circumvention inquiries are being conducted according to the circumvention regulations, 19 CFR 351.226, in effect prior to November 4, 2021. *Id.*

[5] *Initiation Notice,* 86 FR at 67023.

[6] *Id.*

[7] *See* Memorandum, ''Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Affirmative Determination of

included in the Preliminary Decision Memorandum is included in the appendix to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Orders

The product subject to the *Orders* is amorphous silica fabric with a minimum silica content of 90 percent by weight, from China. For a complete description of the scope of the *Orders, see* the Preliminary Decision Memorandum.

Merchandise Subject to the Scope and Anti-Circumvention Inquiries

This circumvention inquiry covers amorphous silica fabric with silica content between 70 and 90 percent produced in China and exported to the United States.

Affirmative Preliminary Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that 70–90 percent ASF produced in China and exported to the United States is circumventing the *Orders.* We make this determination on a country-wide basis. As a result, we preliminarily determine that it is appropriate to include this merchandise within the *Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of 70 and 90 percent ASF produced in China and exported to the United States, and to require cash deposits of estimated antidumping and countervailing duties.

Methodology

Commerce made these preliminary affirmative determinations of circumvention in accordance with section 781(c) of the Act and 19 CFR 351.225(i). We relied on facts available, under section 776(a) of the Act, and drew adverse inferences in selecting from among the facts available, under section 776(b) of the Act. We identified potential producers and/or exporters of 70–90 percent ASF produced in China and exported to the United States based on information submitted by the petitioner,[8] and by reviewing CBP entry data.[9] We issued questionnaires requesting the quantity and value (Q&V) of production and exports of 70–90 percent ASF produced in China and exported to the United States and related information, from the top 10 producers (by export quantity) represented in these CBP data.[10] None of the 10 companies to which we issued Q&V questionnaires responded in full. Seven companies received the Q&V questionnaire and did not provide a response.[11] One company, New Fire Co., Ltd. (New Fire), provided a partial response, but failed to provide a full response or seek a further extension, by the relevant deadline.[12] For two companies, the Q&V questionnaires remains ''in-transit.'' [13]

Therefore, we preliminarily find that the seven companies and New Fire, the companies that received the Q&V Questionnaires, but which did not respond to our requests for information in full, failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information. Thus, we further find that they failed to cooperate to the best of their abilities, by not providing the relevant information or seeking an extension prior to the relevant deadline, and we have relied on an adverse inference when selecting from among the facts otherwise available on the record for certain aspects of this preliminary determination, pursuant to sections 776(a) and (b) of the Act. As adverse facts available, we preliminarily determine the eight companies that produce 70–90 percent ASF in China and exported to the United States are circumventing the *Orders.* We further note that the petitioner (the only party to provide information in these inquiries) has provided evidence consistent with this finding. Specifically, the petitioner provided evidence that 70–90 percent ASF are ''articles altered in form or appearance in minor respects,'' within the meaning of 19 CFR 351.225(i) and section 781(c) of the Act, and that 70–90 percent ASF produced in China and exported to the United States is circumventing the *Orders.*[14] Finally, because none of the companies that were mailed a Q&V questionnaire fully responded, Commerce is making this circumvention determination on a country-wide basis.

Suspension of Liquidation

As stated above, Commerce is making preliminary determinations of circumvention of the *Orders* on ASF from China for 70–90 percent ASF produced in China and exported to the United States. Further, we are making this preliminary determination on a country-wide basis. In accordance with 19 CFR 351.225(l)(2), Commerce intends to instruct CBP to suspend liquidation and to require a cash deposit of estimated antidumping and countervailing duties on unliquidated entries of 70–90 percent ASF produced in China that are entered, or withdrawn from warehouse, for consumption on or after November 24, 2021, the date of publication of initiation of the circumvention inquiries in the **Federal Register.**[15] The suspension of liquidation instructions will remain in effect until further notice. Commerce intends to instruct CBP to require AD and CVD cash deposits at the applicable rate for each unliquidated entry of the subject 70–90 percent ASF.

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 21 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[16] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these scope and anti-circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the

Circumvention for 70–90 Percent Amorphous Silica Fabric,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[8] *See* Petitioner's Request at 10–11.

[9] *See* Memorandum, ''Certain Amorphous Silica Fabric from the People's Republic of China: Release of U.S. Customs and Border Protection Data,'' dated February 24, 2022.

[10] *See* Commerce's Letter, ''Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Amorphous Silica Fabric from the People's Republic of China: Quantity and Value Questionnaire,'' dated March 17, 2022; *see also* Memorandum, ''Certain Amorphous Silica Fabric from the People's Republic of China: Q&V Questionnaire Respondents and Tracking of Delivery,'' dated concurrently with this preliminary determination (Q&V Respondents and Delivery Tracking Memorandum).

[11] *See* Q&V Respondents and Delivery Tracking Memorandum; *see also* Preliminary Decision Memorandum.

[12] *See* New Fire's Letter, ''Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Amorphous Silica Fabric from the People's Republic of China: Submission of Quantity and Value Response,'' dated May 25, 2022; *see also* Preliminary Decision Memorandum.

[13] *See* Q&V Respondents and Delivery Tracking Memorandum at Attachment III.

[14] *See* Petitioner's Request; *see also* Preliminary Decision Memorandum.

[15] *See Initiation Notice.*

[16] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

Consistent with section 781(e) of the Act, Commerce has notified the U.S. International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to these circumvention inquiries within the *Orders.* Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Final Determinations

According to section 781(f) of the Act, Commerce shall, to the maximum extent practicable, make its anti-circumvention determination within 300 days from the date of the initiation of the inquiry.[18] Due to the complicated nature of these anti-circumvention inquiries, we are hereby extending the deadline for the final determinations of these anti-circumvention inquiries by 73 days. Therefore, Commerce intends to issue the final determinations of these anti-circumvention inquiries to December 2, 2022.

[17] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[18] *See also* 19 CFR 351.225(f)(iii)(5) (explaining that Commerce will issue a final anticircumvention ruling ''normally within 300 days from the date of the initiation of the . . . inquiry'').

Notification to Interested Parties

This determination is issued and published in accordance with section 781(c) of the Act and 19 CFR 351.225(i).

Dated: August 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–19124 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–469–818]

Ripe Olives From Spain: Preliminary Results of Countervailing Duty Administrative Review; 2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers/exporters of ripe olives from Spain during the period of review, January 1, 2020, through December 31, 2020. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Theodore Pearson, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1785 or (202) 482–2631, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2018, Commerce published in the **Federal Register** the countervailing duty (CVD) order on ripe olives from Spain.[1] On October 7, 2021, Commerce published the notice of initiation of an administrative review of the *Order.*[2] On March 29, 2022, Commerce extended the deadline for the preliminary results of this review by 120 days until August 31, 2022.[3] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The products covered by the *Order* are ripe olives from Spain. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[5]

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy (*i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific).[6] For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available pursuant to section 776(a) of the Act, *see* the Preliminary Decision Memorandum.

[1] *See Ripe Olives from Spain: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 37469 (August 1, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 55811 (October 7, 2021).

[3] *See* Memorandum, ''Ripe Olives from Spain: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2020,'' dated March 29, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020 Countervailing Duty Administrative Review of Ripe Olives from Spain,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *Id.*

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Preliminary Rate for Non-Selected Companies Under Review

There are three companies for which a review was requested and not rescinded, and which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent. For these companies, because the rates calculated for the mandatory respondents, Agro Sevilla Aceitunas S.Coop. And. (Agro Sevilla) and Angel Camacho Alimentación, S.L. (Camacho), were above *de minimis* and not based entirely on facts available, we are applying to the non-selected companies the weighted average of the net subsidy rates calculated for Agro Sevilla and Camacho, which we calculated using the publicly-ranged sales data submitted by Agro Sevilla and Camacho.[7] This methodology to establish the all-others subsidy rate is consistent with our practice and section 705(c)(5)(A) of the Act which governs the calculation of the all-others rate in an investigation. For further information on the calculation of the non-selected respondent rate, *see* the section in the Preliminary Decision Memorandum entitled ''Non-Selected Company Rate.''

Preliminary Results of Review

We preliminarily find the following net countervailable subsidy rates exist for the period January 1, 2020, through December 31, 2020:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Agro Sevilla Aceitunas S.Coop. And	8.32
Angel Camacho Alimentación, S.L. and its cross-owned affiliates[8]	4.58
Review-Specific Average Rate Applicable to the Following Companies[9]	
Aceitunas Guadalquivir, S.L	6.68
Alimentary Group Dcoop S. Coop. And	6.68
Aceitunas Torrent, S.L	6.68

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in its final results of review.

Disclosure and Public Comment

We will disclose to parties in this review the calculations performed for these preliminary results within five days of the date of publication of this notice.[10] A timeline for the submission of case and rebuttal briefs and written comments will be provided to interested parties at a later date.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All briefs must be filed electronically using ACCESS. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5 p.m. eastern time within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be determined.

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, no later than 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily determined subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, CVDs on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends upon publication of the final results, to instruct CBP to collect cash deposits of estimated CVDs in the amounts calculated in the final results of this review for the respective companies listed above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. If the rate calculated in the final results is zero or *de minimis,* no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non-reviewed firms, CBP will continue to collect cash deposits of estimated CVDs at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

[7] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ripe Olives from Spain: Final Results of Countervailing Duty Administrative Review; 2019,* 48 FR 13970 (March 11, 2022).

[8] As discussed in the Preliminary Decision Memorandum, Commerce found the following companies to be cross-owned with Angel Camacho Alimentación, S.L.: Grupo Angel Camacho, S.L., Cuarterola S.L., and Cucanoche S.L.

[9] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 705(c)(5)(A) of the Act.

[10] *See* 19 CFR 351.224(b).

[11] *See* 19 CFR 351.309(c) and (d).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Dated: August 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Non-Selected Company Rate
V. Subsidies Valuation Information
VI. Use of Facts Otherwise Available
VII. Analysis of Programs
VIII. Recommendation

[FR Doc. 2022–19198 Filed 9–2–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–074]

Common Alloy Aluminum Sheet From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet), from the People's Republic of China (China) during the period of review (POR) January 1, 2020, through December 31, 2020.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Natasia Harrison or Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1240 or (202) 482–7421, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** on March 4, 2022, and we invited comments from interested parties.[1] On April 8, 2022, we received timely case briefs from the following interested parties: Jiangsu Alcha Aluminium Co., Ltd. (Jiangsu Alcha) and its affiliated trading company Alcha International Holdings Limited (Alcha International); [2] Yinbang Clad Material Co., Ltd. (Yinbang Clad); [3] and the domestic industry.[4] Jiangsu Alcha and Alcha International, jointly, and the domestic industry submitted timely filed rebuttal briefs on April 22, 2022.[5]

On June 24, 2022, Commerce extended the deadline for issuing these final results to 180 days after the publication date of the *Preliminary Results,* until August 31, 2022.[6]

Scope of the Order

The product covered by the *Order* is aluminum sheet from China. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[7]

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of topics discussed in the Issues and Decision Memorandum is provided in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on comments in case and rebuttal briefs and record evidence, Commerce made certain changes with respect to the methodology used in the *Preliminary Results* to calculate Alcha Group's program rate for the Government Provision of Primary Aluminum for Less than Adequate Remuneration program. We made no changes for Yinbang Clad. These changes are discussed in the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each subsidy program found to be countervailable, Commerce finds that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers benefit to the recipient, and that the subsidy is specific.[8] For a full description of the methodology underlying our conclusions, including our reliance, in part on adverse facts available (AFA) pursuant to section 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

[1] *See Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2020,* 87 FR 12429 (March 4, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Jiangsu Alcha and Alcha International's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Case Brief,'' dated April 8, 2022. The ''Alcha Group'' companies include Jiangsu Alcha, Alcha International and Jiangsu Alcha's cross-owned affiliates Baotou Alcha Aluminium Co., Ltd. (Baotou Alcha) and Jiangsu Alcha New Energy Materials Co., Ltd. (Alcha Materials). Jiangsu Alcha reported that, in 2018, Jiangsu Alcha changed its name from ''Jiangsu Alcha Aluminium Co., Ltd.'' to ''Jiangsu Alcha Aluminium Group Co., Ltd.'' *See* Alcha Group's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Alcha Group's Initial Questionnaire Response,'' dated July 8, 2021, at 4. *See also* Alcha Group's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Alcha Group's Sixth Supplemental Questionnaire Response,'' dated March 23, 2022 (Alcha Group 6SQR), at 1–4. After the *Preliminary Results,* the Alcha Group explained the spelling inconsistencies in Jiangsu Alcha and Baotou Alcha's company names throughout the record. For example, the narrative portions of Alcha Group responses and corresponding English translations of Chinese-language exhibits referred to Jiangsu Alcha as ''Jiangsu Alcha Aluminium Co., Ltd.'' and ''Jiangsu Alcha Aluminium Group Co., Ltd.'' interchangeably. These responses also referred to Baotou Alcha as ''Baotou Alcha Aluminum Co., Ltd.'' and ''Baotou Alcha Aluminium Co., Ltd.'' interchangeably. According to Alcha Group 6SQR, the official English company names are Jiangsu Alcha Aluminium Group Co., Ltd., Alcha International Holdings Limited, Baotou Alcha Aluminium Co., Ltd. and Jiangsu Alcha New Energy Materials Co., Ltd.

[3] *See* Yinbang Clad's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Yinbang's Case Brief,'' dated April 8, 2022.

[4] *See* Domestic Industry's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Domestic Industry's Case Brief,'' dated April 8, 2022. The domestic industry includes the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members (collectively, the domestic industry). The individual members of the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group are: Arconic Corporation; Commonwealth Rolled Products, Inc.; Constellium Rolled Products Ravenswood, LLC; Jupiter Aluminum Corporation; JW Aluminum Company; and Novelis Corporation.

[5] *See* Jiangsu Alcha and Alcha International's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Rebuttal Brief,'' dated April 22, 2022; *see also* the Domestic Industry's Letter, ''Common Alloy Aluminum Sheet from the People's Republic of China: Domestic Industry's Rebuttal Brief,'' dated April 22, 2022.

[6] *See* Memorandum, ''Common Alloy Aluminum Sheet from the People's Republic of China: Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2020,'' dated June 24, 2022.

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Common Alloy Aluminum Sheet from the People's Republic of China; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a countervailable subsidy rate for mandatory respondents Jiangsu Alcha and Alcha International. We determined the countervailable subsidy rate for Yinbang Clad based entirely on AFA, in accordance with section 776 of the Act. Because there are no other producers or exporters subject to this review and not selected for individual examination (*i.e.,* non-selected companies), Commerce does not need to establish the rate for non-selected companies in this review.

Commerce determines that, for the period January 1, 2020, through December 31, 2020, the following net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Jiangsu Alcha Aluminium Co., Ltd.[9]/Alcha International Holdings Limited[10]	17.80
Yinbang Clad Material Co., Ltd	* 252.22

* Rate based on AFA.

Disclosure

Commerce will disclose to the parties in this proceeding the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**.[11]

Assessment Rates

Pursuant to sections 751(a)(1) and (a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise covered by this review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Instructions

Pursuant to section 751(a)(1) and (a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–19193 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–DS–P

[9] This rate applies to Jiangsu Alcha and its cross-owned companies: Baotou Alcha and Alcha Materials.

[10] We cumulated the benefits from subsidies received by Alcha International, which exported subject merchandise produced by Jiangsu Alcha, to the United States during the POR, with the benefits from subsidies received by Jiangsu Alcha, during the POR in accordance with 19 CFR 351.525(c). For further discussion, *see* the Issues Decision Memorandum at ''Attribution of Subsides.''

[11] *See* 19 CFR 351.224(b).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with July anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with July anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19

CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-separate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for respondent selection. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than July 31, 2023.

	Period to be reviewed
AD Proceedings	
BELGIUM: Citric Acid and Certain Citrate Salts, A–423–813	7/1/21–6/30/22
S.A. Citrique Belge N.V.	
Citribel nv.	
COLOMBIA: Citric Acid and Certain Citrate Salts, A–301–803	7/1/21–6/30/22
Sucroal S.A.	
INDIA: Polyethylene Terephthalate (PET) Film, A–533–824	7/1/21–6/30/22
Ester Industries Ltd.	
Garware Polyester Ltd.	
Jindal Poly Films Ltd.	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited.	
Uflex Ltd.	
Vacmet India Ltd.	
ITALY: Certain Pasta, A–475–818	7/1/21–6/30/22
Aldino S.r.l.	
La Molisana S.p.A.	
Pasta Castiglioni.	
Pastificio Chiavenna S.r.l.	
Pastificio Di Martino Gaetano e Flli S.p.A.	
Pastificio Favellato srl.	
Pastificio Gentile S.r.l.	
Pastificio Liguori S.p.A.	
Pastificio Mediterranea S.R.L.	
Pastificio Mennucci S.p.A.	
Pastificio Rigo S.P.A.	
Pastificio Tamma S.r.l.	
Rummo S.p.A.	
Sgambaro SpA.	
Valdigrano di Flavio Pagani S.r.L.	
ITALY: Prestressed Concrete Steel Wire Strand [5], A–475–843	11/19/20–5/31/22
JAPAN: Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/21–6/30/22
Daido Kogyo Co., Ltd.	
Hanwa Co., Ltd.	
Honda Trading Corporation.	
JFE Shoji Trading Corp.	
Kawasaki Steel Corporation.	
Mitsui & Co., Ltd.	
Nippon Metal Industries.	
Nippon Steel Corporation.	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Nippon Steel Trading Co., Ltd.	
Nippon Yakin Kogyo.	
Nisshin Steel Co., Ltd.	
Okaya & Co., Ltd.	
Sakamoto Industries Co., Ltd.	
Shinsho Corporation.	
Sumitomo Corporation.	
Tomiyasu & Co., Ltd.	
Toyo Kihan Co., Ltd.	
MALAYSIA: Certain Steel Nails, A–557–816	7/1/21–6/30/22
Alsons Manufacturing India, LLP	
Astrotech Steels Pvt. Ltd.	
Atlantic Marine Group Ltd.	
Chia Pao Metal Co., Ltd.	
Chin Lai Hardware Sdn., Bhd.	
Chuan Heng Hardware Paints and Building Materials Sdn., Bhd.	
Come Best (Thailand) Co., Ltd.	
Gbo Fastening Systems AB.	
Geekay Wires Limited.	
Impress Steel Wire Industries Sdn., Bhd.	
Inmax Industries Sdn., Bhd.	
Inmax Sdn., Bhd.	
Kerry-Apex (Thailand) Co., Ltd.	
Kimmu Trading Sdn., Bhd.	
Madura Fasteners Sdn., Bhd.	
Modern Factory for Steel Industries Co., Ltd.	
Oman Fasteners LLC	
Region System Sdn., Bhd.	
Region International Co., Ltd.	
RM Wire Industries Sdn., Bhd.	
Soon Shing Building Materials Sdn., Bhd.	
Storeit Services LLP	
Sunmat Industries Sdn., Bhd.	
Tag Fasteners Sdn., Bhd.	
Tag Staples Sdn., Bhd.	
Tampin Sin Yong Wai Industry Sdn., Bhd.	
Top Remac Industries.	
Trinity Steel Private Limited.	
UD Industries Sdn., Bhd.	
Vien Group Sdn., Bhd.	
Watasan Industries Sdn., Bhd.	
WWL India Private Ltd.	
OMAN: Certain Steel Nails, A–523–808	7/1/21–6/30/22
Al Ansari Teqmark, LLC	
Al Kiyumi Global LLC	
Al Sarah Building Materials LLC	
Astrotech Steels Private Ltd.	
Buraimi Iron & Steel, LLC	
CL Synergy (Pvt) Ltd.	
Diamond Foil Trading LLC	
Geekay Wires Ltd.	
Gulf Nails Manufacturing, LLC	
Gulf Steel Manufacturers, LLC	
Modern Factory for Metal Products, LLC	
Muscat Industrial Company, LLC	
Muscat Nails Factory Golden Asset Trade, LLC	
Oman Fasteners LLC	
Omega Global Uluslararasi Tasimacilik Lojistik Ticaret Ltd. Sti.	
Trinity Steel Pvt. Ltd. WWL Indian Private Ltd.	
WWL Indian Private Ltd.	
REPUBLIC OF KOREA: Certain Steel Nails, A–580–874	7/1/21–6/30/22
Agl Co., Ltd.	
Americana Express (Shandong) Co. Ltd.	
Ansing Fasteners Co. Ltd.	
Astrotech Steels Private Limited.	
Beijing Catic Industry Limited.	
Beijing Jinheung Co., Ltd.	
Big Mind Group Co., Ltd.	
Changzhou Kya Trading Co., Ltd.	
China Staple Enterprise Tianjin Co. Ltd.	
D&F Material Products Ltd.	
Daejin Steel Company.	
De Well Group Korea Co., Ltd.	

	Period to be reviewed
Dezhou Hualude Hardware Products Co. Ltd.	
DLF Industry Co., Limited.	
Doublemoon Hardware Company Ltd.	
DT China (Shanghai) Ltd.	
YEDuo-Fast Korea Co. Ltd.	
Ejen Brothers Limited.	
England Rich Group (China) Ltd.	
Ever Leading International Inc.	
Fastgrow International Co., Inc.	
Geekay Wires Limited.	
Glovis America, Inc.	
GWP Industries (Tianjin) Co., Ltd.	
Haas Automation Inc.	
Han Express Co. Ltd.	
Handuk Industrial Co., Ltd.	
Hanmi Staple Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hebei Longshengyuan Trade Co Ltd.	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Shinyee Trade Co. Ltd.	
Hengtuo Metal Products Company Limited.	
Home Value Co., Ltd.	
Hongyi (Hk) Hardware Products Co., Limited.	
Hongyi (Hk) Industrial Co., Limited.	
Huanghua RC Business Co., Ltd.	
Huanghua Yingjin Hardware Products Co., Ltd.	
Inmax Industries Sdn. Bhd.	
JCD Group Co., Limited.	
Je-il Wire Production Co., Ltd.	
Jinheung Steel Corporation	
Jining Jufu International Trade Co.	
Jinsco International Corporation.	
Joo Sung Sea & Air Co., Ltd.	
Jushiqiangsen (Tianjin) International Trade Co., Ltd.	
Kabool Fasteners Co. Ltd.	
KB Steel	
Kerry-Apex (Thailand) Co., Ltd.	
Koram Inc.	
Korea Wire Co., Ltd.	
KPF Co., Ltd.	
Kuehne & Nagel Ltd.	
Linyi Double-Moon Hardware Products Co., Ltd.	
Linyi Flyingarrow Imp. & Exp. Co., Ltd.	
Linyi Jianchengde Metal Hardware Co.	
Linyi Yitong Chain Co., Ltd.	
Manho Rope and Wire Ltd.	
Max Co., Ltd.	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Nailtech Co., Ltd.	
Nanjing Senqiao Trading Co., Ltd.	
Needslink, Inc.	
Ocean King International Industries Limited.	
Paslode Fasteners (Shanghai) Co., Ltd.	
Peace Korea Co., Ltd.	
Qingdao Ant Hardware Manufacturing Co., Ltd.	
Qingdao Best World Industry-Trading Co., Ltd.	
Qingdao Cheshire Trading Co., Ltd.	
Qingdao Hongyuan Nail Industry Co., Ltd.	
Qingdao Jcd Machinery Co., Ltd.	
Qingdao Jiawei Industry Co., Limited.	
Qingdao Jisco Co., Ltd.	
Qingdao Master Metal Products Co., Ltd.	
Qingdao Meijialucky Industry and Co.	
Qingdao Mst Industry And Commerce Co., Ltd.	
Qingdao Ruitai Trade Co., Ltd.	
Qingdao Shantron Int'l Trade Co., Ltd.	
Qingdao Shenghengtong Metal Products Co., Ltd.	
Qingdao Sunrise Metal Products Co., Ltd.	
Qingdao Tian Heng Xiang Metal Products Co., Ltd.	
Qingdao Top Metal Industrial Co., Ltd.	
Rewon Systems, Inc.	
Rise Time Industrial Ltd.	
Shandong Dominant Source Group Co., Ltd.	

	Period to be reviewed
Shandong Guomei Industry Co., Ltd.	
Shanghai Curvet Hardware Products Co., Ltd.	
Shanghai Goldenbridge International Co., Ltd.	
Shanghai Pinnacle International Trading Co., Ltd.	
Shanghai Zoonlion Industrial Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Sanhesheng Trade Co., Ltd.	
Shaoxing Bohui Import & Export Co., Ltd.	
Shijiazhuang Yajiada Metal Products Co., Ltd.	
Shijiazhuang Tops Hardware Manufacturing Co., Ltd.	
Shin Jung TMS Corporation Ltd.	
SSS Hardware International Trading Co., Ltd.	
Storeit Services LLP.	
Test Rite International Co., Ltd.	
Tangshan Jason Metal Materials Co., Ltd.	
The Inno Steel Industry Company.	
Tianjin Bluekin Industries Limited.	
Tianjin Coways Metal Products Co., Ltd.	
Tianjin Hweschun Fasteners Manufacturing Co. Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry and Business Co., Ltd.	
Tianjin Jinzhuang New Material Sci Co., Ltd.	
Tianjin Lianda Group Co., Ltd.	
Tianjin Zhonglian Metals Ware Co., Ltd.	
Tianjin Zhonglian Times Technology Co., Ltd.	
Un Global Company Limited.	
Unicorn (Tianjin) Fasteners Co., Ltd.	
United Company For Metal Products	
W&K Corporation Limited	
Weifang Wenhe Pneumatic Tools Co., Ltd.	
Wulian Zhanpengmetals Co., Ltd.	
WWL India Private Ltd.	
Xian Metals And Minerals Import And Export Co., Ltd.	
Youngwoo Fasteners Co., Ltd.	
Zhangjiagang Lianfeng Metals Products Co., Ltd.	
Zhaoqing Harvest Nails Co., Ltd.	
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products, A–580–878	7/1/21–6/30/22
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Company	
KG Dongbu Steel Co., Ltd.	
POSCO	
POSCO International Corporation	
POSCO STEELEON Co., Ltd.	
SeAH Coated Metal	
SeAH Steel Corporation	
REPUBLIC OF KOREA: Passenger Vehicle and Light Truck Tires, A–580–908	1/6/21–6/30/22
Hankook Tire & Technology Co., Ltd.	
Hankook Tire America Corp.	
Kumho Tire Co., Inc.	
Nexen Tire Corporation	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/21–6/30/22
DK Corporation	
Dongbu Steel Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Co[6]	
Inchon Iron & Steel Co., Ltd[7].	
KG Dongbusteel Co., Ltd.	
Pohang Iron & Steel Co., Ltd. (POSCO)[8]	
POSCO International Corp.	
Taihan Electric Wire Co., Ltd.	
Topco Global Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Steel Nails, A–552–818	7/1/21–6/30/22
Anhui Sunwell Products Co. Ltd.	
Atlantic Manufacture Inc.	
Come Best (Thailand) Co., Ltd.	
Cuong Dinh Co. Ltd.	
Delmar International (Vietnam) Ltd.	
Detchun Vietnam Joint Stock Company	
Dinh Nguyen Service Trading Production Co. Ltd.	
Dinh Thanh Phat Trade One Member Co. Ltd.	
Easy Link Industrial Co. Ltd.	
Geekay Wires Limited	
Hiep Dat Dong Nai Corporation	

	Period to be reviewed
Inmax Industries Sdn., Bhd.	
Jinhai Hardware Co., Ltd.	
Kim Hoang Industrial Nails Production and Trading Service Co. Ltd.	
KPF Vietnam Co., Ltd.	
KPF Vina Co., Ltd.	
Pudong Prime International Co., Ltd.	
Storeit Services LLP	
T.H.I. Group (Shanghai) Limited.	
The Inno Steel Co., Ltd.	
Topy Fasteners Vietnam Co., Ltd.	
Vina Hardwares J.S.C.	
TAIWAN: Certain Steel Nails, A–583–854	7/1/21–6/30/22
A-Jax Enterprises Limited	
A-Jax International Company Limited.	
A-Stainless International Company Limited	
Advanced Global Sourcing Limited	
Aimreach Enterprises Company Limited	
Alisios International Corporation	
Allwin Architectural Hardware Inc.	
A.N. Cooke Manufacturing Co., Pty., Limited	
Asia Engineered Components	
Asia Link Industrial Corporation	
Asia Smarten Way Corp. (Taiwan)	
Astrotech Steels Private Ltd.	
Autolink International Company Limited	
BCR Inc.	
Bestwell International Corporation	
Boss Precision Works Co., Ltd.	
Budstech CI Limited	
Bulls Technology Company Limited	
Canatex Industrial Company Limited	
Cata Company Limited	
Cenluxmetals Company Limited	
Chang Bin Industrial Co., Ltd.	
Channg Chin Industry Corporation	
Charng Yu Industrial Company	
Chen Nan Iron Wire Co., Ltd.	
Chen Yu-Lan	
Chia Da Fastener Company Limited	
Chiang Shin Fasteners Industries Ltd.	
Chin Tai Sing Precision Manufactory Co., Ltd.	
Chun Yu Works & Company Limited	
Concord International Engineering & Trading Co., Ltd.	
Create Trading Co., Ltd.	
Cross International Co., Ltd.	
Da Wing Industry Company Limited	
Dar Yu Enterprise Co., Ltd.	
Eagre International Trade Co., Ltd.	
Ever-Top Hardware Corporation	
Excel Components Manufacturing Co., Ltd.	
Faithful Engineering Products Co., Ltd.	
Fastguard Fastening Systems Inc.	
Fastnet Corporation	
Fujian Xinhong Mech. & Elec. Co., Ltd.	
Funtec International Co., Ltd.	
Fuzhou Royal Floor Co., Ltd.	
FWU Kuang Enterprise Co., Ltd.	
GoFast Company Limited	
H–H Fasteners Company	
H-Locker Components Inc.	
Hau Kawang Enterprise Co., Ltd.	
Hecny Group	
Hi-Sharp Industrial Corp., Ltd.	
Hom Wei Enterprise Corporation	
HWA Hsing Screw Industry Co., Ltd.	
Hwaguo Industrial Fasteners Co., Ltd.	
Hy-Mart Fastener Co., Ltd.	
Hyup Sung Indonesia	
In Precision Link Co., Ltd.	
Intai Technology Corporation	
JCH Hardware Company Inc.	
Jet Crown International Co., Ltd.	
Ji Li Deng Fasteners Co., Ltd.	

	Period to be reviewed
Jinhai Hardware Co., Ltd.	
Jinn Her Enterprise Limited.	
Jockey Ben Metal Enterprise Co., Ltd.	
Kan Good Enterprise Co., Ltd.	
Katsuhana Fasteners Corporation.	
Kay Guay Enterprises Co., Ltd.	
Key Use Industrial Works Co., Ltd.	
KOT Components Co., Ltd.	
K. Ticho Industries Co., Ltd.	
K Win Fasteners Inc.	
Kuan Hsin Screw Industry Co., Ltd.	
Liang Ying Fasteners Industry Co., Ltd.	
Long Chan Enterprise Co., Ltd.	
Lu Chu Shin Yee Works Co., Ltd.	
Mechanical Hardwares Co.	
Midas Union Co., Ltd.	
Min Hwei Enterprise Co., Ltd.	
Ming Cheng Precision Co., Ltd.	
Ming Zhan Industrial Co., Ltd.	
ML Global Ltd.	
Newfast Co., Ltd.	
Noah Enterprise Co., Ltd.	
Nytaps Taiwan Corporation.	
Pao Shen Enterprises Co., Ltd.	
Par Excellence Industrial Co., Ltd.	
Pengteh Industrial Co., Ltd.	
Pneumax Corp.	
Printech T Electronics Corporation.	
Pro-an International Co., Ltd.	
Pronto Great China Corp.	
Professional Fasteners Development Co., Ltd.	
P.S.M. Fasteners (Asia) Limited.	
Qi Ding Enterprise Co., Ltd.	
Region System Sdn. Bhd.	
Region Industries Co., Ltd.	
Region International Co., Ltd.	
Right Source Co., Ltd.	
Rodex Fasteners Corp.	
Rong Chang Metal Co., Ltd.	
San Shing Fastech Corporation.	
SBSCQ Taiwan Limited.	
Shang Jeng Nail Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Somax Enterprise Co., Ltd.	
Spec Products Corporation.	
Star World Product and Trading Co., Ltd.	
Sumeeko Industries Co., Ltd.	
Sunshine Spring Co., Ltd.	
Suntec Industries Co., Ltd.	
Supreme Fasteners Corp.	
Szu I Industries Co., Ltd.	
Tag Fasteners Sdn. Bhd.	
Taifas Corporation.	
Taiwan Geer-Tai Works Co., Ltd.	
Taiwan Quality Fastener Co., Ltd.	
Team Builder Enterprise Limited.	
Techno Associates Taiwan Co., Ltd.	
Techup Development Co., Ltd.	
TG Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Topps Wang International Ltd.	
Ume-Pride International Inc.	
Unistrong Industrial Co., Ltd.	
United Nail Products Co., Ltd.	
Vanguard International Co., Ltd.	
Wa Tai Industrial Co., Ltd.	
Win Fastener Corporation.	
Wiresmith Industrial Co., Ltd.	
World Kun Co., Ltd.	
WTA International Co., Ltd.	
Wumax Industry Co., Ltd.	
Wyser International Corporation.	
Yeun Chang Hardware Tool Company Limited.	

	Period to be reviewed
Yng Tran Enterprise Company Limited.	
Yoh Chang Enterprise Company Limited.	
Your Standing International Inc.	
Yow Chern Company.	
Yumark Enterprises Corporation.	
Yu Tai World Co., Ltd.	
Zenith Good Enterprise Corporation.	
TAIWAN: Corrosion-Resistant Steel Products, A–583–856	7/1/21–6/30/22
China Steel Corporation.	
Chung Hung Steel Corporation.	
Great Fortune Steel Co., Ltd.	
Great Grandeul Steel Co., Ltd.	
Great Grandeul Steel Company Limited (Somoa) (aka Great Grandeul Steel Company Limited Somoa).	
Great Grandeul Steel Corporation.	
Prosperity Tieh Enterprise Co., Ltd.	
Sheng Yu Steel Co., Ltd.	
Synn Industrial Co., Ltd.	
Xxentria Technology Materials Company Ltd.	
Yieh Phui Enterprise Co., Ltd.	
TAIWAN: Passenger Vehicle and Light Truck Tires, A–583–869	1/6/21–6/30/22
Cheng Shin Rubber Ind. Col Ltd.	
Nankang Rubber Tire Corp., Ltd.	
TAIWAN: Polyethylene Terephthalate (PET) Film, A–583–837	7/1/21–6/30/22
Nan Ya Plastics Corporation.	
Shinkong Materials Technology Corporation.	
TAIWAN: Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/21–6/30/22
Broad International Resources Ltd.	
Chain Chon Industrial Co., Ltd.	
Cheng Feng Plastic Co., Ltd.	
Chia Far Industrial Factory Co., Ltd.	
Chien Shing Stainless Co.	
China Steel Corporation.	
Chung Hung Steel Corp.	
Chyang Dah Stainless Co., Ltd.	
Dah Shi Metal Industrial Co., Ltd.	
Da-Tsai Stainless Steel Co., Ltd.	
DB Schenker (HK) Ltd. Taiwan Branch.	
DHV Technical Information Co., Ltd.	
Froch Enterprises Co., Ltd.	
Gang Jou Enterprise Co., Ltd.	
Genn Hann Stainless Steel Enterprise Co., Ltd.	
Goang Jau Shing Enterprise Co., Ltd.	
Goldioceans International Co., Ltd.	
Gotosteel Ltd.	
Grace Alloy Corp.	
Hung Shuh Enterprises Co., Ltd.	
Hwang Dah Steel Inc.	
Jie Jin Stainless Steel Industry Co., Ltd.	
JJSE Co., Ltd.	
KNS Enterprise Co., Ltd.	
Lancer Ent. Co., Ltd.	
Lien Chy Laminated Metal Co., Ltd.	
Lien Kuo Metal Industries Co., Ltd.	
Lih Chan Steel Co., Ltd.	
Lung An Stainless Steel Ind. Co., Ltd.	
Master United Corp.	
Maytun International Corp.	
NKS Steel Ind. Ltd.	
PFP Taiwan Co., Ltd.	
Po Chwen Metal.	
Prime Rocks Co., Ltd.	
S More Steel Materials Co., Ltd.	
Shih Yuan Stainless Steel Enterprise Co., Ltd.	
Silineal Enterprises Co., Ltd.	
Stanch Stainless Steel Co., Ltd.	
Ta Chen Stainless Pipe Co., Ltd.	
Tah Lee Special Steel Co., Ltd.	
Taiwan Nippon Steel Stainless.	
Tang Eng Iron Works.	
Teng Yao Hardware Industrial Co., Ltd.	
Tibest International Inc.	
Ton Yi Industrial Corp.	
Tsai See Enterprise Co., Ltd.	

	Period to be reviewed
Tung Mung Development Co., Ltd.[9]	
Vasteel Enterprises Co., Ltd.	
Vulcan Industrial Corporation.	
Wuu Jing Enterprise Co., Ltd.	
Yc Inox Co., Ltd.	
Yes Stainless International Co., Ltd.	
Yieh Mau Corp.	
Yieh Phui Enterprise Co., Ltd.	
Yieh Trading Corp.	
Yieh United Steel Corporation.	
Yu Ting Industries Co., Ltd.	
Yue Seng Industrial Co., Ltd.	
Yuen Chang Stainless Steel Co., Ltd.	
Yung Fa Steel & Iron Industry Co., Ltd.	
THAILAND: Citric Acid and Certain Citrate Salts, A–549–833	7/1/21–6/30/22
COFCO Biochemical (Thailand) Co., Ltd.	
Sunshine Biotech International Co., Ltd.	
Xitrical Group Co., Ltd.	
THAILAND: Passenger Vehicle and Light Truck Tires, A–549–842	1/6/21–6/30/22
Deestone Corporation Ltd.	
General Rubber (Thailand) Co., Ltd.	
LLIT (Thailand) Co., Ltd.	
Maxxis International (Thailand) Co., Ltd.	
Otani Radial Company Limited.	
Prinx Chengshan Tire (Thailand) Co., Ltd.	
Sanpo (Thailand) Co., Ltd.	
Sentury Tire (Thailand) Co., Ltd.	
Sumitomo Rubber (Thailand) Co., Ltd.	
Zhongce Rubber (Thailand) Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Collated Steel Staples, A–570–112	7/1/21–6/30/22
China Staple (Tianjin) Co., Ltd.	
Shanghai Yueda Nails Co., Ltd.	
Shijiazhuang Shuangming Trade Co., Ltd.	
Tianjin Hweschun Fasteners Manufacturing Co., Ltd.	
Tianjin Jinyifeng Hardware Co., Ltd.	
Zhejiang Best Nail Industrial Co., Ltd./Shaoxing Bohui Import & Export Co., Ltd.	
Unicorn Fasteners Manufacturing Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Tapered Roller Bearings,[10] A–570–601	6/1/2021–5/31/2022
THE PEOPLE'S REPUBLIC OF CHINA: Certain Walk-Behind Lawn Mowers and Parts Thereof, A–570–129	12/30/20–6/30/22
Ningbo Daye Garden Machinery Co., Ltd.	
Ningbo Lingyue Intelligent Equipment Co., Ltd.	
Zhejiang Amerisun Technology Co., Ltd.	
Zhejiang Dobest Power Tools Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Xanthan Gum, A–570–985	7/1/21–6/30/22
A.H.A. International Co., Ltd.	
Beijing Rodia Auto Sport Ltd.	
CP Kelco (Shandong) Biological Company Limited.	
Deosen Biochemical (Ordos) Ltd.	
Deosen Biochemical Ltd.	
Deosen USA Inc.	
East Chemsources Ltd.	
Foodchem Biotech Co., Ltd.	
Greenhealth International Co., Ltd. (Hong Kong).	
Guangzhou Zio Chemical Co., Ltd.	
Hangzhou Yuanjia Chemical Co., Ltd.	
Hebei Xinhe Biochemical Co., Ltd.	
H&H International Forwarders Co.	
Inner Mongolia Fufeng Biotechnologies Co., Ltd.	
Inner Mongolia Jianlong Biochemical Co., Ltd.	
Jianlong Biotechnology Co., Ltd.	
Langfang Meihua Biotechnology Co., Ltd.	
Meihua Group International Trading (Hong Kong) Limited.	
Xinjiang Meihua Amino Acid Co., Ltd.	
Nanotech Solutions SDN BHD.	
Neimenggu Fufeng Biotechnologies Co., Ltd.	
Powertrans Freight Systems, Inc.	
Qingdao Yalai Chemical Co., Ltd.	
Shandong Fufeng Fermentation Co., Ltd.	
Shandong Hiking International Commerce Group Co., Ltd.	
Shanghai Smart Chemicals Co., Ltd.	
Shanghai Tianjia Biochemical Co., Ltd.	
Shanxi Reliance Chemicals Co., Ltd.	

	Period to be reviewed
The TNN Development Ltd.	
The TNN Development USA Inc.	
Unionchem Corp. Ltd.	
Wanping Bio Chem Co., Ltd.	
Weifang Hongyuan Chemical Co., Ltd.	
Xinjiang Meihua Amino Acid Co., Ltd.	
Xinjiang Fufeng Biotechnologies Co., Ltd.	
Z Sports.	
TURKEY: Common Alloy Aluminum Sheet,[11] A–489–839	10/15/20–3/31/22
ASAS Aluminyum Sanayi ve Ticaret A.S.	
Assan Aluminyum Sanayi ve Ticaret A.S.	
Kibar Dis Ticaret A.S.	
TURKEY: Steel Concrete Reinforcing Bar, A–489–829	7/1/21–6/30/22
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret A.S. (COTAS).	
Diler Dis Ticaret A.S.	
Ekinciler Demir ve Celik Sanayi A.S.	
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.	
Kaptan Demir Celik Endustrisi ve Ticaret A.S.[12]	
Sami Soybas Demir Sanayi ve Ticaret A.S.	
UKRAINE: Oil Country Tubular Goods, A–823–815	7/1/21- 6/30/22
Interpipe Europe S.A., Interpipe Ukraine LLC.	
PJSC Interpipe Niznedneprovskv Tube Rolling Plant (aka Interpipe NTRP), LLC Interpipe Niko Tube.	
CVD Proceedings	
INDIA: Polyethylene Terephthalate (Pet) Film, C–533–825	1/1/21–12/31/21
Ester Industries, Ltd.	
Garware Polyester Ltd.	
Jindal Poly Films Ltd. (India) (aka Jindal Poly Films Ltd.).	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited of India (aka SRF Limited).	
Uflex Ltd.	
Vacmet India Limited.	
ITALY: Certain Pasta, C–475–819	1/1/21–12/31/21
Pastificio Favellato srl.	
Pastificio Gentile S.r.l.	
Pastificio Mediterranea S.R.L.	
Sgambaro SpA.	
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products, C–580–879	1/1/21–12/31/21
Hyundai Steel.	
Hyundai Steel Co., Ltd.	
KG Dongbu Steel Co., Ltd.	
POSCO.	
POSCO Coated & Color Steel Co., Ltd.	
POSCO International.	
POSCO Steeleon Co., Ltd.	
SeAH Coated Metal.	
SeAH Steel Corporation.	
SOCIALIST OF REPUBLIC OF VIETNAM: Certain Steel Nails, C–552–819	1/1/21–12/31/21
Anhui Sunwell Products Co., Ltd.	
Atlantic Manufacture Inc.	
Come Best (Thailand) Co., Ltd.	
Cuong Dinh Co., Ltd.	
Delmar International (Vietnam) Ltd.	
Detchun Vietnam Joint Stock Company.	
Dicha Sombrilla Co., Ltd.	
Dinh Nguyen Service Trading Production Co. Ltd.	
Dinh Thanh Phat Trade One Member Co., Ltd.	
Easy Link Industrial Co. Ltd,.	
Geekay Wires Limited.	
Hiep Dat Dong Nai Corporation.	
Inmax Industries Sdn., Bhd.	
Jinhai Hardware Co., Ltd.	
Kim Hoang Industrial Nails Production and Trading Service Co. Ltd.	
KPF Vietnam Co., Ltd.	
KPF Vina Co., Ltd.	
Nor-Cal Products Vietnam Co. Ltd.	
Pudong Prime International Co., Ltd.	
Shark Industry Co., Ltd.	
Storeit Services LLP.	
T.H.I. Group (Shanghai) Limited.	
The Inno Steel Co., Ltd.	
Topy Fasteners Vietnam Co., Ltd.	

	Period to be reviewed
Vina Hardwares J.S.C.	
SOCIALIST REPUBLIC OF VIETNAM: Passenger Vehicle and Light Truck Tires, C–552–829	11/10/20–12/31/21
Bridgestone Tire Manufacturing Vietnam, LLC.	
Kumho Tire (Vietnam) Co., Ltd.	
Kumho Tire Co., Inc.	
Sailun (Vietnam) Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Walk-Behind Lawn Mowers and Parts Thereof, C–570–130	10/30/20–12/31/21
Ningbo Daye Garden Machinery Co., Ltd.	
Ningbo Lingyue Intelligent Equipment Co. Ltd.	
Zhejiang Amerisun Technology Co., Ltd.	
Zhejiang Dobest Power Tools Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Collated Steel Staples, C–570–113	1/1/21–12/31/21
A-Jax International Co., Ltd.	
Anping Haotie Metal Technology Co.	
Changzhou Kya Trading Co., Ltd.	
China Dinghao Co., Ltd.	
China Wind International Ltd.	
Dezhou Hualude Hardware Products Co., Ltd.	
Dt China (Shanghai) Ltd., Ningbo Branch.	
Ejen Brothers Limited.	
eTeklon Co., Ltd.	
Fastnail Products Limited.	
Foshan Chan Seng Import and Export Co., Ltd.	
Guangdong Meite Mechanical Co., Ltd.	
H&B Promotional Limited.	
Hangzhou Great Import & Export Co., Ltd.	
Hangzhou Light Industrial Products, Arts & Crafts, Textiles Import & Export Co., Ltd.	
Hangzhou Strong Lion New Material Co., Ltd.	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Jinshi Industrial Metal Co., Ltd.	
Hebei Machinery Import and Export Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hengtuo Metal Products Co., Ltd.	
Hk Quanyi Coil Spring Metals Product Limited.	
Huanghua Baizhou Trading Co., Ltd.	
Jiangmen Rui Xing Yuan Import and Export Co., Ltd.	
Jiaxing Brothers Hardware Co., Ltd.	
Jinhua Qual Max Trading Co., Ltd.	
Kinglong Manufacturing Co., Ltd.	
Milan Pacific International Limited.	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Ningbo (Yinzhou) Yongjia Electrical Tools Co., Ltd.	
Ningbo Alldo Stationery Co., Ltd.	
Ningbo Guangbo Import & Export Co., Ltd.	
Ningbo Huayi Import & Export Co., Ltd.	
Ningbo Mascube Imp. & Exp. Corp.	
Ningbo Mate Import & Export Co., Ltd.	
Ningbo Pacrim Manufacturing Co., Ltd.	
Ningbo S-Chande Import & Export Co., Ltd.	
Ningbo Sunlit International Co., Ltd.	
Ningbo Yuanyu Imp. & Exp. Co., Ltd.	
Ninghai Huihui Stationery Co., Ltd.	
Oli-Fast Fasteners (Tianjin).	
Qingdao Top Metal Industrial Co., Ltd.	
Qingdao Top Steel Industrial Co., Ltd.	
Rayson Electrical Mfg., Ltd.	
Rebon Building Material Co., Limited.	
Rise Time Industrial Ltd.	
Shanghai Genmes Office Products Co., Ltd.	
Shanghai Jade Shuttle Hardware.	
Shanghai Lansi Trading Co., Ltd.	
Shanghai Yinwo Technologies Development Co., Ltd.	
Shaoxing Best Nail Industrial Co., Ltd.	
Shaoxing Bohui Import Export Co., Ltd.	
Shaoxing Feida Nail Industry Co., Ltd.	
Shaoxing Huasheng Stationery Manufacturing Co., Ltd.	
Shaoxing Jingke Hardware Co., Ltd.	
Shaoxing Mingxing Nail Co., Ltd.	
Shaoxing Shunxing Metal Producting Co., Ltd.	
Shaoxing Xinyi Hardware & Tools Co., Ltd.	
Shaoxing Yiyou Stationery Co., Ltd.	
Shenzhen Jinsunway Mould Co., Ltd.	
Shijiazhuang Shuangming Trade Co., Ltd.	

	Period to be reviewed
Shouguang Hongsheng Import and Export Co., Ltd.	
Shun Far Enterprise Co., Ltd.	
Suntec Industries Co., Ltd.	
Suqian Real Faith International Trade Co., Ltd.	
Taizhou Dajiang Ind. Co., Ltd.	
Team One (Shanghai) Co., Ltd.	
Tianjin Bluekin Industries Co., Ltd.	
Tianjin D&C Technology Development.	
Tianjin Huixinshangmao Co., Ltd.	
Tianjin Hweschun Fasteners Manufacturing Co., Ltd.	
Tianjin Jin Xin Sheng Long Metal Products Co., Ltd.	
Tianjin Jinyifeng Hardware Co., Ltd.	
Tsi Manufacturing LLC.	
Tung Yung International Limited.	
Unicom (Tianjin) Fasteners Co., Ltd.	
Wire Products Manufacturing Co., Ltd	
Yangjiang Meijia Economic & Trade Co., Ltd.	
Youngwoo (Cangzhou) Fasteners Co., Ltd.	
Yuchen Imp. and Exp. Co, Ltd	
Yueqing Yuena Electric Science and Technology Co., Ltd.	
Zhejiang Best Nail Industrial Co., Ltd.	
Zhejiang Fairtrade E-Commerce Co., Ltd.	
Zhejiang KYT Technology Co., Ltd.	
TURKEY: Common Alloy Aluminum Sheet, C–489–840	8/14/20–12/31/21
ASAS Aluminyum Sanayi ve Ticaret A.S.[13]	
TURKEY: Steel Concrete Reinforcing Bar, C–489–830	1/1/21–12/31/21
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	

[5] In the notice of initiation for June anniversary orders, published in the **Federal Register** on August 9, 2022 (87 FR 48459) (*June Initiation Notice*), Commerce inadvertently misspelled the name of this order as ''Pressed Concrete Steel Wire Strand.'' Commerce hereby corrects the name of the order.

[6] Stainless steel sheet and strip in coils produced and exported by Inchon Iron & Steel Co., Ltd., were excluded from the order effective June 8, 1999. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30664, 30688 (June 8, 1999). On June 28, 2002, Commerce determined that INI Steel Company is the successor-in-interest to Inchon Iron & Steel Co., Ltd. *See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 67 FR 43583 (June 28, 2002). On July 3, 2006, Commerce determined that Hyundai Steel Company is the successor-in-interest to INI Steel Company, formerly Inchon Iron and Steel Co., Ltd. *See Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 71 FR 37906 (July 3, 2006). Accordingly, we are initiating this administrative review for Inchon Iron & Steel Co., Ltd. and Hyundai Steel Co. where they are either the producer or exporter of subject merchandise but not both.

[7] *Id.*

[8] On December 1, 2011, Commerce revoked the order with respect to Pohang Iron & Steel Co., Ltd. (POSCO). *See Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Revocation of the Antidumping Duty Order on Stainless Steel Plate in Coils from the Republic of Korea; and Partial Revocation of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 76 FR 74771, 74772 (December 1, 2011). Accordingly, we are initiating this administrative review for POSCO where it is the exporter or producer of subject merchandise but not both.

[9] Stainless steel sheet and strip in coils produced and exported by Tung Mung Development Co., Ltd. were excluded from the antidumping duty order on stainless steel sheet and strip in coils from Taiwan, effective October 16, 2002. *See Notice of Amended Final Determination in Accordance with Court Decision of the Antidumping Duty Investigation of Stainless Steel Sheet and Strip in Coils from Taiwan,* 69 FR 67311, 67312 (November 17, 2004). Accordingly, we are initiating this administrative review for Tung Mung Development Co., Ltd. where it was the producer or exporter of subject merchandise but not both.

[10] In the *June Initiation Notice,* Commerce listed Changshan Peer Bearing Co., Ltd. as a company for which we are initiating an administrative review. However, because this company withdrew its request for review before the date of the *June Initiation Notice,* Commerce hereby corrects the inadvertent inclusion of Changshan Peer Bearing Co., Ltd. in that notice.

[11] In the notice of initiation for April anniversary orders, published in the **Federal Register** on June 9, 2022 (87 FR 35165) (*April Initiation Notice*), Commerce spelled the name of this company as ''ASA Aluminyum Sanayi ve Ticaret A.S.'' as a result of the name having been misspelled by the petitioner in its review request. After consulting with the petitioner, Commerce hereby corrects the name of this company. *See* Memorandum, ''Clarification of Certain Companies Requested for Review,'' dated August 29, 2022. In addition, the *April Initiation Notice* incorrectly indicated the following companies are a single entity: Assan Aluminyum Sanayi ve Ticaret A.S., Kibar Americas, Inc., and Kibar Dis Ticaret A.S. Commerce has not found these three companies to be a single entity. Finally, Kibar Americas, Inc. is not a foreign producer or exporter and thus the *April Initiation Notice* incorrectly indicated that this company is subject to review.

[12] This company is part of a collapsed entity with Kaptan Metal Dis Ticaret Ve Nakliayt A.S. Commerce is initiating a review of the collapsed entity

[13] In the *April Initiation Notice,* Commerce inadvertently omitted this company from the list of companies for which this administrative review was initiated. Commerce hereby adds this company to the list of initiated companies. In addition, Kibar Americas, Inc. is not a foreign producer or exporter and thus the *April Initiation Notice* incorrectly indicated that this company is subject to review.

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant

''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[14] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[15]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[16] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[17] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 31, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–19195 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[16] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[17] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–839]

Steel Propane Cylinders From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Sahamitr Pressure Container Plc. (also known as Sahamitr Pressure Container Public Company Limited) (SMPC) made sales of subject merchandise at less than normal value (NV) during the period of review (POR) August 1, 2020, through July 31, 2021. We invite interested parties to comment on these preliminary results.

DATES: Applicable September 6, 2022

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act), Commerce is conducting an administrative review of the antidumping duty (AD) order on steel propane cylinders from Thailand. On October 7, 2021, in accordance with 19 CFR 251.221(c)(1)(i), we initiated the administrative review of the AD order on steel propane cylinders from Thailand with respect to SMPC.[1] On March 30, 2022, Commerce extended the deadline for the preliminary results to August 31, 2022.[2] For a complete

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 55811 (October 7, 2021).

[2] *See* Memorandum, ''Steel Propane Cylinders from Thailand: Extension of Time Limit for

description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3]

Scope of the Order

The merchandise covered by this order is steel propane cylinders from Thailand. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.[4]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Export price was calculated in accordance with section 772 of the Act. Normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of the Review

Commerce preliminarily determines that the following weighted-average dumping margin exists for the period August 1, 2020, through July 31, 2021:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Sahamitr Pressure Container Plc	2.49

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, ADs on all appropriate entries covered by this review. If an examined respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to ADs.

Commerce clarified its ''automatic assessment'' regulation on May 6, 2003.[5] This clarification applies to entries of subject merchandise during the POR produced by SMPC for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for SMPC will be equal to the weighted-average dumping margin established in the final results of this review (except, if that rate is *de minimis,* then the cash deposit rate will be zero); (2) for previously reviewed or investigated companies not listed in the final results of this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 10.77 percent that was established in the less-than-fair-value investigation.[6] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs should be filed via ACCESS.[10] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised by each party in their respective case brief. If a request for a hearing is made, Commerce will announce the date and time of the hearing. Parties should confirm by telephone the date and time of the hearing two days before the scheduled hearing date.

Note that Commerce has temporarily modified certain of its requirements for

Preliminary Results of Antidumping Duty Administrative Review; 2020/2021,'' dated March 30, 2022.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Steel Propane Cylinders from Thailand; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* Preliminary Decision Memorandum at ''Scope of the Order.''

[5] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[6] *See Steel Propane Cylinders from Thailand: Final Determination of Sales at Less Than Fair Value,* 84 FR 29168, 29169 (June 21, 2019).

[7] *See* 19 CFR 351.309(c).

[8] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[9] *See* 19 CFR 351.303 (for general filing requirements).

[10] *See generally* 19 CFR 351.303.

serving documents containing business proprietary information, until further notice.[11] An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the due date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1) and 351.221(b)(4).

Dated: August 29, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–19191 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–833]

Utility Scale Wind Towers From Indonesia: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole producer/exporter subject to this administrative review, PT. Kenertec Power System (Kenertec), made sales of subject merchandise at less than normal value during the period of review (POR). The POR is February 14, 2020, through July 31, 2021. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Luberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2185.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2021, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on utility scale wind towers (wind towers) from Indonesia.[1] This review covers one producer/exporter of the subject merchandise, PT. Kenertec Power System (Kenertec).[2]

On April 19, 2022, Commerce extended the deadline for the preliminary results of this administrative review until August 31, 2022.[3]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order [5]

The merchandise subject to the *Order* is certain wind towers, whether or not tapered, and sections thereof. Merchandise covered by the *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS subheading 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS subheading 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.[6]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period February 14, 2020, through July 31, 2021:

Exporter/producer	Weighted-average dumping margin (percent)
PT. Kenertec Power System	2.01

Verification

On January 18, 2022, Commerce received a timely request from the Wind Tower Trade Coalition (the petitioner) to verify the information submitted by Kenertec in the course of this

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 55811 (October 7, 2021).

[2] *Id.* at 55813.

[3] *See* Memorandum, ''Extension of Time Limit for Preliminary Results of 2020–2021 Antidumping Duty Administrative Review,'' dated April 19, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Utility Scale Wind Towers from Indonesia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 85 FR 52546 (August 26, 2020) (*Order*), corrected in *Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Notice of Correction to the Antidumping Duty Orders,* 85 FR 56213 (September 11, 2020).

[6] For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

[11] *See Temporary Rule.*

administrative review, pursuant to 19 CFR 351.307(b)(1)(iv). As detailed in the Preliminary Decision Memorandum, Commerce does not intend to verify the information submitted by Kenertec in the course of this administrative review.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[7] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs should be filed using ACCESS.[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS, within 30 days after publication of this notice.[11] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[12] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

All submissions to Commerce should be filed using ACCESS [13] and must be served on interested parties.[14] An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[15]

Commerce intends to issue the final results of this administrative review, including the results of its analysis raised in any written briefs, not later than 120 days after the publication date of this notice, unless otherwise extended.[16]

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[17] If the weighted average dumping margin for Kenertec is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[18] Where the respondent did not report entered value, we will calculate the entered value in order to calculate the assessment rate. If the weighted-average dumping margin for Kennetec is zero or *de minimis* in the final results, or an importer-specific assessment rate is zero or *de minimis* in the final results, we will instruct CBP to liquidate such entries without regard to antidumping duties.

Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Kennetec for which it did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this matter, *see* Assessment Policy Notice.[19]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Kennetec will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; and (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed or investigated; (3) if the exporter is not a firm covered in this review or previous segment, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 8.53 percent, the all-others rate established in the less-than-fair-value investigation.[20]

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] *See* 19 CFR 351.303.

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310(d).

[13] *See* 19 CFR 351.303.

[14] *See* 19 CFR 351.309(d)(1) and (2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'').

[15] *See Temporary Rule.*

[16] *See* section 751(a)(3)(A) of the Act.

[17] *See* 19 CFR 351.212(b).

[18] In these preliminary results, Commerce applied the assessment rate calculation adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[19] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[20] *See Order.*

subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Verification
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2022–19192 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB336]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, September 23, 2022, at 8:30 a.m.

ADDRESSES: Webinar registration URL information: *https://attendee.gotowebinar.com/register/4998115799607363342.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Herring Advisory Panel will meet to review draft Atlantic herring specifications and river herring and shad catch caps for fishing years 2023–25 and recommend preferred alternatives. The Panel will discuss possible herring priorities for 2023. They will also make recommendations to the Herring Committee, as appropriate, and discuss other business, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–19142 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Florida Fishing and Boating Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 6, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Florida Fishing and Boating Survey.

OMB Control Number: 0648–0769.

Form Number(s): None.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 3,120.

Average Hours per Response: 0.05 hours (3 minutes).

Total Annual Burden Hours: 156.

Needs and Uses: This request is for an extension and revision of a currently approved information collection and is sponsored by NOAA's Southeast Fisheries Science Center (SEFSC).

The objective of the data collection effort under OMB Control Number 0648–0769 is to understand how anglers and boaters respond to changes in trip costs and/or fishing regulations in Florida (both in waters of the Gulf of Mexico and South Atlantic Ocean). This will improve the analysis of the economic effects of proposed changes in fishing regulations and changes in economic factors that affect the cost of fishing and boating such as fuel prices. The survey will be used to develop predictive models that forecast how fishing and boating effort changes when either trip costs change or when fishing regulations (season length or bag limits) change. The survey will ask about the number of trips anglers take under current costs and regulations and anticipated number of trips when costs and/or regulations change.

The population to be surveyed consists of anglers and boat owners with a license to fish in the Gulf of Mexico or South Atlantic from Florida. The sample will be drawn from a list of licensed Florida anglers and registered Florida boat owners. Anglers/boat owners will be emailed an invitation to the online survey that directs them to a website to complete the survey. Changes proposed to the collection include the addition of respondents on the Atlantic Coast of Florida, adapting the survey to ask about all federally managed fish in the Atlantic and Gulf of Mexico, and removing the mail component and financial incentives of the survey.

Affected Public: Individuals or households.

Frequency: Twice per calendar year.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act as reauthorized in 2007 (16 U.S.C. 1801 et. seq.)

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0769.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–19205 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; South Pacific Tuna Act

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 7, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0218 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Emily Reynolds, Fishery Policy Analyst, NOAA Fisheries, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818; (808) 725–5039 or *emily.reynolds@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension, with no changes, to a currently approved information collection. The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of U.S. purse seine vessels fishing under the provisions of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty). The Treaty provides access for U.S. purse seine vessels to fish in the exclusive economic zones (EEZs) of Pacific Island Parties to the Treaty (PIPs). The PIPs include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. This collection of information is required to meet U.S. obligations under the Treaty.

The South Pacific Tuna Act of 1988 (16 U.S.C. 973–973r) and U.S. implementing regulations (50 CFR part 300, subpart D) authorize the collection of information from U.S. purse seine vessels fishing in the EEZs of PIPs under the Treaty. Vessel operators must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in fishing under the Treaty. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each PIP's EEZ. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

II. Method of Collection

All information will be submitted in hard copy via mail or through electronic reporting.

III. Data

OMB Control Number: 0648–0218.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 21.

Estimated Time per Response: License application, 1 hour; VMS registration application, 45 minutes; catch report, 1 hour; unloading logsheet, 30 minutes, expression of interest, 2 hours and renewal, 15 minutes.

Estimated Total Annual Burden Hours: 207.

Estimated Total Annual Cost to Public: $76,706 in recordkeeping/reporting costs.

Respondent's Obligation: Mandatory.

Legal Authority: 16 U.S.C. 973–973r.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number,

email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–19201 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC246]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Dr. David Portnoy, Texas A&M University, Corpus Christi. If granted, the EFP would allow a limited harvest of speckled hind in South Atlantic Federal waters by select commercial fishermen. The samples collected would be used to assess the speckled hind population structure, genetic diversity, and life history in the South Atlantic.

DATES: Written comments must be received on or before September 21, 2022.

ADDRESSES: You may submit comments on the application, identified by ''NOAA–NMFS–2022–0084'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''*NOAA–NMFS–2022–0084*'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/southeast/about-us/south-atlantic-speckled-hind-exempted-fishing-permit-application/.*

FOR FURTHER INFORMATION CONTACT: Frank Helies, 727–824–5305; email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Currently, Federal regulations at 50 CFR 622.181 (b)(3) prohibit the harvest and possession of speckled hind in or from South Atlantic Federal waters. Speckled hind are sedentary, long-lived, deep-water groupers. There are no known data regarding the stock structure of speckled hind in South Atlantic waters and little is known about their biology; consequently, there are not enough data to accurately determine whether the species is undergoing overfishing or are overfished.

Dr. Portnoy was awarded a Marine Fisheries Initiative grant to assess the population structure, genetic diversity, and life history of speckled hind in the U.S. South Atlantic. Beginning in 2018, Dr. Portnoy acquired some of his project's needed speckled hind samples from fishery independent surveys conducted by NMFS and the South Carolina Department of Natural Resources. However, as a result of low encounter rates with the species since 2018, and reduced fishery independent survey effort in 2020, additional samples were needed to obtain a sufficient number of project samples.

Dr. Portnoy previously requested, and was granted, an EFP from NMFS on March 22, 2021, to retain up to 40 speckled hind per calendar year (up to 80 total for the EFP) (86 FR 11503, February 25, 2021). That EFP expired on August 31, 2022. To date, only 11 of the 80 projected samples have been obtained in the South Atlantic, and only 2 from the previously issued EFP. However, the applicant has continued to add fishermen to the previous EFP to increase opportunities for speckled hind sample collection.

If granted, the EFP would be valid through August 31, 2024, and would allow a limited harvest of up to 40 speckled hind per calendar year (up to 80 total for the duration of the EFP) in the Federal waters of the South Atlantic. The EFP would exempt select commercial fishermen from Federal regulations prohibiting the harvest and possession of speckled hind in Federal waters of the South Atlantic at 50 CFR 622.181(b)(3). Because speckled hind would be harvested incidentally during routine commercial fishing trips, NMFS does not expect that any additional environmental impacts would occur through the issuance of the EFP.

Dr. Portnoy proposes to collect speckled hind from select commercial fishermen who occasionally encounter speckled hind in South Atlantic Federal waters during routine commercial fishing operations. Currently, six commercial fishermen have volunteered to participate in the EFP while using hook-and-line gear fishing in South Atlantic Federal waters in depths ranging from 70 ft (21 m) to 600 ft (183 m), and one fisherman has volunteered while using black sea bass pots in depths ranging from 60 ft (18 m) to 110 ft (34 m). Speckled hind would only be collected using either gear type during the course of regular fishing operations. The selected commercial fisherman would comply with all other Federal fishing regulations such as fishing seasons, area closures, and commercial trip limits. If the fishermen encounter a speckled hind, a fin clip would be taken from the harvested speckled hind and shipped to the Marine Genomics Laboratory at Texas A&M University, Corpus Christi, Texas. The sampled fin clip would be used for genetic studies. All sampled speckled hind carcasses would be shipped to the NMFS Southeast Fisheries Science Center for otolith extraction to determine age and growth parameters. The results of the EFP are expected to contribute to improved understanding of speckled hind population structure, genetic diversity, and life history in the U.S. South Atlantic. The EFP results could help support future scientific and management decisions for the speckled hind stock in the South Atlantic.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the EFP, if granted, include but are not limited to, a prohibition on fishing within marine protected areas, marine sanctuaries, or special management zones without additional authorization. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agencies of the affected states, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all other applicable laws.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–19151 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC332]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will meet September 21, 2022.

DATES: The meeting will be held on Wednesday, September 21, 2022, from 9 a.m. to 11 a.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2953.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Rheinsmith, Council staff; phone: (907) 271–2809; email: *sarah.rheinsmith@noaa.gov.* For technical support, please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday, September 21, 2022

The Committee will discuss: (a) Opilio snow crab rebuilding; (b) red king crab measures; (c) ten-year program review general discussion; and (d) other business. The agenda is subject to change, and the latest version will be posted *https://meetings.npfmc.org/Meeting/Details/2953* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2953.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2953.*

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–19103 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC337]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, September 23, 2022, at 1 p.m.

ADDRESSES: Webinar registration URL information: *https://attendee.gotowebinar.com/register/6104685794707070480.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Herring Committee will meet to review recommendations from the Herring Plan Development Team and Herring Advisory Panel. They will review draft Atlantic herring specifications and river herring and shad catch caps for fishing years 2023–25 and recommend preferred alternatives. The Committee will consider recommending to the Council a change in priorities to discontinue work on Framework Adjustment 7 to protect adult spawning herring on Georges Bank. They will also discuss possible herring priorities for 2023 and make recommendations to the Council, as appropriate. Other business may be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–19143 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Reporting Requirements for Sea Otter Interactions With the Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 7, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0566 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Katie Davis, Natural Resource Management Specialist, National Oceanic and Atmospheric Administration, 501 W Ocean Blvd., Long Beach, CA 90802, (323) 372–2126, and *katie.davis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of a currently approved collection.

On May 30, 2007, NMFS published a final rule (*72 FR 29891*) implementing a requirement under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) to report any interactions that may occur between a CPS vessel and/or fishing gear and sea otters. In accordance with the regulations implementing the Endangered Species Act (ESA), NOAA's National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with the United States Fish and Wildlife Service (USFWS) regarding the effects of implementing the final rule (*72 FR 29891*), which codified Amendment 11 to the CPS FMP. USFWS determined that formal consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion for this action and although it was concluded that fishing activities were not likely to jeopardize the continued existence of the southern sea otter, that there remained the potential to incidentally take southern sea otters. USFWS determined that certain measures should be put in place to ensure the continued protection of the species, including certain reporting requirements.

Specifically, these reporting requirements are:

(1) If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, the vessel operator must report this interaction within 24 hours to the Regional Administrator.

(2) While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which must be initially reported as described in paragraph (1) of this section, all other observations must be reported within 20 days to the Regional Administrator.

(3) When contacting NMFS after an interaction, vessel operators must provide the location (latitude and longitude) of the interaction and a description of the interaction itself. If available, location information should also include water depth, distance from shore, and relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; whether any otters came in contact with either the net or the vessel; the number of otters present; duration of interaction; the otter's behavior during interaction; measures taken to avoid interaction.

II. Method of Collection

The information will be collected by mail to the Regional Administrator, as defined under 50 CFR 660 or email.

III. Data

OMB Control Number: 0648–0566.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 0.5.

Estimated Total Annual Cost to Public: $10 in reporting costs.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 660.520(a).

IV. Request for Comments

We are soliciting public comments to permit the National Oceanic and Atmospheric Administration to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–19200 Filed 9–2–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0084]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Family Education Loan (FFEL) Program Secured Overnight Financing Rate (SOFR) Election Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new collection.

DATES: Interested persons are invited to submit comments on or before October 6, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed ICR that is described below. The Department is especially interested in public comments addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public record.

Title of Collection: Federal Family Education Loan (FFEL) Program Secured Overnight Financing Rate (SOFR) Election Form.

OMB Control Number: 1845–NEW.

Type of Review: New collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 128.

Total Estimated Number of Annual Burden Hours: 2,048.

Abstract: The Department of Education (ED) is requesting approval of a new information collection for the Federal Family Education Loan (FFEL) Program Secured Overnight Financing Rate (SOFR) Election form. On March 15, 2022, the President signed the Adjustable Interest Rate (LIBOR) Act into law. Among other things, the law amended section 438(b)(2)(I) of the Higher Education Act of 1965, as amended (HEA). This provision of the law requires FFEL Program lenders or an entity that holds a beneficial ownership interest in a FFEL Program loan (beneficial holder) to transition away from LIBOR based Special Allowance Payments (SAP) to a new formula set by the law based on SOFR. The transition may occur any time on or before June 30, 2023. However, a FFEL Program lender or beneficial holder must transition to the SOFR based SAP calculation by July 1, 2023, as a condition of continued participation in FFEL Program.

Dated: August 30, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–19104 Filed 9–2–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0089]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Aid Program—Application for Section 7003 Assistance

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 3, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Faatimah Muhammad, (202) 453–6827.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed ICR that is described below. The Department is especially interested in public comments addressing the following issues: (1) is this collection necessary to the proper functions of the

Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public record.

Title of Collection: Impact Aid Program—Application for Section 7003 Assistance.

OMB Control Number: 1810–0687.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 301,079.

Total Estimated Number of Annual Burden Hours: 87,656.

Abstract: The U.S. Department of Education is requesting approval for an extension without change for the Application for Assistance under Section 7003 of Title VIII of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). This application is for a grant program otherwise known as Impact Aid Basic Support Payments. Local Educational Agencies (LEAs) whose enrollments and revenues are adversely impacted by Federal activities use this form to request financial assistance. Regulations for the Impact Aid Program are found at 34 CFR 222.

The statute and regulations for this program require a variety of data from applicants annually to determine eligibility for the grants and the amount of grant payment under the statutory formula. The least burdensome method of collecting this required information is for each applicant to submit these data through a web-based electronic application hosted on the Impact Aid Grant System (IAGS) website.

Dated: August 30, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–19105 Filed 9–2–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0087]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; FFEL/Direct Loan/Perkins Military Service Deferment/Post-Active Duty Student Deferment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 6, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed ICR that is described below. The Department is especially interested in public comments addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public record.

Title of Collection: FFEL/Direct Loan/Perkins Military Service Deferment/Post-Active Duty Student Deferment Request.

OMB Control Number: 1845–0080.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 16,000.

Total Estimated Number of Annual Burden Hours: 8,000.

Abstract: The Military Service/Post-Active Duty Student Deferment request form serves as the means by which a Federal Family Education Loan (FFEL), Perkins, or Direct Loan borrower requests a military service deferment and/or post-active duty student deferment and provides his or her loan holder with the information needed to determine whether the borrower meets the applicable deferment eligibility requirements. The form also serves as the means by which the U.S. Department of Education identifies Direct Loan borrowers who qualify for the Direct Loan Program's no accrual of interest benefit for active duty service members.

Dated: August 31, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–19160 Filed 9–2–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Request

AGENCY: Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE plans to submit to the Office of Management and Budget (OMB)

pursuant to the Paperwork Reduction Act of 1995. The information collection described in this notice is currently part of DOE's Environment, Safety, and Health collection under OMB Control Number 1910–0300. The DOE office (Office of Enterprise Assessments) that administers the information collection described herein differs from the DOE office (Office of Environment, Health, Safety and Security) that administers the other collections under OMB Control Number 1910–0300. DOE is seeking a separate OMB control number for this collection.

DATES: Comments regarding this proposed information collection must be received on or before November 7, 2022. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments may be sent to Felecia Briggs, EA–40, Germantown Building, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–1290, or by email at *Felecia.Briggs@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Felecia Briggs, EA–40/C–412 Germantown Building, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–1290 or by email at *Felecia.Briggs@hq.doe.gov* or by telephone at (301) 903–8803.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions 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.

This information collection request contains:

(1) *OMB No.:* 1910–NEW;

(2) *Information Collection Request Titled:* DOE Noncompliance Tracking System (NTS);

(3) *Type of Review:* New;

(4) *Purpose:* The DOE Noncompliance Tracking System (NTS) is used by DOE contractors to report potential nuclear safety and worker safety and health regulatory noncompliances to DOE as described in 10 CFR part 820, *Procedural Rules for DOE Nuclear Activities,* and 10 CFR part 851, *Worker Safety and Health Program.* DOE uses this information to monitor contractor compliance with safety requirements in lieu of an onsite inspection program.

(5) *Annual Estimated Number of Respondents:* 30;

(6) *Annual Estimated Number of Total Responses:* 210;

(7) *Annual Estimated Number of Burden Hours:* 2,520;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $200,000.

Statutory Authority

DOE Noncompliance Tracking System (NTS): 10 CFR part 820; 10 CFR part 851.

Signing Authority

This document of the Department of Energy was signed on August 31, 2022, by John E. Dupuy, Director, Office of Enterprise Assessments, 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 31, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–19196 Filed 9–2–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–212–000.

Applicants: Sun Valley Solar LLC.

Description: Sun Valley Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/30/22.

Accession Number: 20220830–5021.

Comment Date: 5 p.m. ET 9/20/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–17–000.

Applicants: National Grid, Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corporation d/b/a National Grid submits Filing to Comply with Condition in March 11, 2022 Order and Request for Commission Order Within 45 Days for the Smart Path Connect Project.

Filed Date: 8/23/22.

Accession Number: 20220823–5102.

Comment Date: 5 p.m. ET 9/7/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1992–003.

Applicants: Public Service Company of New Mexico.

Description: Compliance filing: PNM Compliance Filing with July 1, 2022 Order to be effective 1/27/2020.

Filed Date: 8/30/22.

Accession Number: 20220830–5099.

Comment Date: 5 p.m. ET 9/20/22.

Docket Numbers: ER20–2101–000.

Applicants: Fern Solar LLC.

Description: Amendment to July 26, 2022 Notice of Change in Status of Fern Solar LLC.

Filed Date: 8/24/22.

Accession Number: 20220824–5085.

Comment Date: 5 p.m. ET 9/14/22.

Docket Numbers: ER21–955–003.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2022–08–30 Petition for Limited Tariff Waiver to be effective N/A.

Filed Date: 8/30/22.

Accession Number: 20220830–5051.

Comment Date: 5 p.m. ET 9/20/22.

Docket Numbers: ER22–1846–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Deficiency Response—Waiver of Base Plan Allocation Methodology to be effective 8/1/2022.

Filed Date: 8/29/22.

Accession Number: 20220829–5151.

Comment Date: 5 p.m. ET 9/19/22.

Docket Numbers: ER22–2742–000.

Applicants: Rolling Hills Generating, L.L.C.

Description: Rolling Hills Generating, LLC Submits Request for Limited Waiver of Procedural Deadline.

Filed Date: 8/26/22.

Accession Number: 20220826–5226.

Comment Date: 5 p.m. ET 9/16/22.

Docket Numbers: ER22–2743–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4005 Mountrail-Williams Electric & Lower Yellowstone Int Agr to be effective 12/31/9998.

Filed Date: 8/30/22.

Accession Number: 20220830–5004.

Comment Date: 5 p.m. ET 9/20/22.

Docket Numbers: ER22–2744–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1276R28 Evergy Metro NITSA NOA to be effective 9/1/2022.

Filed Date: 8/30/22.

Accession Number: 20220830–5015.

Comment Date: 5 p.m. ET 9/20/22.

Docket Numbers: ER22–2745–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6576; Queue No. AD2–062 to be effective 8/1/2022.

Filed Date: 8/30/22.

Accession Number: 20220830–5052.

Comment Date: 5 p.m. ET 9/20/22.

Docket Numbers: ER22–2746–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2022–08–30 SPS Transmission Modification to be effective 5/19/2021.

Filed Date: 8/30/22.

Accession Number: 20220830–5058.

Comment Date: 5 p.m. ET 9/20/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–19135 Filed 9–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–29–000]

Commission Information Collection Activities (FERC–515) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–515, (Declaration of Intention).

DATES: Comments on the collection of information are due November 7, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–29–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (Including Courier) Delivery:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–515 (Declaration of Intention).

OMB Control No.: 1902–0079.

Type of Request: Three-year extension of the FERC–515 information collection requirements with no changes to the current reporting requirements.

Abstract: The purpose of FERC–515 is to implement the information collections pursuant to section 24 of the Federal Power Act (FPA). This statute authorizes the Commission to make a determination as to whether it has jurisdiction over a proposed water project pursuant to section 23(b) of the FPA. Entities intending to construct project works on certain waters must file a declaration of their intention with the Commission. The information provided in the Declaration of Intention includes a written application, containing sufficient details to allow the Commission staff to research the jurisdictional aspects of the project. Commission staff will review maps land ownership records, and other related information to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. A finding of non-jurisdictional by the Commission eliminates a substantial paperwork burden for the applicant who might otherwise have to file for a license or exemption application.

Type of Respondents: Persons intending to construct project works on certain waters.

Estimate of Annual Burden.[1] The Commission estimates the annual public reporting burden and cost [2] for the information collection as:

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[2] Commission staff considers resources completing the FERC–515 to be compensated at rates similar to FERC employees. Therefore, we are using the 2022 FERC average hourly cost (for wages and benefits for one full-time employee) of $91.00/hour (or $188,922/year).

FERC–515:—DECLARATION OF INTENTION

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours & cost ($) per response	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
6	1	6	80 hrs.; $7,280	480 hrs.; $43,680	$7,280

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 30, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–19140 Filed 9–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–1152–000.

Applicants: MarkWest Pioneer, L.L.C.

Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 10/1/2022.

Filed Date: 8/26/22.

Accession Number: 20220826–5064.

Comment Date: 5 p.m. ET 9/7/22.

Docket Numbers: RP22–1153–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Atlantic Sunrise—Chesapeake Energy Mktg to be effective 9/26/2022.

Filed Date: 8/26/22.

Accession Number: 20220826–5097.

Comment Date: 5 p.m. ET 9/7/22.

Docket Numbers: RP22–1154–000.

Applicants: Perryville Gas Storage LLC.

Description: § 4(d) Rate Filing: Perryville Gas Storage LLC Revisions to FERC Gas Tariff to be effective 9/27/2022.

Filed Date: 8/26/22.

Accession Number: 20220826–5101.

Comment Date: 5 p.m. ET 9/7/22.

Docket Numbers: RP22–1155–000.

Applicants: Northwest Pipeline LLC.

Description: Compliance filing: NWP 2022 Rate Case Stipulation and Settlement Filing to be effective N/A.

Filed Date: 8/26/22.

Accession Number: 20220826–5171.

Comment Date: 5 p.m. ET 9/7/22.

Docket Numbers: RP22–1156–000.

Applicants: Texas Eastern Transmission, LP.

Description: Compliance filing: 2022 Operational Entitlements Filing to be effective N/A.

Filed Date: 8/29/22.

Accession Number: 20220829–5049.

Comment Date: 5 p.m. ET 9/12/22.

Docket Numbers: RP22–1157–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Amended Oglethorpe 410464 to be effective 9/1/2022.

Filed Date: 8/29/22.

Accession Number: 20220829–5068.

Comment Date: 5 p.m. ET 9/12/22.

Docket Numbers: RP22–1158–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Compliance filing: Operational Purchase and Sales Report 2022 to be effective N/A.

Filed Date: 8/29/22.

Accession Number: 20220829–5075.

Comment Date: 5 p.m. ET 9/12/22.

Docket Numbers: RP22–1159–000.

Applicants: Eastern Gas Transmission and Storage, Inc.

Description: § 4(d) Rate Filing: EGTS—August 30, 2022 Negotiated Rate Agreement to be effective 9/1/2022.

Filed Date: 8/30/22.

Accession Number: 20220830–5020.

Comment Date: 5 p.m. ET 9/12/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–19136 Filed 9–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP22–501–000, PF22–6–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on August 22, 2022, Transcontinental Gas Pipe Line Company, LLC (Transco), 2800 Post Oak Boulevard, Houston, Texas 77056–6106, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for its proposed Southeast Energy Connector Project (Project). Specifically, Transco proposes to: (1) construct approximately 1.90 miles of 42-inch-diameter pipeline loop on its existing Mainline E in Chilton and Coosa Counties, Alabama; (2) remove existing pig traps at Mileposts 909.63 and 911.53 on its Mainline E; and (3) install an additional 11,110 ISO-rated horsepower gas-fired, turbine-driven compressor unit and modify three existing compressor units at its Compressor Station 105 in Coosa County, Alabama. Transco states that

the Project will provide an additional 150,000 dekatherms per day of firm transportation service to Ernest C. Gaston Electric Generating Plant in Shelby County, Alabama. Transco estimates the cost of the Project to be $154,907,369, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Andre Pereira, Regulatory Analyst, Lead, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396, by telephone at (713) 215–4362 or by email at *Andre.S.Pereira@Williams.com.*

On April 18, 2022, the Commission granted the Applicant's request to utilize the National Environmental Policy Act Pre-Filing Process and assigned Docket No. PF22–6–000 to staff activities involved in the Project. Now, as of the filing of the August 22, 2022 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP22–501–000 as noted in the caption of this Notice.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

[1] 18 CFR (Code of Federal Regulations) 157.9.

Public Participation

There are two ways to become involved in the Commission's review of this project: you can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on September 20, 2022.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before September 20, 2022.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP22–501–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You may file a paper copy of your comments by mailing them to the following address below.[2] Your written comments must reference the Project docket number (CP22–501–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[3] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[4] and the regulations under the NGA[5] by the intervention deadline for the project, which is September 20, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

[2] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[3] 18 CFR 385.102(d).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP22–501–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[6] Your motion to intervene must reference the Project docket number CP22–501–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email at: Andre Pereira, Regulatory Analyst, Lead, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396 or by email at *Andre.S.Pereira@Williams.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed[7] motions to intervene are automatically granted by operation of Rule 214(c)(1).[8] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[9] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the projects will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on September 20, 2022.

Dated: August 30, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–19139 Filed 9–2–22; 8:45 am]

BILLING CODE 6717–01–P

[6] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[7] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[8] 18 CFR 385.214(c)(1).

[9] 18 CFR 385.214(b)(3) and (d).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0725; FRL–9403–02–OCSPP]

Colour Index Pigment Violet 29 (PV29); Revision to the Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final revision to the risk determination for the Colour Index Pigment Violet 29 (PV29) risk evaluation issued under the Toxic Substances Control Act (TSCA). The revision to the PV29 risk determination reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. EPA determined that PV29, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. In addition, this revised risk determination does not reflect an assumption that workers always appropriately wear personal protective equipment (PPE). EPA understands that there could be occupational safety protections in place at workplace locations; however, not assuming use of PPE reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by Occupational Safety and Health Administration (OSHA) standards, or their employers are out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' or because OSHA has not issued a chemical-specific permissible exposure limit (PEL) (as is the case for PV29), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements. This revision supersedes the condition of use-specific no unreasonable risk determinations in the January 2021 PV29 Risk Evaluation and withdraws the associated TSCA order included in the January 2021 PV29 Risk Evaluation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0725, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Dyllan Taylor, Office of Pollution Prevention and Toxics (7404T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–2913; email address: *taylor.dyllan@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422

South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@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 those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of PV29, including PV29 in products. Since other entities may also be interested in this revision to the risk determination, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA's authority for taking this action?

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation (PESS) identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983).

C. What action is EPA taking?

EPA is announcing the availability of the final revision to the risk determination for the PV29 risk evaluation issued under TSCA that published in January 2021. In March 2022, EPA sought public comment on the draft revisions (87 FR 12690, March 7, 2022). EPA appreciates the public comments received on the draft revision to the PV29 risk determination. After review of these comments and consideration of the specific circumstances of PV29, EPA concludes that the Agency's risk determination for PV29 is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations. Accordingly, EPA is revising and replacing section 5 of the January 2021 PV29 Risk Evaluation (Ref. 1) where the findings of unreasonable risk to health and the environment were previously made for the individual conditions of use evaluated. EPA is also withdrawing the previously issued TSCA section 6(i)(l) order for four conditions of use previously determined not to present unreasonable risk which was included in section 5.4.1 of the January 2021 PV29 Risk Evaluation (Ref. 1).

This final revision to the PV29 risk determination is consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. The ten conditions of use identified in the January 2021 PV29 Risk Evaluation (Ref. 1) as presenting unreasonable risk still drive the unreasonable risk determination for PV29. Removing the assumption that workers always and appropriately wear PPE (see unit II.C) does not alter the conditions of use or worker subpopulations driving the unreasonable risk determination for PV29. Four out of 14 conditions of use do not drive the unreasonable risk determination for PV29, and those conditions of use have been identified in the final revised unreasonable risk determination. However, EPA is not making condition-of-use-specific risk determinations for those conditions of use, and for purposes of TSCA section 6(i), EPA is not issuing a final order under TSCA section 6(i)(1) and does not consider the revised risk determination to constitute a final agency action at this point in time. Overall, ten conditions of use drive the PV29 whole chemical unreasonable risk determination due to risks identified for human health. The full list of the conditions of use evaluated for the PV29 TSCA risk evaluation is in table 1–3 of the 2021 PV29 Risk Evaluation (Ref. 1) available here: *https://www.epa.gov/sites/default/files/2021-01/documents/1_final_risk_evaluation_for_c.i._pigment_violet_29.pdf.*

II. Background

A. Why is EPA re-issuing the risk determination for the PV29 risk evaluation conducted under TSCA?

In accordance with Executive Order 13990 (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 2, 3, 4, and 5), EPA reviewed the risk evaluations for the first ten chemical substances, including PV29, to ensure that they meet the requirements of TSCA, including conducting decision-making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment (available here: *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations*). Following a review of specific aspects of the January 2021 PV29 Risk Evaluation (Ref. 1) and after considering comments received on a

draft revised risk determination for PV29, EPA has determined that making an unreasonable risk determination for PV29 as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach for PV29 under the statute and implementing regulations. In addition, EPA's final risk determination is explicit insofar as it does not rely on assumptions regarding the use of PPE in making the unreasonable risk determination under TSCA section 6, even though some facilities might be using PPE as one means to reduce worker exposures; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

This action pertains only to the risk determination for PV29. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing these risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines.

B. What is a whole chemical view of the unreasonable risk determination for the PV29 risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations.

As explained in the **Federal Register** document announcing the availability of the draft revised risk determination for PV29 (87 FR 12690, March 7, 2022), the proposed Risk Evaluation Procedural Rule (Ref. 6) was premised on the whole chemical approach to making unreasonable risk determinations. In that proposed rule, EPA acknowledged a lack of specificity in statutory text that might lead to different views about whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities), but also stated that ''EPA believes the word 'the' [in TSCA section 6(b)(4)(A)] is best interpreted as calling for evaluation that considers all conditions of use.'' The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. See Ref. 6 at 7565–66 (''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In proposed regulatory text, EPA proposed to determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use. (Ref. 6 at 7480).

The final Risk Evaluation Procedural Rule stated (82 FR 33726, July 20, 2017 (FRL–9964–38)) (Ref. 7): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated as part of each risk evaluation document (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final Risk Evaluation Rule which stated that EPA will make individual risk determinations for all conditions of use identified in the scope. (Ref. 7 at 33744).

In contrast to this portion of the preamble of the final Risk Evaluation Rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted previously from 40 CFR 702.47, the text explains that, ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which explains that the extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk. Notwithstanding the one preambular statement about condition-of-use-specific risk determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk.'' (Ref. 7 at 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA,* 943 F.3d 397, 413 (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear'').

EPA plans to consider the appropriate approach for each chemical substance

risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of PV29, EPA has determined that a whole chemical approach is appropriate for PV29 in order to protect health and the environment. The whole chemical approach is appropriate for PV29 because there are benchmark exceedances for substantial number of conditions of use (spanning across most aspects of the chemical lifecycle—from manufacturing (including import), processing, industrial and commercial use, and disposal) for health of workers and occupational non-users and severe health effects (specifically alveolar hyperplasia) associated with PV29 exposures. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial amount of the conditions of use drive the unreasonable risk; therefore, it is appropriate for the Agency to make a determination for PV29 that the whole chemical presents an unreasonable risk.

As explained later in this document, the revisions to the unreasonable risk determination (section 5 of the 2021 PV29 Risk Evaluation (Ref. 1)) follow the issuance of a draft revision to the TSCA PV29 unreasonable risk determination (87 FR 12690, March 07, 2022) and the receipt of public comment. A response to comments document is also being issued with the final revised unreasonable risk determination for PV29. The revisions to the unreasonable risk determination are based on the existing risk characterization section of the 2021 PV29 Risk Evaluation (Ref. 1) (section 4) and do not involve additional technical or scientific analysis. The discussion of the issues in this **Federal Register** document and in the accompanying final revised risk determination for PV29 supersede any conflicting statements in the January 2021 PV29 Risk Evaluation (Ref. 1) and the earlier response to comments document (Ref. 8). EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

For purposes of TSCA section 6(i), EPA is making a risk determination on PV29 as a whole chemical. Under the revised approach, the ''whole chemical'' risk determination for PV29 supersedes the no unreasonable risk determinations for PV29 that were premised on a condition-of-use-specific approach to determining unreasonable risk and also contains an order withdrawing the TSCA section 6(i)(1) order in section 5.4.1 of the January 2021 PV29 Risk Evaluation (Ref. 1).

C. What revision is EPA now making final about the use of PPE for the PV29 risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or used impervious gloves for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* OSHA requirements for protection of workers).

For the January 2021 PV29 Risk Evaluation (Ref. 1), EPA assumed, based on information provided by the manufacturer of PV29, that workers use PPE—specifically, respirators with an APF ranging from 10 to 25—for eight conditions of use. In the January 2021 PV29 Risk Evaluation (Ref. 1), however, EPA determined that there is unreasonable risk to these workers even with this assumed PPE use.

EPA is revising the assumption for PV29 that workers always or properly use PPE, although it does not question the public comments received regarding the occupational safety practices often followed by industry respondents. When characterizing the risk to human health from occupational exposures during risk evaluation under TSCA, EPA believes it is appropriate to evaluate the levels of risk present in baseline scenarios where PPE is not assumed to be used by workers. This approach of not assuming PPE use by workers considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards) as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. Consistent with this approach, the January 2021 PV29 Risk Evaluation (Ref. 1) characterized risk to workers both with and without the use of PPE. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified, or to ensure that applicable OSHA requirements or industry or sector best practices that address the unreasonable risk are required for all potentially exposed and susceptible subpopulations (including self-employed individuals and public sector workers who are not covered by an OSHA State Plan).

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice related to PPE use is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination.

Therefore, EPA is making a determination of unreasonable risk for PV29 from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that

unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because their employer is out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' (Ref. 9), or because OSHA has not issued a permissible exposure limit (PEL) (as is the case for PV29), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA is finalizing the revision to the PV29 risk determination without relying on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, information on the use of PPE as a means of mitigating risk (including public comments received from industry respondents about occupational safety practices in use) will be considered during the risk management phase, as appropriate. This represents a change from the approach taken in the 2021 PV29 Risk Evaluation (Ref. 1). As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, to the extent that applying those measures would address the identified unreasonable risk, including unreasonable risk to potentially exposed or susceptible subpopulations. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

By removing the assumption of PPE use in making the whole chemical risk determination for PV29, there are no additional conditions of use or worker subpopulations that drive the unreasonable risk determination. The same ten conditions of use continue to drive EPA's unreasonable risk determination for PV29 as a whole chemical. The finalized revision to the PV29 risk determination clarifies that EPA does not rely on the assumed use of PPE when making the risk determination for the whole substance.

D. What is PV29?

PV29 is a high color strength, weather fast and heat stable pigment used in various industrial, commercial, and consumer applications. Domestic manufacture of PV29 is conducted by a sole manufacturer. Imported PV29 pigment, without being processed into a different product, makes up a very small market share of the PV29 supply chain. Leading applications for PV29 include use as an intermediate to create or adjust color of other perylene pigments, incorporation into paints and coatings used in the automobile industry, incorporation into plastic and rubber products used in automobiles and industrial carpeting, use in merchant ink for commercial printing, and use in consumer watercolors and acrylic artist paint.

E. What conclusions is EPA finalizing today in the revised TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that PV29 presents an unreasonable risk to health under the conditions of use. EPA's unreasonable risk determination for PV29 is driven by risks associated with the following conditions of use, considered singularly or in combination with other exposures:

- Manufacturing—Domestic manufacture;
- Manufacturing—Import;
- Processing: Incorporation into formulation, mixture, or reaction products in paints and coatings;
- Processing: Incorporation into formulation, mixture, or reaction products in plastic and rubber products;
- Processing: Intermediate in the creation or adjustment of color of other perylene pigments;
- Processing: Recycling;
- Industrial/commercial use in paints and coatings for automotive (OEM and refinishing);
- Industrial/commercial use in paints and coatings for coatings and basecoats;
- Industrial/commercial use in merchant ink for commercial printing; and
- Disposal.

The following conditions of use do not drive EPA's unreasonable risk determination for PV29:

- Distribution in commerce;
- Industrial/commercial use in plastic and rubber products—automobile plastics;
- Industrial/commercial use in plastic and rubber products—industrial carpeting; and
- Consumer use in professional quality watercolor and acrylic artist paint.

EPA is not making condition of use-specific risk determinations for these conditions of use, is not issuing a final order under TSCA section 6(i)(1) for these conditions of use, and does not consider the revised risk determination for PV29 to constitute a final agency action at this point in time.

Consistent with the statutory requirements of TSCA section 6(a), EPA will propose risk management regulatory action to the extent necessary so that PV29 no longer presents an unreasonable risk. EPA expects to focus its risk management action on the conditions of use that drive the unreasonable risk. However, it should be noted that, under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management requirements in section 6(a) related to manufacture (including import), processing, distribution in commerce, commercial use, and disposal as part of its regulatory options to address the unreasonable risk. As a general example, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) to address downstream activities (*e.g.,* consumer uses) driving unreasonable risk, even if the upstream activities do not drive the unreasonable risk.

III. Summary of Public Comments

EPA received a total of 14 public comments on the March 7, 2022, draft revised risk determination for PV29 during the comment period that ended April 21, 2022. Commenters included trade organizations, industry stakeholders, environmental groups, and non-governmental and health advocacy organizations. A separate document that summarizes all comments submitted and EPA's responses to those comments has been prepared and is available in the docket for this notice (Ref. 10).

IV. Revision of the January 2021 PV29 Risk Evaluation

A. Why is EPA revising the risk determination for the PV29 risk evaluation?

EPA is finalizing the revised risk determination for the PV29 risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990 (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 2, 3, 4, and 5). EPA is revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the PV29 risk evaluation, this includes: (1) making the risk determination in this instance based on the whole chemical substance instead of by individual conditions of use and (2) emphasizing that EPA does not rely on the assumed use of PPE when making the risk determination.

B. What are the revisions?

EPA is now finalizing the revised risk determination for the 2021 PV29 Risk Evaluation (Ref. 1) pursuant to TSCA section 6(b). Under the revised determination, EPA concludes that PV29, as evaluated in the risk evaluation as a whole, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This revision replaces the previous unreasonable risk determinations made for PV29 by individual conditions of use, supersedes the determinations (and withdraws the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order, and clarifies the lack of reliance on assumed use of PPE as part of the risk determination.

These revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not changed, except to statements about PPE assumptions in section 2.3.1.4 (Consideration of Engineering Controls and PPE), paragraph four, and section 4.2.3 (table 4–5, Assumed PPE Protection Considered for Risk Determination by COU, and introductory text). The discussion of the issues in this *Notice* and in the accompanying final revision to the risk determination supersede any conflicting statements in the prior executive summary, and section 2.3.1.4 and section 4.2.3 (table 4–5) from the January 2021 PV29 Risk Evaluation (Ref. 1) and the response to comments document (Ref. 8).

The revised unreasonable risk determination for PV29 includes additional explanation of how the risk evaluation characterizes the applicable OSHA requirements, or industry or sector best practices, and also clarifies that no additional analysis was done, and the risk determination is based on the risk characterization (section 4) of the 2021 PV29 Risk Evaluation (Ref. 1).

C. Will the revised risk determination be peer reviewed?

The risk determination (section 5 of the 2021 PV29 Risk Evaluation (Ref. 1)) was not part of the scope of the Science Advisory Committee on Chemicals (SACC) peer review of the PV29 risk evaluation. Thus, consistent with that approach, EPA did not conduct peer review of the final revised unreasonable risk determination for the PV29 risk evaluation because no technical or scientific changes were made to the hazard or exposure assessments or the risk characterization.

V. Order Withdrawing Previous Order Regarding Unreasonable Risk Determinations for Certain Conditions of Use

EPA is also issuing a new order to withdraw the TSCA section 6(i)(1) no unreasonable risk order issued in section 5.4.1 of the 2021 PV29 Risk Evaluation (Ref. 1). This final revised risk determination supersedes the condition of use-specific no unreasonable risk determinations in the January 2021 PV29 Risk Evaluation (Ref. 1). The order contained in section 5.5 of the revised risk determination (Ref. 11) withdraws the TSCA section 6(i)(1) order contained in section 5.4.1 of the January 2021 PV29 Risk Evaluation (Ref. 1). Consistent with the statutory requirements of section 6(a), the Agency will propose risk management action to address the unreasonable risk determined in the PV29 risk evaluation.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Risk Evaluation for C.I. Pigment Violet 29. EPA Document #740–R–18–015. January 2021. *https://www.epa.gov/sites/default/files/2021-01/documents/1_final_risk_evaluation_for_c.i._pigment_violet_29.pdf.*
2. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register** (86 FR 7037, of January 25, 2021).
3. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register** (86 FR 7009, January 25, 2021).
4. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register** (86 FR 7619, February 1, 2021).
5. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register** (86 FR 8845, February 10, 2021).
6. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 7562, January 19, 2017) (FRL–9957–75).
7. EPA. Final Rule Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 33726, 33744, July 20, 2017).
8. EPA. Summary of External Peer Review and Public Comments and Disposition for Colour Index Pigment Violet 29 (PV29). January 2021. Available at: *https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0604-0126.*
9. Occupational Safety and Health Administration. Permissible Exposure Limits—Annotated Tables. Accessed June 13, 2022. *https://www.osha.gov/annotated-pels.*
10. EPA. Response to Public Comments to the Revised Unreasonable Risk Determination; Colour Index Pigment Violet 29 (PV29). July 2022.
11. EPA. Unreasonable Risk Determination for Colour Index Pigment Violet 29 (PV29). July 2022.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: August 30, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–19093 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9887–01–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Land and Emergency Management (OLEM), Environmental Protection Agency (EPA).

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Land and Emergency Management (OLEM) is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974. The Office of Land and Emergency Management, Customer Relationship Management System (OLEM CRM) is being created to support work under the Bipartisan Infrastructure Law (BIL), Save Our Seas 2.0 (SOS 2.0), and the Resource Conservation and Recovery Act (RCRA). The OLEM CRM will track and manage stakeholder engagement, stakeholder commitments, EPA commitments, and external communications with stakeholders related to the implementation of OLEM's initiatives.

DATES: Persons wishing to comment on this system of records notice must do so by October 6, 2022. Routine uses for this new system of records will be effective October 6, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2022–0451, by one of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: (202) 566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OLEM–2022–0451. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for the EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752. Further information about EPA Docket Center services and current operating status is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Ron Vance, OLEM CRM System Manager. Email address: *vance.ronald@epa.gov.* Phone: 202–566–0295. Address: Resource Conservation and Sustainability Division, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW, MC 5306T, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The Bipartisan Infrastructure Law (BIL), Save Our Seas 2.0 (SOS 2.0), and the Resource Conservation and Recovery Act (RCRA) direct EPA to design and implement waste reduction strategies, grant programs, stakeholder education and outreach, and implementation of OLEM initiatives. EPA is creating the OLEM CRM to facilitate stakeholder engagement, track commitments from stakeholders, monitor EPA's commitments, and manage communications with stakeholders related to this work. The OLEM CRM will achieve the following critical objectives:

- Maintain a list of stakeholder organizations and contacts,
- Manage stakeholder education and outreach, engagement events, and communications,
- Maintain and document communication with stakeholders, and
- Manage Strategy Implementation Plan actions and commitments.

SYSTEM NAME AND NUMBER:

Office of Land and Emergency Management, Customer Relationship Management System (OLEM CRM), EPA–96.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by the Office of Mission Support, U.S. Environmental Protection Agency, 1301 Constitution Ave. NW, Washington, DC 20460. OLEM CRM records are hosted by AWS GovCloud (US).

SYSTEM MANAGER(S):

Ron Vance, OLEM CRM System Manager. Email address: *vance.ronald@epa.gov.* Phone: 202–566–0295. Address: Resource Conservation and Sustainability Division, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW, MC 5306T, Washington, DC 20460.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Bipartisan Infrastructure Law (BIL) 42 U.S.C. 6966d, Save Our Seas 2.0 (SOS2.0) 33 U.S.C. 4281, and the Resource Conservation and Recovery Act (RCRA) 42 U.S.C 6902.

PURPOSE(S) OF THE SYSTEM:

EPA will use the OLEM CRM to track correspondence and engagement of external stakeholders. EPA will also use the OLEM CRM to track stakeholder commitments and actions. OLEM has staff in EPA headquarters and regional offices managing multiple engagement initiatives and interacting with thousands of outside organizations. The OLEM CRM is essential in helping to organize and coordinate efforts among EPA program staff.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The OLEM CRM will contain information on all organizations participating in OLEM initiatives. Categories of individuals on whom records are maintained in the system include those that serve as contacts for or representatives of organizations participating in these initiatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes organization name, address, phone number, website, and social media handles; individual information for organizational contacts including name, title, address, email, and phone number; correspondence history between EPA and the organization; organization's participation history in OLEM initiatives; and documents associated with correspondence or participation.

RECORD SOURCE CATEGORIES:

Information contained in the OLEM CRM will be submitted to EPA from the participating organizations via direct data entry into the OLEM CRM, email, or phone.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (86 FR 62527): D, E, G, H, K, L and M.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

OLEM CRM records are maintained electronically by EPA on electronic storage devices by the Office of Mission Support, U.S. Environmental Protection Agency, 1301 Constitution Ave. NW, Washington, DC 20460.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in the OLEM CRM is retrieved by organization name, however, information is also retrievable by searching the point of contact name for each organization.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The record schedule for the OLEM CRM is 0090 which is Administrative Support Databases. For disposition instructions the OLEM CRM follows record schedule 1012 e, which states that records should be closed when superseded, updated, replaced or no longer needed for current agency business. The disposition instructions are to destroy the records one year after file closure.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal data in the OLEM CRM are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800–53, ''Security and Privacy Controls for Information Systems and Organizations,'' Revision 5.

1. Administrative Safeguards: All individuals accessing the system are required to complete annual privacy and security trainings. In addition, all users will be trained on the appropriate use of the system and system information.

2. Technical Safeguards: There are limited access rights for EPA program staff and contractors. Each user will ensure that the information is being properly used. System administrators will grant users specific access levels. All users of the system are given a unique user identification (ID) with personal identifiers, and all interactions between the system and the authorized individual users are logged. Activity logs are maintained and can be used to track misuse of information.

3. Physical Safeguards: All records are maintained in secure, access-controlled areas or buildings.

RECORD ACCESS PROCEDURES:

All requests for access to personal records should cite the Privacy Act of 1974 and reference the type of request being made (*i.e.,* access). Requests must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a statement whether a personal inspection of the records or a copy of them by mail is desired; and (4) proof of identity. A full description of EPA's Privacy Act procedures for requesting access to records is included in EPA's Privacy Act regulations at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a description of the information sought to be corrected or amended and the specific reasons for the correction or amendment; and (4) proof of identity. A full description of EPA's Privacy Act procedures for the correction or amendment of a record is included in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURES:

Individuals who wish to be informed whether a Privacy Act system of records maintained by EPA contains any record pertaining to them should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or by email at: *privacy@epa.gov.* A full description of EPA's Privacy Act procedures is included in EPA's Privacy Act regulations at 40 CFR part 16.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2022–19183 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2022–0418; FRL–9860–03–R10]

Proposed Determination To Prohibit and Restrict the Use of Certain Waters Within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska; Announcement To Extend the Period To Evaluate Public Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to extend the period to evaluate public comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 is extending the time requirement to allow the EPA Region 10 Regional Administrator to consider all public comments received on its 2022 Proposed Determination to Prohibit and Restrict the Use of Certain Waters within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska, issued pursuant to the Clean Water Act (CWA).

SUPPLEMENTARY INFORMATION: On May 26, 2022, the Environmental Protection Agency (EPA) Region 10 published in the **Federal Register** a notice of availability and notice of public hearings for the 2022 Proposed Determination to Prohibit and Restrict the Use of Certain Waters Within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska issued pursuant to Section 404(c) of the Clean

Water Act (CWA) (87 FR 32021). On June 16 and 17, 2022, the EPA Region 10 held three public hearings. Of the 186 individuals that attended the public hearings 111 provided testimony. On June 30, 2022, the EPA published in the **Federal Register** a Notice of extension of public comment period and public hearing comment period through September 6, 2022 (87 FR 39091). As of August 24, 2022, the EPA Region 10 had received 35,011 comments and expects to receive additional comments through the end of the public comment period.

EPA's regulations require that, within 30 days after the conclusion of public hearings (but not before the end of the comment period), the Regional Administrator either withdraw the 2022 Proposed Determination or prepare a Recommended Determination (40 CFR 231.5(a)). The Regional Administrator may, upon a showing of good cause, extend this time requirement (40 CFR 231.8). At the time the public comment period closes, more than 30 days will have passed since the date of the last public hearing. Accordingly, the EPA finds there is good cause to extend the time period provided in 40 CFR 231.5(a) to either withdraw the 2022 Proposed Determination or to prepare a Recommended Determination until no later than December 2, 2022, to help ensure full consideration of the extensive administrative record including all public comments.

FOR FURTHER INFORMATION CONTACT: Visit *www.epa.gov/bristolbay* or contact Erin Seyfried through the Bristol Bay-specific phone line, (206) 553–0040, or email address, *r10bristolbay@epa.gov.*

Dated: August 29, 2022.

Casey Sixkiller,

Regional Administrator, Region 10.

[FR Doc. 2022–19132 Filed 9–2–22; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Intent To Conduct a Detailed Economic Impact Analysis

AGENCY: Export-Import Bank.

ACTION: Notice.

SUMMARY: Pursuant to the Charter of the Export-Import Bank of the United States, this notice is to inform the public that the Export-Import Bank of the United States has received an application for a $49.06 million long-term loan (or loan guarantee) to support the export of approximately $36.34 million worth of U.S. engineering services and refining equipment. The U.S. goods and services will be exported to Indonesia and expand production capacity of refined petroleum. Added capacity from the project is anticipated to produce an additional 100.4 thousand barrels per day of gasoline and 225 thousand metric tons per year of propylene. Produced gasoline and propylene are anticipated to be consumed in Indonesia.

DATES: Comments are due 14 days from publication in the **Federal Register**.

ADDRESSES: Interested parties may submit comments on this transaction electronically on *www.regulations.gov,* or by email to *economic.impact@exim.gov*.

Eric Larger,

Office of Policy Analysis and International Relations.

[FR Doc. 2022–19164 Filed 9–2–22; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 103359]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces a new computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Missouri Department of Social Services. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline, and the Affordable Connectivity Program (ACP), both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before October 6, 2022. This computer matching program will commence on October 6, 2022, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Elliot S. Tarloff, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Elliot S. Tarloff at 202–418–0886 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

In the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, 2129–36 (2020), Congress created the Emergency Broadband Benefit Program (EBBP), and directed use of the National Verifier to determine eligibility based on various criteria, including the qualifications for Lifeline (Medicaid, SNAP, etc.). EBBP provided $3.2 billion in monthly consumer discounts for broadband service and one-time provider reimbursement for a connected device (laptop, desktop computer, or tablet). In the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52), Congress modified and extended EBBP, provided an additional $14.2 billion, and renamed it the Affordable Connectivity Program (ACP). A household may qualify for the ACP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016 (81 FR 33026, May 24, 2016) (*2016 Lifeline Modernization Order*), the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for ACP. The purpose of this matching program is to verify the eligibility of Lifeline and ACP applicants and subscribers by determining whether they receive SNAP and Medicaid benefits administered by

the Missouri Department of Social Services.

Participating Agencies

Missouri Department of Social Services.

Authority for Conducting the Matching Program

The authority for the FCC's ACP is Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52); 47 CFR part 54. The authority for the FCC's Lifeline program is 47 U.S.C. 254; 47 CFR 54.400 through 54.423; Lifeline and Link Up Reform and Modernization, *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

The purpose of this modified matching agreement is to verify the eligibility of applicants and subscribers to Lifeline, as well as to ACP and other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement will permit eligibility verification for the Lifeline program and ACP by checking an applicant's/subscriber's participation in SNAP and Medicaid in Missouri. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for ACP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or ACP benefits; are currently receiving Lifeline and/or ACP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or ACP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or ACP benefits; or are individuals who have received Lifeline and/or ACP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, and first and last name. The National Verifier will transfer these data elements to the Missouri Department of Social Services, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: SNAP and Medicaid administered by the Missouri Department of Social Services.

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the ACP system of records, FCC/WCB–3, Affordable Connectivity Program, which was published in the **Federal Register** at 86 FR 71494 (Dec. 16, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–19305 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1303; FR ID 102387]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 7, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–1303.

Title: Advanced Methods to Target and Eliminate Unlawful Robocalls, Sixth Report and Order, CG Docket No. 17–59, Authentication Trust Anchor, Fifth Report and Order, WC Docket No. 17–97, FCC 22–37.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 6,493 respondents; 311,664 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: On-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, 217, 227, 227b, 251(e), 303(r), 403.

Total Annual Burden: 77,916 hours.

Total Annual Cost: No cost.

Needs and Uses: This notice and request for comments seeks to extend the information collection requirements as it pertains to the Advanced Methods to Target and Eliminate Unlawful Robocalls Sixth Report and Order and Call Authentication Trust Anchor Fifth Report and Order (''Gateway Provider Report and Order''). Unwanted and illegal robocalls have long been the Federal Communication Commission's (''Commission'') top source of consumer complaints and one of the Commission's top consumer protection priorities. Foreign-originated robocalls represent a significant portion of illegal robocalls, and gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers. In the Gateway Provider Report and Order, the Commission took steps to prevent these foreign-originated

illegal robocalls from reaching consumers and to help track these calls back to the source. Along with further extension of the Commission's caller ID authentication requirements and Robocall Mitigation Database filing requirements, the Commission adopted several robocall mitigation requirements, including a requirement for gateway providers to respond to traceback within 24 hours, mandatory blocking requirements, a ''know your upstream provider'' requirement, and a general mitigation requirement.

Gateway Provider Report and Order, FCC 22–37, Paras. 65–71, 47 CFR 64.1200(n)(1)

A voice service provider must: . . . Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium:

(i) If the provider is an originating, terminating, or non-gateway intermediate provider for all calls specified in the traceback request, the provider must respond fully and in a timely manner;

(ii) If the provider receiving a traceback request is the gateway provider for any calls specified in the traceback request, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8:00 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3:00 p.m. on a Friday will be due at 3:00 p.m. on the following Monday, assuming that Monday is not a federal legal holiday. For purposes of this rule, ''business day'' is defined as Monday through Friday, excluding federal legal holidays, and ''business hours'' is defined as 8:00 a.m. to 5:30 p.m. on a business day. For purposes of this rule, all times are local time for the office that is required to respond to the request.

The first portion of the information collection for which OMB approval is sought comes from the requirement adopted in the Gateway Provider Report and Order that all voice service providers respond to traceback ''fully and in in a timely manner'' and gateway providers must respond within 24 hours. All voice service providers, including gateway providers are required to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Industry Traceback Consortium. Traceback is a key enforcement tool in the fight against illegal calls, allowing the Commission or law enforcement to identify the caller and bring enforcement actions or otherwise stop future calls before they reach consumers. Any unnecessary delay in the process can increase the risk that this essential information may become impossible to obtain. While traceback is not a new process, some providers have historically been reluctant to respond, or have simply ignored requests. This requirement ensures that all providers are on notice that a response is required, and allows real consequences for refusal.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2022–19096 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1285; FR ID 102882]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before October 6, 2022.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1285.

Title: Compliance with the Non-IP Call Authentication Solution Rules; Robocall Mitigation Database (RMD).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 8,970 respondents; 8,970 responses.

Estimated Time per Response: 0.5 hours (30 minutes)–3 hours.

Frequency of Response: Recordkeeping requirement and on occasion reporting requirement.

Obligation to Respond: Mandatory and required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 227b, 251(e), and 227(e) of the Communications Act of 1934.

Total Annual Burden: 20,503 hours.

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will consider the potential confidentiality of any information submitted, particularly where public release of such information could raise security concerns (*e.g.,* granular location information). Respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act directs the Commission to require, no later than 18 months from enactment, all voice service providers to implement STIR/SHAKEN caller ID authentication technology in the internet protocol (IP) portions of their networks and implement an effective caller ID authentication framework in the non-IP portions of their networks. Among other provisions, the TRACED Act also directs the Commission to create extension mechanisms for voice service providers. On September 29, 2020, the Commission adopted its *Call Authentication Trust Anchor Second Report and Order. See Call Authentication Trust Anchor,* WC Docket No. 17–97, Second Report and Order, 36 FCC Rcd 1859 (adopted Sept. 29, 2020). The *Second Report and Order* implemented section 4(b)(1)(B) of the TRACED Act, in part, by requiring a voice service provider maintain and be ready to provide the Commission upon request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution. The *Second Report and Order* also implemented the extension mechanisms in section 4(b)(5) by, in part, requiring voice service providers to certify that they have either implemented STIR/SHAKEN or a robocall mitigation program in the Robocall Mitigation Database. On May 19, 2022, the Commission adopted similar obligations for gateway providers. *See Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor,* CG Docket No. 17–59, WC Docket No. 17–97, Sixth Report and Order et al., FCC 22–37 (adopted May 19, 2022). Specifically, like voice service providers, gateway providers were required to maintain and be ready to provide the Commission upon request with documented proof that they are participating, either on their own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution. Gateway providers were also required to implement both STIR/SHAKEN on the IP portions of their networks as well as a robocall mitigation program. They must also certify to their implementation and file a robocall mitigation plan in the Robocall Mitigation Database.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2022–19097 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 103360]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces a new computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the North Carolina Department of Health and Human Services. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline, and the Affordable Connectivity Program (ACP), both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before October 6, 2022. This computer matching program will commence on October 6, 2022, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Elliot S. Tarloff, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Elliot S. Tarloff at 202–418–0886 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

In the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, 2129–36 (2020), Congress created the Emergency Broadband Benefit Program (EBBP), and directed use of the National Verifier to determine eligibility based on various criteria, including the qualifications for Lifeline (Medicaid, SNAP, etc.). EBBP provided $3.2 billion in monthly consumer discounts for broadband service and one-time provider reimbursement for a connected device (laptop, desktop computer, or tablet). In the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52), Congress modified and extended EBBP, provided an additional $14.2 billion, and renamed it the Affordable Connectivity Program (ACP). A household may qualify for the ACP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016 (81 FR 33026, May 24, 2016) (*2016 Lifeline Modernization Order*), the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for ACP. The purpose of this matching program is to verify the eligibility of Lifeline and ACP applicants and subscribers by determining whether they receive SNAP benefits administered by the North Carolina Department of Health and Human Services.

Participating Agencies

North Carolina Department of Health and Human Services.

Authority for Conducting the Matching Program

The authority for the FCC's ACP is Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52); 47 CFR part 54. The authority for the FCC's Lifeline program is 47 U.S.C. 254; 47 CFR 54.400 through 54.423; Lifeline and Link Up Reform and Modernization, *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

The purpose of this modified matching agreement is to verify the eligibility of applicants and subscribers to Lifeline, as well as to ACP and other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement will permit eligibility verification for the Lifeline program and ACP by checking an applicant's/subscriber's participation in SNAP in North Carolina. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for ACP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or ACP benefits; are currently receiving Lifeline and/or ACP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or ACP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or ACP benefits; or are individuals who have received Lifeline and/or ACP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, and first and last name. The National Verifier will transfer these data elements to the North Carolina Department of Health and Human Services, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: SNAP administered by the North Carolina Department of Health and Human Services.

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the ACP system of records, FCC/WCB–3, Affordable Connectivity Program, which was published in the **Federal Register** at 86 FR 71494 (Dec. 16, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–19306 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 103366]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces a new computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Tennessee Department of Human Services. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline, and the Affordable Connectivity Program (ACP), both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before October 6, 2022. This computer matching program will commence on October 6, 2022, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Elliot S. Tarloff, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Elliot S. Tarloff at 202–418–0886 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

In the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, 2129–36 (2020), Congress created the Emergency Broadband Benefit Program (EBBP), and directed use of the National Verifier to determine eligibility based on various criteria, including the qualifications for Lifeline (Medicaid, SNAP, etc.). EBBP provided $3.2 billion in monthly consumer discounts for broadband service and one-time provider reimbursement for a connected device (laptop, desktop computer, or tablet). In the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52), Congress modified and extended EBBP, provided an additional $14.2 billion, and renamed it the Affordable Connectivity Program (ACP). A household may qualify for the ACP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016 (81 FR 33026, May 24, 2016) (*2016 Lifeline Modernization Order*), the Commission ordered USAC

to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for ACP. The purpose of this matching program is to verify the eligibility of Lifeline and ACP applicants and subscribers by determining whether they receive SNAP benefits administered by the Tennessee Department of Human Services.

Participating Agencies

Tennessee Department of Human Services.

Authority for Conducting the Matching Program

The authority for the FCC's ACP is Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52); 47 CFR part 54. The authority for the FCC's Lifeline program is 47 U.S.C. 254; 47 CFR 54.400 through 54.423; Lifeline and Link Up Reform and Modernization, *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

The purpose of this modified matching agreement is to verify the eligibility of applicants and subscribers to Lifeline, as well as to ACP and other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement will permit eligibility verification for the Lifeline program and ACP by checking an applicant's/subscriber's participation in SNAP in Tennessee. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for ACP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or ACP benefits; are currently receiving Lifeline and/or ACP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or ACP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or ACP benefits; or are individuals who have received Lifeline and/or ACP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, and first and last name. The National Verifier will transfer these data elements to the Tennessee Department of Human Services, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: SNAP administered by the Tennessee Department of Human Services.

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the ACP system of records, FCC/WCB–3, Affordable Connectivity Program, which was published in the **Federal Register** at 86 FR 71494 (Dec. 16, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–19307 Filed 9–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receivership

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for the institution listed below intends to terminate its receivership for said institution.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIP

Fund	Receivership name	City	State	Date of appointment of receiver
10531	THE ENLOE STATE BANK	COOPER	TX	05/31/2019

The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Section, 600 North Pearl, Suite 700, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 31, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–19188 Filed 9–2–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12

CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than September 21, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Janet K. Lanz Trust, Janet K. Lanz, as trustee, the Kenneth E. Lanz Trust, and Kenneth E. Lanz, as trustee, all of Wapello, Iowa; and the Jon A. Schmidgall Trust, Jon A. Schmidgall, as trustee, the Julie A. Schmidgall Trust, Julie A. Schmidgall, as trustee, Aaron Schmidgall, Luann Schmidgall, and JoAnn Steiner, all of Mediapolis, Iowa;* to join the Schmidgall Family Control Group, a group acting in concert, to retain voting shares of Mediapolis Bancorporation, and thereby indirectly retain voting shares of Mediapolis Savings Bank, both of Mediapolis, Iowa.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–19204 Filed 9–2–22; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 202 3138]

Credit Karma, LLC; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 6, 2022.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''Credit Karma, LLC, LLC; File No. 202 3138'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Evan Zullow (202–326–2914), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 6, 2022. Write ''Credit Karma, LLC; File No. 202 3138'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Credit Karma, LLC; File No. 202 3138'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *https://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 6, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Credit Karma, LLC (''Respondent''). The proposed consent order has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Respondent's advertisements and recommendations for third-party financial products. According to the complaint, between February 2018 and April 2021, through its website, mobile app, and email marketing campaigns, Respondent has represented in advertisements and recommendations that consumers have been ''pre-approved'' for third-party financial products, such as credit cards. Despite these preapproval claims, financial product companies have not already approved these consumers. In fact, as alleged in the complaint, for many of these offers, almost a third of consumers who received and applied for ''pre-approved'' offers were subsequently denied based on the financial product companies' underwriting review. The complaint further alleges that Respondent knew that its prominent pre-approval claims conveyed false ''certainty'' to consumers and employed it deliberately to influence consumers' behavior. To the extent Respondent revealed that consumers' likelihood of getting approval was anything less than certain, it has done so by making additional false claims that consumers' likelihood of approval is 90%, or by using buried disclaimers.

The proposed consent order contains provisions designed to prevent Respondent from making deceptive claims about approval, pre-approval, or consumers' approval likelihood or odds in the future. Part I prohibits misleading or unsubstantiated claims about approval, including pre-approval, as well as a consumer's odds or likelihood of being approved. Part II requires Respondent to pay $3,000,000 in monetary relief. Part III contains additional requirements regarding the monetary relief. Part IV requires Respondent to provide sufficient customer information to enable the Commission to administer consumer redress.

Parts V through VI are reporting and compliance provisions. Part V requires Respondent to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part VI requires Respondents to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Part VII requires Respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part VIII requires Respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview Respondents' personnel.

Finally, Part IX is a ''sunset'' provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2022–19108 Filed 9–2–22; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database.'' This proposed information collection was previously published in the **Federal Register** on June 3rd, 2022, and allowed 60 days for public comment. AHRQ did not receive comments from members of the public during this period. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by October 6, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database

The Child Hospital CAHPS Survey (Child HCAHPS) assesses the experiences of pediatric patients (less than 18 years old) and their parents or guardians with inpatient care. It complements the Adult Hospital CAHPS Survey (Adult HCAHPS), which asks adult inpatients about their experiences. The Child HCAHPS Database is a voluntary database available to all Child HCAHPS users to support both quality improvement and research to enhance the patient-centeredness of care delivered to pediatric hospital patients.

Rationale for the information collection. Like the survey instrument itself and related toolkit materials to support survey implementation, aggregated Child HCAHPS Database results are made publicly available on AHRQ's CAHPS website. Technical assistance is provided by AHRQ through its contractor at no charge to hospitals to facilitate the access and use of these materials for quality improvement and research. Technical assistance is also provided to support Child HCAHPS data submission.

The Child HCAHPS Database supports AHRQ's goals of promoting improvements in the quality and patient-centeredness of health care in pediatric hospital settings. This research has the following goals:

1. Improve care provided by individual hospitals and hospital systems.

2. Offer several products and services, including providing survey results presented through an Online Reporting System, summary chartbooks, custom analyses, private reports and data for research purposes.

3. Provides information to help identify strengths and areas with potential for improvement in patient care.

Survey data from the Child HCAHPS Database will be used to produce three types of reporting products:

• Hospital Feedback Reports. Hospitals that submit data will have access to a customized report that presents findings for their individual submission along with results from the database overall. These ''private'' hospital feedback reports will display sortable results for each of the Child HCAHPS core composite measures and for each individual survey item that forms the composite measure.

• Child HCAHPS Chartbook. A summary-level Chartbook will be compiled to display top box and other proportional scores for the Child HCAHPS items and composite measures broken out by selected hospital characteristics (*e.g.,* region, hospital size, ownership and affiliation, etc.).

• AHRQ Data Tools website. Aggregate results also will be made publicly available through an interactive, web-based system that allows users to view survey items and composite results in a variety of formats.

The OMB Control Number for the Child HCAHPS Survey Database is 0935–0243, which was last approved by OMB on July 24, 2019, and will expire on July 30, 2022.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to: the quality, effectiveness, efficiency, appropriateness and value of healthcare services; quality measurement and improvement; and health surveys and database development. 42 U.S.C. 299a(a)(1), (2), and (8).

Method of Collection

To achieve the goals of this project, the following activities and data collections that constitute information collection under the Paperwork Reduction Act will be implemented:

• Registration with the submission website to obtain an account with a secure username and password. The point-of-contact (POC), often the hospital, completes a number of data submission steps and forms, beginning with the completion of the online registration form. The purpose of this form is to collect basic contact information about the organization and initiate the registration process;

• Submission of signed Data Use Agreements (DUAs) and survey questionnaires. The purpose of the data use agreement, completed by the participating hospital, is to state how data submitted by or on behalf of hospitals will be used and provides confidentiality assurances;

• Submission of hospital information form. The purpose of this form completed by the participating organization, is to collect background characteristics of the hospital; and

• Follow-up with submitters in the event of a rejected file, to assist in making corrections and resubmitting the file.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondent to participate in the database. The 302 POCs in Exhibit 1 are a combination of an estimated 300 hospitals that currently administer the Child HCAHPS survey and the two survey vendors assisting them.

Each hospital will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a hospital information form. The online hospital information form takes on average 5 minutes to complete. The DUA will be completed by each of the 300 participating hospitals. Survey vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and upload to the online submission system. Each submitter, which in most cases will be the survey vendor performing the data collection, will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provided by the Child HCAHPS Database. Since the unit of analysis is at the hospital level, submitters will upload one data file per hospital. Once a data file is uploaded, the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to correct any errors in their data file and resubmit if necessary. It will take about one hour to submit the data for each hospital. The total burden is estimated to be 365 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	300	1	5/60	25
Hospital Information Form	300	1	5/60	25
Data Use Agreement	300	1	3/60	15
Data Files Submission	2	150	1	300
Total	NA	NA	NA	365

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $18,076 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	300	25	[a] 57.12	$1,428
Hospital Information Form	300	25	[a] 57.12	1,428
Data Use Agreement	300	15	[b] 95.12	1,426
Data Files Submission	2	300	[c] 45.98	13,794
Total	** 302	365	NA	18,076

* National Compensation Survey: Occupational wages in the United States May 2020, ''U.S. Department of Labor, Bureau of Labor Statistics.''
(a) Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
(b) Based on the mean hourly wage for Chief Executives (11–1011).
(c) Based on the mean hourly wages for Computer Programmer (15–1131).
** The 300 POC listed for the registration form, hospital information form and the data use agreement are the estimated POC's from the estimated participating hospitals.

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 30, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–19115 Filed 9–2–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) reapprove the proposed information collection project: ''*Medical Expenditure Panel Survey—Insurance Component.*''

DATES: Comments on this notice must be received by November 7, 2022.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey—Insurance Component

In 2021 employer-sponsored health insurance was the source of coverage for 90.5 million current and former workers, plus many of their family members, and is a cornerstone of the U.S. health care system. The Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) measures the extent, cost, and coverage of employer-sponsored health insurance on an annual basis. These statistics are produced at the National, State, and sub-State (metropolitan area) level for private industry. Statistics are also produced for State and Local governments.

This research has the following goals:

(1) to provide data for Federal policymakers evaluating the effects of National and State health care reforms.

(2) to provide descriptive data on the current employer-sponsored health insurance system and data for modeling the differential impacts of proposed health policy initiatives.

(3) to supply critical State and National estimates of health insurance spending for the National Health Accounts and Gross Domestic Product.

This study is being conducted by AHRQ through the Bureau of the Census, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the cost and use of health care services and with respect to health statistics and surveys. 42 U.S.C. 299a(a)(3) and (8); 42 U.S.C. 299b–2.

Method of Collection

To achieve the goals of this project the following data collections for both private sector and state and local government employers will be implemented:

(1) Prescreener Questionnaire—The purpose of the Prescreener Questionnaire, which is collected via telephone, varies depending on the

insurance status of the establishment contacted (establishment is defined as a single, physical location in the private sector and a governmental unit in state and local governments). For establishments that do not offer health insurance to their employees, the prescreener is used to collect basic information such as number of employees. Collection is completed for these establishments through this telephone call. For establishments that do offer health insurance, contact name and address information is collected that is used for the mailout of the establishment and plan questionnaires. Obtaining this contact information helps ensure that the questionnaires are directed to the person in the establishment best equipped to complete them.

(2) Establishment Questionnaire—The purpose of the mailed Establishment Questionnaire is to obtain general information from employers that provide health insurance to their employees. Information such as total active enrollment in health insurance, other employee benefits, demographic characteristics of employees, and retiree health insurance is collected through the establishment questionnaire.

(3) Plan Questionnaire—The purpose of the mailed Plan Questionnaire is to collect plan-specific information on each plan (up to four plans) offered by establishments that provide health insurance to their employees. This questionnaire obtains information on total premiums, employer and employee contributions to the premium, and plan enrollment for each type of coverage offered—single, employee-plus-one, and family—within a plan. It also asks for information on deductibles, copays, and other plan characteristics.

The primary objective of the MEPS–IC is to collect information on employer-sponsored health insurance. Such information is needed in order to provide the tools for Federal, State, and academic researchers to evaluate current and proposed health policies and to support the production of important statistical measures for other Federal agencies.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the MEPS–IC. The Prescreener questionnaire will be completed by 25,200 respondents and takes 5 minutes to complete. The Establishment questionnaire will be completed by 21,738 respondents and takes 20 minutes to complete. The Plan questionnaire will be completed by 19,246 respondents and will require an average of 2.3 responses per respondent. Each Plan questionnaire takes 11 minutes to complete. The total annualized burden hours are estimated to be 17,461 hours.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this data collection. The annualized cost burden is estimated to be $619,691.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS FOR THE 2023–2025 MEPS–IC

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Prescreener Questionnaire	25,200	1	5/60	2,100
Establishment Questionnaire	21,738	1	*20/60	7,246
Plan Questionnaire	19,246	2.3	11/60	8,115
Total	66,184	na	na	17,461

*The burden estimate printed on the establishment questionnaire is 45 minutes which includes the burden estimate for completing the establishment questionnaire and two plan questionnaires (on average, each establishment completes 2.3 plan questionnaires). The establishment and plan questionnaires are sent to the respondent as a package and are completed by the respondent at the same time.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN FOR THE 2023–2025 MEPS–IC

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Prescreener Questionnaire	25,200	2,100	35.49	$74,529
Establishment Questionnaire	21,738	7,246	35.49	$257,161
Plan Questionnaire	19,246	8,115	35.49	$288,001
Total	66,184	17,461	na	$619,691

*Based upon the mean hourly wage for Compensation, Benefits, and Job Analysis Specialists occupation code 13–1141, at *https://www.bls.gov/oes/current/oes131141.htm* (U.S. Department of Labor, Bureau of Labor Statistics.)

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 30, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–19113 Filed 9–2–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Performance Review Board Members

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) is publishing the names of the Performance Review Board Members who are reviewing performance of Senior Executive Service (SES) members, title 42 (T42) executives, and Senior Level (SL) employees for Fiscal Year 2022.

FOR FURTHER INFORMATION CONTACT: Henry Greene, Team Chief, Executive and Scientific Resources Office, Human Resources Office, Centers for Disease Control and Prevention, 11 Corporate Square Blvd., Mailstop US11–2, Atlanta, Georgia 30341, Telephone (770) 488–1140.

SUPPLEMENTARY INFORMATION: Title 5, U.S.C. 4314(c) (4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**. The following persons will serve on the CDC Performance Review Board, which will oversee the evaluation of performance appraisals of Senior Executive Service members for the Fiscal Year 2022 review period:

Bornstein, Joshua, Co-Chair

Bonander, Jason

Dulin, Stephanie

Durst, Kelley

Ethier, Kathleen, Co-Chair

Kuhnert, Wendi

Lindsey, Ronney L.

Peeples, Amy

Perry, Terrance

Philip, Celeste M

Tomlinson, Hank

Wharton, Melinda

Dated: August 29, 2022.

Angela K. Oliver,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2022–19177 Filed 9–2–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3424–FN]

Medicare and Medicaid Program; Approval of Application From Det Norske Veritas for Continued Hospital Accreditation Program

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

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve Det Norske Veritas for continued recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this final notice is effective through September 26, 2026.

FOR FURTHER INFORMATION CONTACT: Joy Webb, (410) 786–1667.
Lillian Williams, (410) 786–8636.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospital, provided that certain requirements are met. Section 1861(e) of the Social Security Act (the Act), establishes distinct criteria for facilities seeking designation as a hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the minimum conditions that a hospital must meet to participate in the Medicare program.

Generally, to enter into an agreement, a hospital must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 482 of our regulations. Thereafter, the hospital is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we may deem those provider entities as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. A national AO applying for approval of its accreditation program under part 488, subpart A, must provide the Centers for Medicare and Medicaid Services (CMS) with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require AOs to reapply for continued approval of its accreditation program every 6 years or sooner as determined by CMS. Det Norske Veritas's (DNV's) current term of approval for their hospital accreditation program expires September 26, 2022.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On April 18, 2022, we published a proposed notice in the **Federal Register** (87 FR 22894), announcing DNV's request for continued approval of its Medicare hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of DNV's Medicare hospital accreditation renewal application in accordance with the criteria specified by our regulations, which include, but are not limited to, the following:

- An administrative review of DNV's—(1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospital surveyors; (4)

ability to investigate and respond appropriately to complaints against accredited hospitals; and (5) survey review and decision-making process for accreditation.

• The comparison of DNV's Medicare hospital accreditation program standards to our current Medicare hospitals Conditions of Participation (CoPs).

• A documentation review of DNV's survey process to do the following:

++ Determine the composition of the survey team, surveyor qualifications, and DNV's ability to provide continuing surveyor training.

++ Compare DNV's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospitals.

++ Evaluate DNV's procedures for monitoring accredited hospitals it has found to be out of compliance with DNV's program requirements. (This pertains only to monitoring procedures when DNV identifies non-compliance. If noncompliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c)).

++ Assess DNV's ability to report deficiencies to the surveyed hospital and respond to the hospital's plan of correction in a timely manner.

++ Establish DNV's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of DNV's staff and other resources.

++ Confirm DNV's ability to provide adequate funding for performing required surveys.

++ Confirm DNV's policies with respect to surveys being unannounced.

++ Confirm DNV's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain DNV's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Response to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the April 18, 2022 proposed notice also solicited public comments regarding whether DNV's requirements met or exceeded the Medicare CoPs for hospitals. We received one comment in response to our proposed notice. The comment received expressed support for DNV's hospital accreditation program.

The proposed notice described CMS' process and oversight activities in Section III., Evaluation of Deeming Authority Request, which highlighted the evaluation CMS conducts before granting deeming authority to an AO. In Section V. of this final notice, CMS is highlighting areas, which were identified to have discrepancies or lack of clarity within DNV's standards and survey processes. We note that DNV corrected these discrepancies prior to renewal of their deeming authority for their CMS-approved hospital accreditation program. CMS continues to strive for increased oversight of AOs.

V. Provisions of the Final Notice

A. Differences Between DNV's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared DNV's hospital accreditation program requirements and survey process with the Medicare CoPs at 42 CFR part 482, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of DNV's hospital application, which were conducted as described in Section III. of this final notice, yielded the following areas where, as of the date of this notice, DNV has revised its standards and certification processes in order to meet our requirements at:

• *Section 482.13(e)(8)(i)(A) through (C).* DNV clarified the specific age-based limits with respect to applicable to the amount of time a patient could spend in restraint and seclusion in hospitals; these limits would supersede any conflicting state law.

• *Section 482.15(a)(1).* DNV changed its standard to include community-based risk assessment in its requirements and all-hazards definition in interpretive guidelines.

• *Section 482.15(b)(7).* DNV addressed the requirement that states make arrangements with others hospitals and other providers to receive patients in the event of limitation or cessation of operations, in order to maintain the continuity of services to hospital patients.

• *Section 482.23(b)(4).* DNV addressed our concerns pertaining to nursing assessment and care plan, to ensure that the requirements are comparable with CMS' requirement.

• *Sections 482.24(c)(4)(i)(A) through 482.24(c)(4)(i)(C).* DNV revised its standards to fully meet CMS requirements.

• *Section 482.28(b)(2).* DNV revised its language from a restrictive requirement to include an all patient diet.

• *Section 482.41(c).* DNV revised language regarding the applicability of National Fire Protection Association (NFPA) to correspond to 2012 NFPA 99, Section 1.3 Application.

• *Section 482.52(c)(2).* DNV clarified the requirement regarding deferral to state anesthesia practice standards; its prior language was unclear.

• *Section 482.53(d).* DNV clarified its standard regarding nuclear medicine documentation requirements to include signed and dated language, showing authorship.

• *Section 482.57.* DNV revised its respiratory care standards to include language reflecting ''the needs of the patients'' in order to fully reflect CMS' requirement.

• *Section 482.58.* DNV clarified its standards to include the governing body of the hospital bears the responsibility of assuring medical staff has written policies.

• *Section 482.58(b)(1).* DNV revised the standard to be more specific and to fully meet the regulatory requirement. DNV's standard had not made it clear that the patients have the right to be informed of total health status in the language they can understand, but rather focused on rules, regulations, and facility responsibilities during facility stay.

B. Term of Approval

Based on our review and observations described in Sections III. and V. of this final notice, we approve DNV as a national accreditation organization for hospitals that request participation in the Medicare program. The decision announced in this final notice is effective September 26, 2022 through September 26, 2026 (4 years). In accordance with § 488.5(e)(2)(i), the term of the approval will not exceed 6 years. Due to travel restrictions and the reprioritization of survey activities brought on by the 2019 Novel Coronavirus Disease (COVID–19) Public Health Emergency (PHE), CMS was unable to observe a hospital survey completed by DNV surveyors as part of the application review process, which is typically one component of the comparability evaluation. Therefore, we are providing DNV with a shorter period of approval. Based on our discussions with DNV and the information provided in its application, we are confident that DNV will continue to ensure that its deemed hospitals continue to meet or

exceed our required standards. While DNV has taken actions based on the findings noted in section V.A. of this final notice (Differences Between TJC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements), as authorized under § 488.8, we will continue ongoing review of DNV's hospital surveys. In keeping with CMS's initiative to broadly increase AO oversight, and to ensure that our requested revisions by DNV are completed, CMS expects to perform more frequent review of DNV's activities in the future.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Trenesha Fultz-Mimms,

Federal Register Liaison, Center for Medicare & Medicaid Services.

[FR Doc. 2022–19099 Filed 9–2–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1946]

Pulmonary-Allergy Drugs 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 Pulmonary-Allergy Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will take place virtually on November 8, 2022, from 10 a.m. to 4 p.m. eastern time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–1946. The docket will close on November 7, 2022. Either electronic or written comments on this public meeting must be submitted by November 7, 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 November 7, 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 October 25, 2022, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, 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–1946 for ''Pulmonary-Allergy Drugs Advisory Committee; 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., 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, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Takyiah Stevenson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 240–402–2507, Fax: 301–847–8533, email: *PADAC@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. The committee will discuss the new drug application 214070, for a fixed dose combination of budesonide and albuterol sulfate metered dose inhaler, submitted by AstraZeneca and Bond Avillion 2 Development LP. The proposed indication is as-needed treatment or prevention of bronchoconstriction and for the prevention of exacerbations in patients with asthma 4 years of age and older.

FDA intends to make the meeting's background material and pre-recorded presentations available to the public no later than 2 business days before the meeting. The pre-recorded presentations will be viewed by the committee prior to the meeting and will not be replayed on meeting day. If FDA is unable to post the background material and/or pre-recorded presentations on its website prior to the meeting, the background material and/or pre-recorded presentations will be made publicly available on FDA's website at the time of the advisory committee meeting. The meeting will include brief summaries of the pre-recorded presentations. The pre-recorded presentations and brief summaries 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. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: 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 October 25, 2022, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. eastern time. 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, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 17, 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 October 18, 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 Takyiah Stevenson (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 30, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–19159 Filed 9–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0441]

Cardiovascular and Renal Drugs 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 Cardiovascular and Renal Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. 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 on October 26, 2022, from 9 a.m. to 5:15 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2021–N–0441. The docket will close on October 25, 2022. Submit either electronic or written comments on this public meeting by October 25, 2022. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 25, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 25, 2022. Comments received

by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before October 12, 2022, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, 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–2021–N–0441 for ''Cardiovascular and Renal Drugs Advisory Committee; 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., 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, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–837–7126, Fax: 301–847–8533, email: *CRDAC@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. The committee will discuss new drug application (NDA) 216951, for the hypoxia inducible factor prolyl hydroxylase inhibitor, daprodustat tablets, submitted by GlaxoSmithKline, LLC, for the treatment of anemia due to chronic kidney disease in adult patients not on dialysis and on dialysis.

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 on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be 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: 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 October 12, 2022, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 2:10 p.m. and 3:10 p.m. Eastern Time. 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, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October

3, 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 October 4, 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 Yvette Waples (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 30, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–19156 Filed 9–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1262]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that VOXZOGO (vosoritide) manufactured by BioMarin Pharmaceutical, Inc., meets the criteria for receipt of a priority review voucher.

FOR FURTHER INFORMATION CONTACT: Cathryn Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1394, email: *Cathryn.Lee@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff) FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that VOXZOGO (vosoritide) manufactured by BioMarin Pharmaceutical, Inc., meets the criteria for a priority review voucher. VOXZOGO (vosoritide) is indicated to increase linear growth in pediatric patients with achondroplasia who are 5 years of age and older with open epiphyses.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about VOXZOGO (vosoritide), go to the ''Drugs@FDA'' website at *https://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: August 31, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–19155 Filed 9–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2721–22; DHS Docket No. USCIS–2022–0007]

Implementation of Employment Authorization for Individuals Covered by Deferred Enforced Departure for Liberians

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security.

ACTION: Notice of Employment Authorization for Individuals Covered by Deferred Enforced Departure (DED).

SUMMARY: On June 27, 2022, President Joseph Biden issued a memorandum to the Secretary of State and the Secretary of Homeland Security (Secretary) determining that it was in the foreign policy interest of the United States to defer, through June 30, 2024, the removal of certain Liberian nationals, and individuals having no nationality who last habitually resided in Liberia, who are present in the United States and to provide them with employment authorization documentation. The memorandum directed the Secretary to make provision for immediate allowance of employment authorization for such individuals. This Notice provides information about Deferred Enforced Departure (DED) for certain eligible Liberian nationals, and individuals having no nationality who last habitually resided in Liberia, and provides information on how eligible individuals may apply for DED-based Employment Authorization Documents (EADs) with USCIS. Through this notice, DHS is providing employment authorization, including procedures for obtaining related documentation, for covered individuals through June 30, 2024, and automatically extending the validity of DED-based EADs bearing a Category Code of A–11 and a ''Card Expires'' date of March 30, 2020, January 10, 2021, or June 30, 2022, through June 30, 2024. Finally, this Notice provides instructions for DED-eligible Liberians, or individuals without nationality who last habitually resided in Liberia, on how to file for travel authorization.

DATES: The extension and expansion of DED and employment authorization for noncitizens covered by DED for Liberians is effective June 27, 2022, through June 30, 2024. Employment authorization and the procedures for obtaining EADs in this Notice apply to any of the following individuals who are not subject to any of the ineligibilities described in President Biden's memorandum to the Secretaries of State and Homeland Security: noncitizens who are Liberian nationals, or individuals having no nationality who last habitually resided in Liberia, regardless of country of birth, who were covered by DED as of June 30, 2022; as well as to Liberian nationals, or individuals having no nationality who last habitually resided in Liberia, regardless of country of birth, who have been continuously physically present in the United States since May 20, 2017. Liberian nationals, and individuals

having no nationality who last habitually resided in Liberia, must meet all eligibility criteria for DED described below.

FOR FURTHER INFORMATION CONTACT:

- You may contact Renáa Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.
- For further information on DED, including additional information on eligibility, please visit the USCIS DED web page at *https://www.uscis.gov/humanitarian/deferred-enforced-departure.* You can find specific information about DED for Liberians by selecting ''DED Covered Country: Liberia'' from the menu on the left of the DED web page.
- If you have additional questions about DED, please visit *https://www.uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *https://www.uscis.gov,* or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.*
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

CFR—Code of Federal Regulations
DED—Deferred Enforced Departure
DHS—U.S. Department of Homeland Security
EAD—Employment Authorization Document
FNC—Final Non-confirmation
Form I–131—Application for Travel Document
Form I–765—Application for Employment Authorization
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
LRIF—Liberian Refugee Immigration Fairness
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Non-confirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Purpose of This Action

Pursuant to the President's constitutional authority to conduct the foreign relations of the United States, President Biden has concluded that it is in the foreign policy interest of the United States to defer through June 30, 2024, the removal of any Liberian national, or individual without nationality who last habitually resided in Liberia, who is present in the United States and who was covered by DED as of June 30, 2022, as well as any Liberian national, or individual without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017.[1] Through this Notice, as directed by the President, DHS is establishing procedures for individuals covered by DED for Liberians to apply for EADs valid through June 30, 2024, and is automatically extending the validity of DED-based EADs bearing a Category Code of A–11 and a ''Card Expires'' date of March 30, 2020, January 10, 2021, or June 30, 2022, through June 30, 2024.

What is deferred enforced departure (DED)?

- DED is an administrative deferral of removal ordered by the President. The authority to extend DED arises from the President's constitutional authority to conduct the foreign relations of the United States. The President can authorize DED for any reason related to this authority. DED has been authorized in situations where foreign nationals or other groups of noncitizens may face danger if required to return to countries or any part of such foreign countries experiencing political instability, conflict, or other unsafe conditions, or when there are other foreign policy reasons for allowing a designated group of noncitizens to remain in the United States.
- Although DED is not a specific immigration status, individuals covered by DED are not subject to removal from the United States, usually for a designated period of time. Furthermore, the President may direct that certain benefits, such as employment authorization or travel authorization, be available to the noncitizens covered by the DED directive.
- If the President provides for employment or travel authorization, USCIS administers those benefits. USCIS publishes a **Federal Register** notice to inform the covered population on how to apply for any benefits provided.
- The President issues directives regarding DED and who is covered via presidential memorandum. The qualification requirements for individuals who are covered by DED are based on the terms of the President's directive regarding DED and any relevant implementing requirements established by DHS. Since DED is a directive to defer removal of an individual, rather than a specific immigration status like Temporary Protected Status (TPS), there is no DED application form required for an individual to be covered by DED. Form I–765 (*Application for Employment Authorization*) may be filed if a DED-covered individual wants an EAD.

Background

The President has determined that there are compelling foreign policy reasons to extend and expand DED for Liberians. In his June 27, 2022 memorandum, he explained that ''[p]roviding protection from removal and work authorization to these Liberians, for whom we have long authorized TPS or DED in the United States, including while they complete the [Liberian Refugee Immigration Fairness] (LRIF) status-adjustment process, honors the historic close relationship between the United States and Liberia and is in the foreign policy interests of the United States.''

The United States established diplomatic relations with Liberia in 1864, 17 years after it declared independence from the American Colonization Society, an organization that resettled free African Americans and freed slaves in Liberia.[2] Since 1991, the United States has provided safe haven for Liberians who were forced to flee their country as a result of armed conflict and widespread civil strife.

- Due to ongoing civil war, Liberia was first designated for TPS for 12 months effective March 27, 1991, with successive extensions by Attorneys General under President George H.W. Bush and President Clinton to September 28, 1998,[3] and a new

[1] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, June 27, 2022, *https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-liberians/* (*reprinted at* 87 FR 38871 (June 29, 2022)).

[2] U.S. Department of State, ''U.S. Relations With Liberia'' (Aug 2, 2019), *https://www.state.gov/u-s-relations-with-liberia/.*

[3] *See Designation of Liberia Under Temporary Protected Status Program,* 56 FR 12746 (Mar. 27, 1991) and *Extension of Designation of Liberia*

designation (also termed ''redesignation'') from September 29, 1998, until September 28, 1999.[4]

• Although Attorney General (AG) Reno announced the termination of TPS effective September 28, 1999,[5] President Clinton authorized DED of certain Liberians in the United States until September 29, 2000, citing the fragile political and economic situation in the country at the time,[6] and DED was subsequently extended through September 29, 2002.[7]

• In October 2002, due to the outbreak of another civil war, AG Ashcroft designated Liberia for TPS from October 1, 2002 to October 1, 2003 and subsequently, Secretaries of Homeland Security redesignated Liberia for TPS and extended the designation through October 1, 2006.[8] Secretary Chertoff announced the termination of TPS for Liberia effective October 1, 2007.[9] In September 2007, President Bush announced DED of certain Liberians in the United States for 18 months, from October 1, 2007 until March 31, 2009.[10] Following this DED authorization, DED was extended 5 times: (1) from March 31, 2009, for 18 months; [11] (2) from March 31, 2010, for 18 months; [12] (3) from September 30, 2011, for 18 months; [13] (4) from March 31, 2013, for 18 months; [14] and (5) from October 1, 2014, for 24 months.[15]

• In November 2014, Secretary Johnson designated Liberia for TPS from November 21, 2014, through May 21, 2016, due to an outbreak of Ebola virus disease in West Africa.[16] TPS for Liberia was then extended from May 22, 2016, through November 21, 2016.[17] In September 2016, Secretary Johnson announced a six-month extension of TPS benefits for an orderly transition before termination of Liberia's TPS designation effective May 21, 2017.[18]

• In September 2016, President Obama extended DED for Liberians from October 1, 2016, for 18 months.[19] In March 2018, President Trump announced the expiration of DED for Liberians effective March 31, 2019, following a 12-month wind-down period.[20] In March 2019, President Trump announced the extension of DED for Liberians for an additional 12-month wind-down period through March 30, 2020.[21]

• On December 20, 2019, President Trump signed the National Defense Authorization Act (NDAA) for Fiscal Year 2020 (Pub. L. 116–92) which included a provision titled ''Liberian Refugee Immigration Fairness'' (LRIF). LRIF provided certain Liberians, including those who had been continuously physically present in the United States since November 20, 2014, as well as their spouses, children, and unmarried sons or daughters, the ability to adjust their status to that of a U.S. Lawful Permanent Resident. Under this provision, eligible Liberian nationals and eligible family members had until December 20, 2020, to apply for adjustment of status.[22]

• In March 2020, President Trump issued a memorandum extending the wind-down period for DED for Liberians through January 10, 2021.[23] In December 2020, the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) extended the LRIF application deadline for an additional year, from December 20, 2020, to December 20, 2021.[24]

• In January 2021, President Biden reinstated DED for Liberians from January 10, 2021 through June 30, 2022, with limited exclusions for certain ineligibilities.[25] In June 2022, President Biden extended and expanded DED for Liberians from June 30, 2022 through June 30, 2024.[26] In addition to those

Under Temporary Protected Status Program, 57 FR 2932 (Jan. 24, 1992), 58 FR 7898 (Feb. 10, 1993), 59 FR 9997 (Mar. 2, 1994), 60 FR 16163 (Mar. 29, 1995), 61 FR 8076 (Mar. 1, 1996), *Extension of Designation and Redesignation of Liberia Under Temporary Protected Status Program,* 62 FR 16608 (Apr. 7, 1997), *Termination of Designation of Liberia Under Temporary Protected Status Program After Final 6-Month Extension,* 63 FR 15437 (Mar. 31, 1998).

[4] *See Redesignation of Liberia Under Temporary Protected Status Program,* 63 FR 51958 (Sept. 29, 1998).

[5] *See Termination of Designation of Liberia Under the Temporary Protected Status Program,* 64 FR 41463 (Jul. 30, 1999).

[6] *See* Presidential Memorandum for the Attorney General on Measures Regarding Certain Liberians in the United States, Sept. 27, 1999, *https://clintonwhitehouse6.archives.gov/1999/09/1999-09-27-memorandum-on-liberians.html.*

[7] *See* Presidential Memorandum for the Attorney General on Measures Regarding Certain Liberians in the United States, Sept. 25, 2001, *https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/text/20010925-7.html.*

[8] *See Designation of Liberia Under the Temporary Protected Status Program,* 67 FR 61664 (Oct. 1, 2002), *Extension of the Designation of Liberia Under the Temporary Protected Status Program,* 68 FR 46648 (Aug. 6, 2003), *Termination and Re-designation of Liberia for Temporary Protected Status,* 69 FR 52297 (Aug. 25, 2004), *Extension of the Designation of Liberia for Temporary Protected Status,* 70 FR 48176 (Aug. 16, 2005).

[9] *See Termination of the Designation of Liberia for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Liberia TPS Beneficiaries,* 71 FR 55000 (Sept. 20, 2006).

[10] *See* Presidential Memorandum for the Secretary of Homeland Security on Measures Regarding Certain Liberians in the United States, Sept. 12, 2007, *https://georgewbush-whitehouse.archives.gov/news/releases/2007/09/20070912-10.html.*

[11] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Mar. 23, 2009, *https://obamawhitehouse.archives.gov/the-press-office/presidential-memorandum-regarding-deferred-enforced-departure-liberians.*

[12] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Mar. 19, 2010, *https://obamawhitehouse.archives.gov/the-press-office/presidential-memorandum-deferred-enforced-departure-liberians.*

[13] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Aug. 16, 2011, *https://obamawhitehouse.archives.gov/the-press-office/2011/08/16/memorandum-president-regarding-deferred-enforced-departure-liberians.*

[14] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Mar. 15, 2013, *https://obamawhitehouse.archives.gov/the-press-office/2013/03/15/presidential-memorandum-deferred-enforced-departure-liberians.*

[15] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Sept. 26, 2014, *https://obamawhitehouse.archives.gov/the-press-office/2014/09/26/presidential-memorandum-deferred-enforced-departure-liberians.*

[16] *See Designation of Liberia for Temporary Protected Status,* 79 FR 69502 (Nov. 21, 2014).

[17] *See Extension of the Designation of Liberia for Temporary Protected Status,* 81 FR 15328 (Mar. 22, 2016).

[18] *See Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Liberia's Designation for Temporary Protected Status,* 81 FR 66059 (Sept. 26, 2016).

[19] *See* Presidential Memorandum for the Secretary of Homeland Security on Deferred Enforced Departure for Liberians, Sept. 28, 2016, *https://obamawhitehouse.archives.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians.*

[20] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security, Mar. 27, 2018, *https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-homeland-security/.*

[21] *See* Presidential Memorandum on Extension of Deferred Enforced Departure for Liberians, Mar. 28, 2019, *https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-extension-deferred-enforced-departure-liberians/.*

[22] *See* National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, Title LXXVI—Other Matters, Section 7611 Liberian Refugee Immigration Fairness, *https://www.govinfo.gov/content/pkg/PLAW-116publ92/html/PLAW-116publ92.htm.*

[23] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security on Extending the Wind-Down Period for Deferred Enforced Departure for Liberians, Mar. 30, 2020, *https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-extending-wind-period-deferred-enforced-departure-liberians/.*

[24] *See* Consolidated Appropriations Act, 2021, Part 1, Public Law 116–260, Dec. 27, 2020, Division O—Extensions and Technical Corrections, Title IX—Adjustment of Status for Liberian Nationals Extension, Section 901, *https://www.congress.gov/116/plaws/publ260/PLAW-116publ260.pdf.*

[25] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security on Reinstating Deferred Enforced Departure for Liberians, Jan. 20, 2021, *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/reinstating-deferred-enforced-departure-for-liberians/.*

[26] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland

Continued

individuals who were covered by DED on June 30, 2022, President Biden expanded DED coverage to certain Liberians, and individuals without nationality who last habitually resided in Liberia, who have been continuously physically present in the United States since May 20, 2017, and are not subject to the categories of individuals excluded from DED by the President's Memorandum.

Ur M. Jaddou,

Director, U.S. Citizenship and Immigration Services.

Eligibility and Employment Authorization for DED

How will I know if I am eligible for employment authorization under the DED presidential memorandum for liberians?

The procedures for employment authorization in this Notice apply to non-U.S. citizens who are Liberian nationals, or individuals without nationality who last habitually resided in Liberia, who are present in the United States and who were covered by DED as of June 30, 2022, as well as any Liberian nationals, or individuals without nationality who last habitually resided in Liberia, who have been continuously physically present in the United States since May 20, 2017, except for noncitizens:

- Who would be ineligible for TPS for the reasons provided in section 244(c)(2)(B) of the Immigration and Nationality Act, 8 U.S.C. 1254a(c)(2)(B); [27]
- Who sought or seek Lawful Permanent Residence status under the Liberian Refugee Immigration Fairness (LRIF) provision but whose applications have been or are denied by the Secretary of Homeland Security due to ineligibility for the LRIF provision under sections 7611(b)(1)(C) and (b)(3) of the National Defense Authorization Act (NDAA);
- Whose removal the Secretary of Homeland Security determines is in the interest of the United States, subject to the LRIF provision;
- Whose presence or activities in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States;
- Who have voluntarily returned to Liberia or their country of last habitual residence outside the United States for an aggregate period of 180 days or more, as specified in subsection (c)(2) of the LRIF provision; or
- Who are subject to extradition.

What will I need to file if I am covered by DED and would like to obtain an EAD?

If you are covered by DED for Liberians and want a DED-based EAD, you must file an Application for Employment Authorization (Form I–765). Please carefully follow the Form I–765 instructions when completing the application for an EAD. When filing the Form I–765, you must:

- Indicate that you are eligible for DED by entering ''(a)(11)'' in response to Question 27 on the Form I–765; and
- Submit the fee for the Form I–765 (or request a fee waiver).

The regulations require individuals covered by DED who request an EAD to pay the fee prescribed in 8 CFR 103.7 for the Form I–765. *See also* 8 CFR 274a.12(a)(11) (employment authorization for DED-covered individuals); and 8 CFR 274a.13(a) (requirement to file EAD application if EAD desired). If you are unable to pay the fee, you may request a fee waiver by submitting a Request for Fee Waiver (Form I–912).

If you currently have a DED-based EAD bearing a Category Code of A–11 and a ''Card Expires'' date of March 30, 2020, January 10, 2021, or June 30, 2022, and are covered by DED via the June 27, 2022 Presidential Memorandum, your EAD is automatically extended through June 30, 2024, even though its facial expiration date has passed.

Supporting Documentation

The filing instructions on Form I–765 list all the documents needed. You may also find information on the initial required documents on the USCIS website at *https://www.uscis.gov/i-765.* If USCIS determines after reviewing your submission that it needs additional information, it will issue you a Request for Evidence (RFE).

How will I know if USCIS will need to obtain biometrics?

If biometrics are required to produce your EAD, you will be notified by USCIS and scheduled for an appointment at a USCIS Application Support Center.

Where do I submit my completed DED-based application for employment authorization (Form I–765)?

For a DED-based EAD, mail your completed Form I–765 and supporting documentation to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If you are . . .	Mail to . . .
Mailing your form through the U.S. Postal Service (USPS)	USCIS, Attn: DED Liberia, P.O. Box 805283, Chicago, IL 60680–5283.
Using FedEx, UPS, or DHL	USCIS, Attn: DED Liberia (Box 805283), 131 S. Dearborn 3rd Floor, Chicago, IL 60603–5517.

You may file Form I–765 and Form I–131, Application for Travel Document together or separately. More information on filing a Form I–131 appears below.

Can I file my DED-based form I–765 electronically?

No. Electronic filing is not available when filing a DED-based Form I–765.

What happens after June 30, 2024, to DED-based EADs?

This DED authorization is set to end on June 30, 2024. After that date, employers can no longer accept EADs with a Category Code of A–11 and a ''Card Expires'' date of March 30, 2020, January 10, 2021, June 30, 2022, or June 30, 2024. Employees will need to present other evidence of continued work authorization.

Travel

In its discretion, DHS may provide travel authorization as a benefit of DED for eligible Liberian nationals, or individuals without nationality who last habitually resided in Liberia. You must file for travel authorization if you wish

Security on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, June 27, 2022, *https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-liberians/.*

[27] This section includes the nonwaivable ineligibility grounds for TPS regarding convictions for any felony or two or more misdemeanors committed in the United States, and the bars to asylum that also apply to TPS in INA, 208(b)(2)(A). *See* INA, 244(c)(2)(B); 8 U.S.C. 1254a(c)(2)(B).

to travel outside of the United States. If granted, travel authorization gives you permission to leave the United States and return during a specific period. To request travel authorization, you must file Form I–131, Application for Travel Document, available at *https://www.uscis.gov/i-131.* You may file Form I–131 together with your Form I–765 or separately. When filing the Form I–131, you must:

- Select Item Number 1.d. in Part 2 on the Form I–131; and
- Submit the fee for the Form I–131, or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver.

If you leave the United States without first receiving travel authorization, you may no longer be eligible for DED and may not be permitted to reenter the United States. Please also be advised that if you return to Liberia, you may not be permitted to resume DED in the United States since the presidential memorandum providing for DED for Liberian nationals, and individuals without nationality who last habitually resided in Liberia, excludes individuals who have voluntarily returned to Liberia for an aggregate period of 180 days or more.[28]

Mailing Information

Mail your completed Form I–131 to the proper address provided in Table 1.

Supporting Documentation

The filing instructions for Form I–131 list all the documents you need to include with your application. You may also find information on the acceptable documentation and DED eligibility on the USCIS website at *https://www.uscis.gov/humanitarian/deferred-enforced-departure.* If USCIS needs additional evidence, it will issue you a RFE.

General Employment-Related Information for Individuals With DED-Based EADs and Their Employers

How can I obtain information on the status of my EAD request?

To get case status information about your DED-based EAD request, you can check Case Status Online at *https://www.uscis.gov,* or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.* If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *https://egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Does this ***Federal Register*** *notice automatically extend my current EAD through June 30, 2024?*

Regardless of your country of birth, if you are a national of Liberia, or an individual having no nationality who last habitually resided in Liberia, you were covered by DED for Liberians as of June 30, 2022, and you are covered by DED via the June 27, 2022 Presidential Memorandum, this notice automatically extends your DED-based EAD bearing a March 30, 2020, January 10, 2021, or June 30, 2022 ''Card Expires'' date and an A–11 Category Code through June 30, 2024. This means that your EAD is valid through June 30, 2024, even though the ''Card Expires'' date has passed.

When I am hired, what documentation may I show to my employer as evidence of identity and employment authorization when completing Form I–9?

You can find the Lists of Acceptable Documents on the third page of Form I–9, Employment Eligibility Verification, as well as the Acceptable Documents web page at *https://www.uscis.gov/i-9-central/acceptable-documents.* Employers must complete Form I–9 to verify the identity and employment authorization of all new employees they hire. Within three business days of hire, employees must present acceptable document(s) to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements and employers must complete Section 2 of the Form I–9. For employment that will last less than three days, Section 2 of the Form I–9 must be completed no later than the first day of work for pay.

You may present any documentation from List A (which provides evidence of both identity and employment authorization) or documentation from List B (which provides evidence of your identity) together with documentation from List C (which provides evidence of employment authorization), or where applicable you may present an acceptable receipt. Receipts may not be accepted if employment will last less than three days. Additional information on receipts is available at *https://www.uscis.gov/i-9-central/form-i-9-acceptable-documents/receipts.* Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *https://www.uscis.gov/I-9Central.* An EAD is an acceptable document under List A.

If I have an EAD based on another immigration status, can I obtain a new DED-based EAD?

Yes, if you are covered by DED, you can obtain a new DED-based EAD, regardless of whether you have an EAD based on another immigration status. If you want to obtain a DED-based EAD valid through June 30, 2024, you must file Form I–765 and pay the associated fee.

Can my employer require that I provide any other documentation to prove my status, such as proof of my Liberian citizenship?

No. When completing Form I–9, employers must accept any documentation that appears on the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Therefore, employers may not request proof of Liberian citizenship when completing Form I–9 for new hires or reverifying the employment authorization of current employees. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline

[28] *See* Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, June 27, 2022, *https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-liberians/.*

at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* USCIS accepts calls in English, Spanish and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of Tentative Non-confirmation (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Non-confirmation (FNC) case result is received when E-Verify cannot confirm an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive a FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *https://www.justice.gov/ier* and the USCIS and E-Verify websites at *https://www.uscis.gov/i-9-central* and *https://www.e-verify.gov.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

For Federal purposes, if you present an automatically extended DED-based EAD referenced in this **Federal Register** notice, you do not need to show any other document, such as a Form I–797C, Notice of Action or this **Federal Register** notice, to prove that you qualify for this extension. While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency your DHS-issued documentation showing you are covered by DED and/or showing you are authorized to work based on DED. Examples of such documents are:

- Your current EAD with a DED Category Code of A–11, even if your country of birth noted on the EAD does not reflect the DED designated country of Liberia; or
- Your Form I–797C, Notice of Action, reflecting approval of your Form I–765.

Check with the government agency requesting documentation regarding which documentation the agency will accept.

Some state and local government agencies use the Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify that an individual is covered by DED, each state and local government agency's procedures govern whether they will accept an unexpired EAD or Form I–797C. If an agency accepts the type of DED-related document you present, such as a DED-based EAD, the agency should accept your automatically extended EAD, regardless of the country of birth listed on the EAD. It may assist the agency if you:

a. Give the agency a copy of the relevant **Federal Register** notice showing the EAD extension in addition to presenting your recent EAD with your A-Number or USCIS number;

b. Explain that SAVE will be able to verify the continuation of DED using this information; and

c. Ask the agency to submit a SAVE verification request with your information and follow through with additional verification steps, if necessary, to obtain a final SAVE response verifying your coverage under DED.

In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at *https://save.uscis.gov/casecheck.* CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number (A-Number or USCIS number) or Verification case number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted on or will act on a SAVE verification and you do not believe the response is correct, the SAVE website, *https://www.uscis.gov/save,* has detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records.

[FR Doc. 2022–19207 Filed 9–2–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–29]

60-Day Notice of Proposed Information Collection: Uniform Physical Standards & Physical Inspection Requirements; OMB Control No.: 2502–0369

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 7, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: Uniform Physical Standards & Physical Inspection Requirements.

OMB Approval Number: 2502–0369.

Type of Request: Reinstatement, with change of previously approved collection for which approval has expired.

Form Number: N/A.

Description of the Need for the Information and Proposed Use: All multifamily properties owned by HUD or with HUD-insured mortgages must be inspected regularly and certify that all exigent health and safety issues have been resolved.

Respondents: Affected public.

Estimated Number of Respondents: 6,135.

Estimated Number of Responses: 6,135.

Frequency of Response: Annual.

Average Hours per Response: 20 minutes.

Total Estimated Burden: 2,025.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Nathan Shultz,

Acting Chief of Staff, Office of Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 2022–19180 Filed 9–2–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2022–N024; FXES11130300000–223–FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before October 6, 2022.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TEXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- *Email: permitsR3ES@fws.gov.* Please refer to the respective application number (*e.g.,* Application No. TEXXXXXX) in the subject line of your email message.
- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

FOR FURTHER INFORMATION CONTACT: Nathan Rathbun, 612–713–5343 (phone); *permitsR3ES@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications:

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES02344A	Mainstream Commercial Divers, Inc, Murray, KY.	Clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), Higgins' eye pearlymussel (*Lampsilis higginsi*), northern riffleshell (*Epioblasma torulosa rangiana*), orange-footed pimpleback pearlymussel (*Plethobasus cooperianus*), pink mucket pearlymussel (*Lampsilis orbiculata*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), rayed bean (*Villosa fabalis*), rough pigtoe (*Pleurobema plenum*), scaleshell (*Leptodea leptodon*), sheepnose (*Plethobasus cyphyus*), snuffbox (*Epioblasma triquetra*), spectaclecase (*Cumberlandia monodonta*), white cat's paw pearlymussel (*Epioblasma obliquata perobliqua*), winged mapleleaf (*Quadrula fragosa*), rabbitsfoot (*Quadrula cylindrica cylindrica*), finelined pocketbook (*Lampsilis altilis*), southern clubshell (*Pleurobema decisum*), triangular kidneyshell (*Ptychobranchus greenii*).	AL, AR, FL, GA, IA, IL, IN, KY, MI, MN, MO, MS, OH, PA, TN, WI, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, release.	Renew.
ES30234C	Illinois Natural History Survey, Champaign, IL.	Eastern massasauga rattlesnake (*Sistrurus catenatus*).	IL	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Add new activity—powder tracking—to existing authorized activities: capture, handle, collect tissue/blood samples, mark, PIT tag.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Lori Nordstrom,

Assistant Regional Director, Ecological Services, Midwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2022–19197 Filed 9–2–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–926000–XXX–L19100000–BJ0000–LRCSKX10360A; LLWY–926000–XXX–L19100000–BJ0000–LRCSKX203300; LLWY–926000–223–L14400000–BJ0000]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the U.S. Forest Service and Bureau of Land Management are necessary for the management of these lands.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing by October 6, 2022.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor, by telephone at (307) 775–6225 or by email at *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Wyoming

T. 15 N., R. 77 W., Group No. WY1022, dependent resurvey and survey, accepted August 23, 2022

T. 43 N., R. 95 W., Group No. WY1033, dependent resurvey and survey, accepted August 23, 2022

T. 13 N., R. 87 W., Group No. WY1040, dependent resurvey and survey, accepted August 23, 2022

T. 32 N., R. 79 W., Group No. WY1049, dependent resurvey and survey, accepted August 23, 2022

T. 32 N., R. 81 W., Group No. WY1051, dependent resurvey and survey, accepted August 23, 2022

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of $4.20 per plat and $0.15 per page of field notes. Requests can be made to *blm_wy_survey_records@blm.gov* or by telephone at 307–775–6222.

(Authority: 43 U.S.C. chapter 3)

Dated: August 30, 2022.

Sonja S. Sparks,

Chief Cadastral Surveyor of Wyoming.

[FR Doc. 2022–19187 Filed 9–2–22; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034451; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum of Natural History 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 Field Museum of Natural History. 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 Field Museum of Natural History at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605–2496, telephone (312) 665–7317, email *hrobbins@fieldmuseum.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 under the control of the Field Museum of Natural History, Chicago, IL. The human remains were removed from the Pueblo of Pojoaque, Santa Fe County, NM.

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 Field Museum of Natural History professional staff in consultation with representatives of the Pueblo of Pojoaque, New Mexico.

History and Description of the Remains

Sometime prior to 1960, human remains representing, at minimum, one individual were removed from the Pueblo of Pojoaque in Santa Fe County, NM. No accession record or documentation of donation to the Field Museum has been found. The human remains belong to an adult, 35–50 years old and possibly male. No known individual was identified. No associated funerary objects are present.

Field Museum of Natural History records identify the human remains as ''Pueblo,'' indicating that the collector was aware of the cultural affiliation of the individual. Based on the specific cultural and geographic attribution in the museum records, the human remains are determined to be culturally affiliated with the Pueblo of Pojoaque, New Mexico.

Determinations Made by the Field Museum of Natural History

Officials of the Field Museum of Natural History 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 Pueblo of Pojoaque, New Mexico.

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 Helen Robbins, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605–2496, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by October 6, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Pueblo of Pojoaque, New Mexico may proceed.

The Field Museum of Natural History is responsible for notifying the Pueblo of Pojoaque, New Mexico that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19170 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034448; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Robert S. Peabody Institute of Archaeology, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Institute of Archaeology 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 Robert S. Peabody Institute of Archaeology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Robert S. Peabody Institute of Archaeology at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Ryan Wheeler, Robert S. Peabody Institute of Archaeology, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.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 Robert S. Peabody Institute of Archaeology, Andover, MA. The human remains and associated funerary objects were removed from Moundville, Hale County, Hale County (near Moundville), and Foster's Ferry in Hale and Tuscaloosa Counties, AL.

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 Robert S. Peabody Institute of Archaeology professional staff in consultation with representatives of the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town, hereafter referred to as ''The Tribes.''

History and Description of the Remains

In 1905 and 1906, human remains representing, at minimum, one individual were removed from Moundville (01–TU–0500) in Hale and Tuscaloosa Counties, AL, by C.B. Moore. Moore sent some objects from his excavations, which he referred to as ''duplicates,'' to Warren K. Moorehead at the Department of Archaeology at Phillips Academy (now the Peabody Institute). Moorehead retained most of the objects sent to the Peabody Institute, but also traded some to other institutions. In 1920, Moorehead transferred ancestral human remains and funerary objects from Moundville to an institution in ''Bangor, Maine''; the exact institution is unclear. In 1997, the ancestral humans remains were returned to the Peabody Institute. The fragmentary human remains belong to a juvenile of indeterminate sex. No known individual was identified. The 753 associated funerary objects are 20 ground stone discs and fragments, 20 ceramic discs, 483 ceramic sherds, two bone perforators, five celts, seven hammerstones, 23 ceramic vessels, 12 bifaces, 96 fragments of debitage, two ceramic figurine fragments, six faunal bone fragments, two pieces of galena, 66 shell beads, two chunks of hematite, five modified stones, one scraper, and one cast of a monolithic axe.

The human remains and funerary objects given to Moorehead by C.B. Moore came from multiple localities within the Moundville site complex, including: burial ground north east of Mound C, cemetery near Mound C, cemetery South of Mound D, field north of Mound D, field north of Mound R, field near Mound B, field near Mound D, field west of Mound B, field west of Mound R, ground north east of Mound C, ground south of Mound D, Mound B, Mound C, Mound D, Mound north of Mound C, Mound O, ridge north of Mound A, ridge north of Mound R, low mound west of Mound B, and Mound F.

In 1905 and 1906, 163 associated funerary objects were removed from an unspecified area Near Moundville in Hale County, AL, by C.B. Moore. Moore sent some objects from his excavations, which he referred to as ''duplicates,'' to Warren K. Moorehead at the Department of Archaeology at Phillips Academy (now the Peabody Institute). The 163 associated funerary objects are 149 ceramic sherds, nine ceramic vessels, three bifaces, and two scrapers.

In 1905 and 1906, one associated funerary object was removed from Hale County, AL, by C.B. Moore. Moore sent some objects from his excavations, which he referred to as ''duplicates,'' to Warren K. Moorehead at the Department of Archaeology at Phillips Academy (now the Peabody Institute). The one associated funerary object is a modified stone.

In 1905 and 1906, one associated funerary object was removed from Foster's Ferry, Tuscaloosa County, AL, by C.B. Moore. Moore sent some objects from his excavations, which he referred to as duplicates, to Warren K. Moorehead at the Department of Archaeology at Phillips Academy (now the Peabody Institute). The one associated funerary object is a modified stone.

The ancestral human remains and associated funerary objects, as well as the sites from which they were removed, are culturally affiliated to the Muskogean-speaking Indian Tribes, who consider all items associated with Moundville to be funerary. The present-day Muskogean-speaking Indian Tribes are The Tribes.

On November 23, 2021, the Native American Graves Protection and Repatriation Review Committee found that a relationship of shared group identity exists between the present-day Muskogean-speaking Indian Tribes and the earlier group connected to human remains and funerary objects excavated at, and adjacent to, the Moundville

archeological site (01–TU–0500), in Tuscaloosa County, AL. The Review Committee's finding was based on linguistic, oral traditional, geographical, kinship, biological, archeological, historical, and anthropological lines of evidence. On February 1, 2022, this finding was published in the **Federal Register** (87 FR 5499–5500).

Determinations Made by the Robert S. Peabody Institute of Archaeology

Officials of the Robert S. Peabody Institute of Archaeology 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(3)(A), the 918 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 Ryan Wheeler, Robert S. Peabody Institute of Archaeology, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu,* by October 6, 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 Robert S. Peabody Institute of Archaeology is responsible for notifying The Tribes that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19168 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034446; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Pennsylvania Museum of Archaeology and Anthropology 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 University of Pennsylvania Museum of Archaeology and Anthropology. 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 University of Pennsylvania Museum of Archaeology and Anthropology at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104–6324, telephone (215) 898–4050, email *director@pennmuseum.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 under the control of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA. The human remains were removed from Muskogee County, OK.

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 University of Pennsylvania Museum of Archaeology and Anthropology professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; Stockbridge Munsee Community, Wisconsin; and The Osage Nation (*previously* listed as Osage Tribe) (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

Between 1832 and March of 1834, human remains representing, at minimum, one individual were removed from Muskogee County, OK. The human remains [catalogue number 97–606–40] were obtained by Dr. Zina Pitcher (b. 1797–d. 1872) who, at that time, served as the Army surgeon at Fort Gibson, in Muskogee County, OK. Dr. Pitcher transferred the human remains to Dr. Samuel G. Morton who, by 1839, had accessioned them into his collection. In 1853, Dr. Morton's collection, including these human remains, was purchased from his estate, and formally presented to the Academy of Natural Sciences of Philadelphia. In 1966, the Morton collection, including these human remains, was loaned to the University of Pennsylvania Museum of Archaeology and Anthropology, and in 1997, it was formally gifted to the University of Pennsylvania. The human remains belong to a female between 35 and 50 years of age. Although no known individual was identified, archival documents indicate she was from a ''little colony on the Neosho River, near Fort Gibson.'' No associated funerary objects are present.

The human remains have been identified as Native American based on specific cultural attributions contained in the museum's records and through consultation. Collector records, museum documentation, and published sources (Morton 1839, 1840, 1844, 1849; Meigs 1857) identify the human remains as Lenape or Delaware. Consultation information presented by The Osage Nation identifies the ''small colony'' as an early named Osage village associated with an important Osage leader and part of the lands ceded to the United States in the Treaty of 1818. The information presented by The Osage Nation, which

is supported by further information from the other three consulted Indian Tribes, indicates the human remains are culturally affiliated with The Osage Nation (*previously* listed as Osage Tribe).

Determinations Made by the University of Pennsylvania Museum of Archaeology and Anthropology

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology 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 Osage Nation (*previously* listed as Osage Tribe).

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 Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104–6324, telephone (215) 898–4050, email *director@pennmuseum.org,* by October 6, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Osage Nation (*previously* listed as Osage Tribe) may proceed.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19166 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034450; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Robert S. Peabody Institute of Archaeology

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Robert S. Peabody Institute of Archaeology intends to repatriate certain cultural items that meet the definitions of both sacred objects and objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Cattaraugus County, NY.

DATES: Repatriation of the cultural items in this notice may occur on or after October 6, 2022.

ADDRESSES: Ryan J. Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu*.

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 Robert S. Peabody Institute of Archaeology. 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 summary or related records held by the Robert S. Peabody Institute of Archaeology.

Description

The three cultural items were removed from Cattaraugus County, NY. The three sacred objects and objects of cultural patrimony are one False Face and two turtle rattles. The False Face (catalog no. 89/7195) and one of the turtle rattles (catalog no. 89/7196) were made by LeRoy Jimerson Sr., a Seneca Nation leader and wood carver, and given to the Robert S. Peabody Institute of Archaeology by his son LeRoy Jimerson Jr. in 1941. The second turtle rattle (catalog no. 141/16327), almost identical to the other, was collected by B.F. Gorham of South Harwich, MA, acquired by avocational archeologist Howard Torrey, and bequeathed by him to the Robert S. Peabody Institute of Archaeology in 1952.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, geographical information, historical information, kinship, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Robert S. Peabody Institute of Archaeology has determined that:

- The three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- The three cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Seneca Nation of Indians (*previously* listed as Seneca Nation of New York).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after October 6, 2022. If competing requests for repatriation are received, the Robert S. Peabody Institute of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Robert S. Peabody Institute of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, § 10.10, and § 10.14.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19169 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034453; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Penn State University, Matson Museum of Anthropology, University Park, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Matson Museum of Anthropology, Penn State University has completed an inventory of human remains 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 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 should submit a written request to the Matson Museum of Anthropology. If no additional requestors come forward, transfer of control of the human remains 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 should submit a written request with information in support of the request to the Matson Museum of Anthropology at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. James Doyle, Director, Matson Museum of Anthropology, Penn State University, 410 Carpenter Building, University Park, PA 16802, telephone (814) 865–2033, email *matsonmuseum@psu.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 under the control of the Matson Museum of Anthropology, Penn State University, University Park, PA. The human remains were removed from Humboldt and Modoc Counties, CA.

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. 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 Matson Museum of Anthropology professional staff in consultation with representatives of the Bear River Band of the Rohnerville Rancheria, California; Blue Lake Rancheria, California; Klamath Tribes; and the Wiyot Tribe, California (*previously* listed as Table Bluff Reservation—Wiyot Tribe) (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In the early 20th century, human remains representing, at minimum, 18 individuals were removed by collector H. H. Stuart from Tuluwat Island and other sites in what are today Humboldt and Modoc Counties, CA. These human remains were later purchased by Mr. Howard K. Lucas of Eureka, CA, who was once an employee of Penn State University. Lucas, who began collecting prehistoric items in 1902, purchased some items from collectors such as Stuart in the 1920s and 1930s. The museum's accession file does not specify how and when the human remains described in this notice were acquired by Lucas or Stuart. Upon Howard Lucas's death, the Lucas collection was transferred to his wife, Mrs. Bertha H. Lucas. In 1978, Mrs. Lucas donated the collection to Penn State University, where it was cared for by the Department of Anthropology. The Matson Museum of Anthropology accessioned the human remains upon moving to its current location in 1987. Only general geographic locations were associated with the human remains, apart from the human remains designated PSU 27:150, which were recorded as having been removed from Tuluwat Island (formerly Gunther or Indian Island). These human remains belong to an adult female. The human remains of the other 17 individuals belong to 10 adult males (PSU 27.115; PSU 27.116; PSU 27.117; PSU 27.118; PSU 27.119; PSU 27.122; PSU 27.123; PSU 27.124; PSU 27.126; and PSU 27.128); one young adult male (PSU 27.121 (2)); three adult females (PSU 27.120; PSU 27.127; PSU 27.129); one young adult of indeterminate sex (PSU 27.156); one possible male of indeterminate age (PSU 27.125); and one cremated adult (PSU 27.158). No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Matson Museum of Anthropology, Penn State University

Officials of the Matson Museum of Anthropology, Penn State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on archival information and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 18 individuals of Native American ancestry.
- 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 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 were removed is the aboriginal land of The Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains 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 should submit a written request with information in support of the request to Dr. James Doyle, Director, Matson Museum of Anthropology, Penn State University, 410 Carpenter Building, University Park, PA 16802, telephone (814) 865–2033, email *matsonmuseum@psu.edu,* by October 6, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Matson Museum of Anthropology, Penn State University is responsible for notifying The Tribes that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19172 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034445; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist Bioarchaeology Program 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 Office of the State Archaeologist Bioarchaeology Program. 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 Office of the State Archaeologist Bioarchaeology Program at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.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 Office of the State Archaeologist, University of Iowa, Iowa City, IA. The human remains and associated funerary objects were removed from Madison and Dawes Counties, Nebraska, as well as unknown locations in Nebraska.

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 Office of the State Archaeologist Bioarchaeology Program professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne and Arapaho Tribes, Oklahoma (*previously* listed as Cheyenne-Arapaho Tribes of Oklahoma); Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Citizen Potawatomi Nation, Oklahoma; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kaw Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community in the State of Minnesota; Miami Tribe of Oklahoma; Northern Arapaho Tribe of the Wind River Reservation, Wyoming (*previously* listed as Arapaho Tribe of the Wind River Reservation, Wyoming); Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe (*previously* listed as Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota); Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; The Osage Nation (*previously* listed as Osage Tribe); Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and the Yankton Sioux Tribe of South Dakota (hereafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, two individuals were removed from unknown locations in Richardson and Nance Counties, NE. The human remains were removed from at least two locations near Rulo and Genoa, NE, by a private collector. After the collector passed away, the human remains were given to another collector who notified the University of Iowa Office of the State Archaeologist Bioarchaeology Program (OSA–BP). In August of 2019, the human remains were transferred to the OSA–BP. The human remains belong to two adult individuals of unknown age and sex (Burial Project 3451). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in NE. A resident of Missouri Valley, IA, found human remains in a box of rocks purchased at an auction around 1970. The box also contained a tag stating that the human remains belonged to ''Sioux or Omaha Indians.'' The basis for this identification is not clear. In 1995, the human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program. The human remains belong to a young-to-middle aged adult male and an adult of indeterminate age and sex. Osteological evidence supports the identification of these individuals as Native American (Burial Project 862). No known individuals were identified. No associated funerary objects are present.

Sometime in the 1930s, human remains representing, at minimum, one individual were removed from an unknown location near Bellevue, NE. The human remains were excavated from a site either along or overlooking the Missouri River. In 1996, a private citizen transferred the human remains to the Office of the State Archaeologist Bioarchaeology Program. The human remains belong to a middle-aged male. Antiquity is suggested by the condition of the human remains (Burial Project 1021). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, 11 individuals were removed from an unknown location in NE, by an avocational archeologist, who stored them in his home. Following his death, his wife transferred the human remains to the Office of the State Archaeologist Bioarchaeology Program. The human remains belong to eight mature adults and three juveniles aged newborn-six months, 2.5–12.9 years, and 3.5–14.8 years. Antiquity is suggested by the condition of the human remains (Burial Project 1712). No known individuals were identified. The 11 associated funerary objects are six Plains Woodland ceramic sherds, two pieces of hematite, two fragments of chert debitage, and one fragment of a worked bone tool.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location on the Elk Horn River near Norfolk, Madison County, NE. An Iowa resident found the human remains—an incomplete femur—in the river. In 2004, the human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program. The human remains belong to an adult of indeterminate age and sex. Antiquity is suggested by the condition of the human remains (Burial Project 2011). No known individual was identified. No associated funerary objects are present.

Sometime between 1914 and 1935, human remains representing, at minimum, one individual were removed from an unknown location in or near Crawford, Dawes County, NE. The human remains were stored at the Iowa State Historical Society with an accompanying tag indicating a provenience of Crawford, Nebraska. In 2013, the Iowa State Historical Society transferred the human remains to the Office of the State Archaeologist Bioarchaeology Program. The cranial remains belong to a young juvenile (Burial Project 2926). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, three individuals were removed from an unknown location, most likely in Nebraska. The human remains were transferred by a collector in Murray, NE, to a collector in Fort Madison, IA. After the collector's death in 1994, the human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program. The human remains belong to an adult of indeterminate age and sex, an infant, and an older juvenile (Burial Project 785). No known individuals were identified. No associated funerary objects are present.

Archival information and oral accounts indicate that all of the human remains listed in this notice were removed from the State of Nebraska. The condition of the human remains and, in some cases, osteological evidence from the cranial and dental elements, demonstrate that the individuals in question are Native American. As these human remains cannot be dated or attributed to a particular archeological context, they cannot be affiliated with any present-day Indian Tribe.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on archival information and cranial and dental morphology.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 21 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 11 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 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 were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains 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 Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu,* by October 6, 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 Office of the State Archaeologist Bioarchaeology Program is responsible for notifying The Tribes that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19165 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034447; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Pennsylvania Museum of Archaeology and Anthropology has amended a Notice of Inventory Completion published in the **Federal Register** on July 22, 2021. This notice amends the minimum number of individuals in a collection removed from Philadelphia County, PA; Burlington County, NJ; Madison County, IN; and other areas in the United States.

DATES: Repatriation of the human remains in this notice may occur on or after October 6, 2022.

ADDRESSES: Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104–6324, telephone (215) 898–4050, email *director@pennmuseum.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 University of Pennsylvania Museum of Archaeology and Anthropology. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the

University of Pennsylvania Museum of Archaeology and Anthropology.

Amendment

This notice amends the determinations in a Notice of Inventory Completion published in the **Federal Register** (86 FR 38759–38760, July 22, 2021). Following further consultation, the human remains of one individual—catalog number 97–606–40—obtained by Dr. Zina Pitcher from Fort Gibson in Muskogee County, Oklahoma, should be removed from the earlier notice. No other amendments are necessary. Repatriation of the human remains in the original Notice of Inventory Completion has not occurred.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Pennsylvania Museum of Archaeology and Anthropology has determined that:

- The human remains represent the physical remains of nine individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after October 6, 2022. If competing requests for repatriation are received, the University of Pennsylvania Museum of Archaeology and Anthropology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, § 10.13, and § 10.14.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19167 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034443; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: The Filson Historical Society, Louisville, KY

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Filson Historical Society has amended a Notice of Inventory Completion published in the **Federal Register** on March 1, 2019. This notice amends the number of associated funerary objects and the cultural affiliation of human remains and associated funerary objects in a collection removed from Fort Clark in Mercer County, ND.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 6, 2022.

ADDRESSES: Kelly Hyberger, Filson Historical Society, 1310 South Third Street, Louisville, KY 40208, telephone (502) 635–5083, email *khyberger@filsonhistorical.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 Filson Historical Society. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Filson Historical Society.

Amendment

This notice amends the determinations published in a Notice of Inventory Completion in the **Federal Register** (84 FR 7112, March 1, 2019). Repatriation of the items in the original Notice of Inventory Completion has not occurred. This notice corrects the site location of the human remains and associated funerary objects, the number of associated funerary objects, and the cultural affiliation of the human remains and associated funerary objects as a result of additional documentation being found in our files. The corrected History and Description of the Remains should read:

In 1912, human remains representing, at minimum, one individual were removed from the vicinity of Fort Clark in Mercer County, ND, by Bernhardt George Letzring. According to a hand-written note from Letzring dated April 5, 1935, he removed the remains of this individual and the associated funerary objects from graves located about ''40 feet northwest of the old Ruins of oven at Fort Clark on the bank of the Missouri River in Mercer County, North Dakota.'' At that time, Letzring identified these human remains as those of Sacajawea. Sometime prior to 1935, Letzring gave the human remains and associated funerary objects to Lewis A. Walter of Louisville, KY. In 1935, Walter loaned these items to the Filson Historical Society, and in 1951, the estate of Lewis A. Walter gifted them to the museum. There is no evidence whatsoever to suggest any validity to the claim that these are the human remains of Sacajawea. No known individual was identified. The 40 associated funerary objects are three elk tooth beads, four decorated glass trade beads, 22 solid color glass trade beads, two glass trade bead fragments, one bone gorget, one clay pipe fragment, one metal pipe bowl, one stone pipe bowl, one cowrie shell necklace, one cowrie shell bracelet, one rattlesnake tail, one cluster of cotton pods, and one bundle of natural fiber rope.

The human remains and associated funerary objects were removed from a burial ground located just outside the boundaries of Fort Clark and near a well-documented Mandan and Arikara village and burial ground. First the Mandan and later the Arikara occupied this village from the 1790s until 1862. Existing trade networks with the Mandan prompted colonial fur traders to establish Fort Clark in 1831, approximately 900 feet from the village. Following construction of the Fort, a complex trade economy continued to develop between the Fort's occupants and the neighboring Mandan and Arikara. Both the presence of European trade beads among the associated funerary objects and the geographic location of the grave suggest that the

human remains of the individual described in this notice are culturally affiliated to the Mandan and Arikara.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Filson Historical Society has determined that:

- The human remains described in this amended notice represent the physical remains of one individual of Native American ancestry.
- The 40 objects described in this amended notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after *October 6, 2022.* If competing requests for repatriation are received, the Filson Historical Society must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Filson Historical Society is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, § 10.13, and § 10.14.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19162 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034452; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum of Natural History, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Field Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Field Museum of Natural History at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605–2496, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Field Museum of Natural History, Chicago, IL, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1901, nine cultural items were removed from Table Mountain in Fresno County, CA. The items were collected by Dr. John Hudson on behalf of the Field Museum during a two-year expedition among the Native populations of California and accessioned by the Museum in 1901. The nine sacred objects are one medicine pot, one batch of tobacco emetic, two oak mortars, one batch of limestone emetic, one bunch of chamomile leaves, one basket, one wild cucumber seed necklace, and one wooden pipe.

The academic literature, Field Museum records, and consultation evidence support the finding that the requested items are Yokuts in origin and that there is a clear link between the Table Mountain Rancheria and the Yokuts people who lived at Table Mountain at the time of collection. Consultation evidence and academic literature indicate the importance of these items in traditional ceremonial practices.

Determinations Made by the Field Museum of Natural History

Officials of the Field Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the nine cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the nine sacred objects described above and the Table Mountain Rancheria (*previously* listed as Table Mountain Rancheria of California).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605–2496, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by October 6, 2022. After that date, if no

additional claimants have come forward, transfer of control of the sacred objects to the Table Mountain Rancheria (*previously* listed as Table Mountain Rancheria of California) may proceed.

The Field Museum of Natural History is responsible for notifying the Table Mountain Rancheria (*previously* listed as Table Mountain Rancheria of California) that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19171 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034444; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, Florida Atlantic University, Boca Raton, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology at Florida Atlantic University 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 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 Department of Anthropology at Florida Atlantic 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 the Department of Anthropology at the address in this notice by October 6, 2022.

FOR FURTHER INFORMATION CONTACT: Meredith Ellis, Department of Anthropology, Florida Atlantic University, 777 Glades Road, Boca Raton, FL 33431, telephone (561) 297–3230, email *ellism@fau.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 Department of Anthropology, Florida Atlantic University, Boca Raton, FL. The human remains and associated funerary objects were removed from various locations throughout the State of Florida.

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 and associated funerary objects was made by the Department of Anthropology at Florida Atlantic University professional staff in consultation with representatives of the Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)). The Miccosukee Tribe of Indians; The Muscogee (Creek) Nation; and The Seminole Nation of 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

In April of 1973, human remains representing, at minimum, 35 individuals were removed from the Boynton Beach Mound Site (8PB100) in Palm Beach, FL, by Kenneth Horton and Howard Jaffee of the Palm Beach Archaeological Society. The Boynton Beach Mound Site dates from 150 B.C. to the time of European contact. Radiocarbon dates from samples of the excavated areas give dates of 150 B.C. and A.D. 400. In December of 1985, the human remains were transferred to Florida Atlantic University (FAU). The human remains are fragmentary and include partial crania and teeth. No known individuals were identified. The 929 associated funerary objects are glass, gold, and silver burial beads identified by Robert Carr as 16th century and Spanish.

Between May and June of 1980, human remains representing, at minimum 55 individuals were removed from the Briarwoods Site (8PA66) in Pasco County, FL, by J. Mitchem during a salvage operation associated with the Department of Anthropology at the University of Florida, Gainesville. The Briarwoods Site is a small prehistoric Native American sand burial site. It was occupied during the Safety Harbor Period (A.D. 1400–1513) and might have contained an earlier, Weeden Island component (A.D. 1000–1500). In 1981, the skeletal remains were transferred to FAU by the University of South Florida, Tampa. The human remains are fragmentary, and age or sex were unable to be determined. No known individuals were identified. No associated funerary objects are present.

In December of 1980, human remains representing, at minimum, four individuals were removed from the Brickell Bluff Site (8DA1082) in Dade County, FL, by Robert S. Carr during a salvage excavation. The site is a prehistorical coastal mortuary site dated as a late Archaic (4000–3000 BP). In December 1980, the fragmented skeletal remains were transferred to FAU. No known individuals were identified. No associated funerary objects are present.

In 1980, human remains representing, at minimum, 16 individuals were removed from the Flagami South Site (8DA1053) in Dade County, FL, by Robert S. Carr in a salvage excavation. The Flagami South Site is dated Late Archaic/Transitional Glades I–II through early Glades III period of Spanish Contact. In 1980, the human skeletal remains from the site were transferred to FAU. They are fragmentary and include two likely males and four likely females. No known individuals were identified. No associated funerary objects are present.

In 1980, human remains representing, at minimum, 99 individuals were removed from the Highland Beach Site (8PB11) in Palm Beach County, FL, by Yasar Mehmet Iscan of FAU during a salvage excavation. The site dates from A.D. 800 to 1200. Commingled cranial and postcranial elements, many fragmentary, were removed from the site. The human remains include 45 males and 49 females. No known individuals were identified. No associated funerary objects are present.

In 1959, human remains representing, at minimum, 12 individuals were removed during the digging of a drainage canal at the Margate-Blount

site (8BD41) in Broward County, FL. The site was occupied for the entirety of the post-archaic period, including during the period of European contact. No known individuals were identified. No associated funerary objects are present.

In April of 1985, human remains representing, at minimum, two individuals were removed during a salvage excavation at the Nebot Site (8PB219) in Palm Beach County, FL, by archeologists from FAU. The site is dated Glades IIIc. The human remains are fragmentary and belong to two females, one of whom was approximately 16–17 years old and the other approximately 35–39 years old. No known individuals were recovered. The 11 associated funerary objects are one bone knife; two bone pins; one bone scraper; one stone projectile point; four unmodified shark teeth; and two shell fragments.

Between 1976 and 1977, human remains representing, at minimum, seven individuals were removed during a salvage operation at the Patrician Mound Site (8PB99) in Palm Beach County, FL, by the Palm Beach County Archaeological Society. The site is dated as Glades I–III with carbon-14 dates ranging from 4000 years ago to 1200 years ago. The skeletal remains and funerary objects were transferred to FAU in 1985. No known individuals were identified. The 25 associated funerary objects are 25 ampullaria snail shells.

In 1968, human remains representing, at minimum, 37 individuals were removed from the Republic Groves Site (8Hr4) in Hardee County, FL, by Mitchell Hope, William Sears, and Audrey Sublett of FAU. The site is dated as late Middle Archaic through the Paleoindian period, 4600 B.C. through 2000 B.C. The human remains are commingled. Some of them belong to subadults, 6 to 7 years old. No known individuals were identified. No associated funerary objects are present.

In 1981, human remains representing, at minimum, six individuals were removed from the Santa Maria site (8DA2132) in Miami-Dade County, FL, by Dr. Mehmet Yasar Iscan and Robert Carr and brought to FAU. The site is dated as Late Archaic Period, 4000–3000 BP.

The human remains are commingled. No known individuals were identified. No associated funerary objects are present.

In 1983, human remains representing, at minimum, one individual were removed during construction monitoring at the Jose Marti Site (8DA3220) in Dade County, FL, by Robert Carr and Associates. The site is dated Glades I. The Florida Master Site file mentions faunal remains and pottery, includes a brief mention of a partial cranium, and lists the Historical Museum of Southern Florida as the repository for materials from the excavation. No known individual was identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, one individual were removed during a surface collection at Emerald Towers (8BD57) in Broward County, FL, by Furey and Steinen. The site likely dates to between Glades I and Glades II. The human remains are fragmentary. No known individual was identified. No associated funerary objects are present.

In 1965, human remains representing, at minimum, one individual were removed from Joseph Reed Mound (8MT13) in Martin County, FL. Prior investigation of the mound identified it as a large shell ring site. The human remains were sent to FAU by Ranger Bacheller, on behalf of the then-site owner Nat Reed. The human remains are comprised of a partial skull. No known individual was identified. No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, two individuals were removed from Bull Head Grove #5/Uzell Pens in Glades County, FL. There is little to no information on the human remains, which consist of several fragments of human bone and teeth. No known individuals were identified. No associated funerary objects are present.

In 1967, human remains representing, at minimum, two individuals were removed from the Hutchinson Island/Gilbert Bar Site (8MT14c) in Martin County, FL, by William Dias and Ronald Pagel. They identified the site as a burial mound, 50% of which had already been destroyed by pot hunters. Their notes indicate that extensive human remains were collected from the burial mound, and that the Martin County Historical Society had been conducting its own excavations at the site. Apparently, the Florida Master Site File for the 1967 excavation no longer exists, though the current Master Site File for 8MT37 may be related to this excavation. The human remains are fragmentary and commingled, and the MNI is based on two left patellae. No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing, at minimum, two individuals were removed from the Boca Weir/Jap Rock Site (8PB56) in Palm Beach County, FL, by John F. Furey. Furey associated the site with the Spanish River Complex. The skeletal elements are commingled and fragmentary. No known individuals were identified. No associated funerary objects are present.

Between 1978 and 1980, human remains representing, at minimum, one individual were removed from the Rivera Beach Site (8PB30) in Palm Beach County, FL, by the Palm Beach Archaeological Society. The site is dated Glades III. The two skeletal elements at FAU likely derive from the 1978 excavations. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from the Kendall Site (8DA1081) in Dade County, FL, by persons unknown. The site is dated Glades II–III site and has been extensively excavated. The human remains are commingled and fragmentary. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, five individuals were removed from the TaMiami Trail Site (8DA33) in Dade County, FL. Although when or by whom the human remains were excavated cannot be certain, the Florida Master Site file does indicate that John Goggin conducted a surface collection in 1952. Goggin, though, never mentioned collecting any human remains. In his work he notes that the site he excavated in 1952 is likely Glades Ib. The human remains are commingled and fragmentary. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, 15 individuals were removed during a salvage excavation at Belle Glade Mound (8PB41) in Palm Beach County, FL, by Aubrey Sublett. In addition to the human remains at FAU, skeletal elements, including complete skulls, are listed as being curated at the Palm Beach Museum of Natural History and at the Florida Museum of Natural History. The human remains are comingled and fragmentary. No known individuals were identified. No associated funerary objects are present.

Sometime around 1970, human remains representing, at minimum, 20 individuals were removed from Canal Point 2 (8PB45) in Palm Beach County, FL. Sugar company employees found human remains while digging ditches at the site. Very little information is recorded about this discovery and removal or how the human remains entered the collection at FAU. The human remains are comprised of over

1,400 skeletal fragments. No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing, at minimum, 11 individuals were removed from Canal Point 3 (8PB046) in Palm Beach County, FL. In 1966, the United States Sugar Corporation reported human remains at the site. Excavations in multiple trench sites uncovered a large amount of human bones and cultural materials. Prior excavations, in 1939, resulted in the removal of additional human skeletal remains which, according to the Florida Master Site file, were sent to the Smithsonian Institution. The human remains are commingled and are comprised of approximately 1,461 fragments, including the nearly complete skull of a probable female. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from a burial site at Hialeah (8DA82A) in Dade County, FL. No other documentation exists for this site, and this burial is not mentioned in the Florida Master Site File. However, records from archeologist D.D. Laxson, housed at FAU, indicate that he excavated four locations at DA82, Hialeah 1–4, and encountered another, partial historic Seminole burial, which he reported in a 1954 *Florida Anthropologist* article. It seems likely that this burial is from a related area. The well-preserved human remains belong to a young adult male, 17–23 years old. Reconstruction of the skull by a previous researcher shows that this individual had sustained at least four sharp force trauma wounds. In addition, the postcranial skeleton exhibits extensive perimortem crushing injuries, suggesting that the individual was trampled, perhaps by a horse. This individual appears to be a historic Seminole based on preservation, site location, and trauma patterns. No known individual was identified. No associated funerary objects are present.

Determinations Made by the Department of Anthropology, Florida Atlantic University

Officials of the Department of Anthropology, Florida Atlantic University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 336 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 965 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 Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)).

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 Meredith Ellis, Department of Anthropology, Florida Atlantic University, Boca Raton, FL 33431, telephone (561) 297–4768, email *ellism@fau.edu,* by October 6, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)) may proceed.

The Department of Anthropology, Florida Atlantic University is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: August 29, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–19163 Filed 9–2–22; 8:45 am]

BILLING CODE 4312–52–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Invitation for Membership on Advisory Committee

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Request for applications.

SUMMARY: The Joint Board for the Enrollment of Actuaries (Joint Board), established under the Employee Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of individuals who wish to perform actuarial services under ERISA. To assist in its examination duties mandated by ERISA, the Joint Board has established the Advisory Committee on Actuarial Examinations (Advisory Committee) in accordance with the provisions of the Federal Advisory Committee Act (FACA). The current Advisory Committee members' terms expire on February 28, 2023. This notice describes the Advisory Committee and invites applications from those interested in serving on the Advisory Committee for the March 1, 2023–February 28, 2025, term.

DATES: Applications for membership on the Advisory Committee must be received by the Joint Board, by no later than December 6, 2022.

ADDRESSES: Send applications electronically with APPLICATION FOR ADVISORY COMMITTEE inserted in subject line to *NHQJBEA@irs.gov.* See **SUPPLEMENTARY INFORMATION** for application requirements.

FOR FURTHER INFORMATION CONTACT: Elizabeth Van Osten, Designated Federal Officer, Advisory Committee on Actuarial Examinations, at 202–317–3648 or *elizabeth.j.vanosten@irs.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

To qualify for enrollment to perform actuarial services under ERISA, an applicant must satisfy certain experience and knowledge requirements, which are set forth in the Joint Board's regulations. An applicant may satisfy the knowledge requirement by successful completion of Joint Board examinations in basic actuarial mathematics and methodology and in actuarial mathematics and methodology relating to pension plans qualifying under ERISA.

The Joint Board, the Society of Actuaries, and the American Society of Pension Professionals & Actuaries jointly offer examinations acceptable to the Joint Board for enrollment purposes and acceptable to the other two actuarial organizations as part of their respective examination programs.

2. Scope of Advisory Committee Duties

The Advisory Committee plays an integral role in the examination program by assisting the Joint Board in offering examinations that enable examination candidates to demonstrate the knowledge necessary to qualify for enrollment. The Advisory Committee's duties, which are strictly advisory, include (1) recommending topics for inclusion on the Joint Board examinations, (2) developing and reviewing examination questions, (3) recommending proposed examinations, (4) reviewing examination results and recommending passing scores, and (5) providing other recommendations and advice relative to the examinations, as requested by the Joint Board.

3. Member Terms and Responsibilities

Members are appointed for a 2-year term. The upcoming term will begin on March 1, 2023, and end on February 28, 2025. Members may seek reappointment for additional consecutive terms.

Members are expected to attend approximately 4 meetings each calendar year and are reimbursed for travel expenses in accordance with applicable government regulations. Meetings may be held in person or by teleconference. In general, members are expected to devote 125 to 175 hours, including meeting time, to the work of the Advisory Committee over the course of a year.

4. Member Selection

The Joint Board seeks to appoint an Advisory Committee that is fairly balanced in terms of points of view represented and functions to be performed. Every effort is made to ensure that most points of view extant in the enrolled actuary profession are represented on the Advisory Committee. To that end, the Joint Board seeks to appoint members from each of the main practice areas of the enrolled actuary profession, including small employer plans, large employer plans, and multiemployer plans. In addition, to ensure diversity of points of view, the Joint Board limits the number of members affiliated with any one actuarial organization or employed with any one firm.

Membership normally will be limited to actuaries currently enrolled by the Joint Board. However, individuals having academic or other special qualifications of particular value for the Advisory Committee's work also will be considered for membership. Federally registered lobbyists and individuals affiliated with Joint Board enrollment examination preparation courses are not eligible to serve on the Advisory Committee.

5. Member Designation

Advisory Committee members are appointed as Special Government Employees (SGEs). As such, members are subject to certain ethical standards applicable to SGEs. Upon appointment, each member will be required to provide written confirmation that he/she does not have a financial interest in a Joint Board examination preparation course. In addition, each member will be required to attend annual ethics training.

6. Application Requirements

To receive consideration, an individual interested in serving on the Advisory Committee must submit (1) a signed, cover letter expressing interest in serving on the Advisory Committee and describing his/her professional qualifications, and (2) a resume and/or curriculum vitae. Applications must be submitted electronically to *NHQJBEA@irs.gov.* The transmittal email should include APPLICATION FOR ADVISORY COMMITTEE in the subject line. Applications must be received by December 6, 2022.

Dated: August 30, 2022.

Thomas V. Curtin, Jr.,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2022–19123 Filed 9–2–22; 8:45 am]

BILLING CODE 4830–01–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Renewal of Charter of Advisory Committee on Actuarial Examinations

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of renewal of advisory committee.

SUMMARY: The Joint Board for the Enrollment of Actuaries announces the renewal of the charter of the Advisory Committee on Actuarial Examinations.

FOR FUTHER INFORMATION CONTACT: Elizabeth Van Osten, at *Elizabeth.j.vanosten@irs.gov* or 202–317–3648.

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee on Examinations (Advisory Committee) is to advise the Joint Board for the Enrollment of Actuaries (Joint Board) on examinations in actuarial mathematics and methodology. The Joint Board administers such examinations in discharging its statutory mandate to enroll individuals who wish to perform actuarial services with respect to pension plans subject to the Employee Retirement Income Security Act of 1974. The Advisory Committee's functions include, but are not necessarily limited to, considering and recommending examination topics; developing examination questions; recommending proposed examinations; reviewing examination results and recommending pass marks; and as requested by the Joint Board, making recommendations relative to the examination program.

Dated: August 30, 2022.

Kevin M. Hacker,

Chair, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2022–19095 Filed 9–2–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Multiple Worksite Report and the Report of Federal Employment and Wages

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 6, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: States use the Multiple Worksite Report to collect employment and wages data from non-Federal businesses engaged in multiple operations within a State and subject to State Unemployment Insurance laws. The Report of Federal Employment and Wages is designed for Federal establishments covered under the Unemployment Compensation for Federal Employees program. These data are used for sampling, benchmarking, and economic analysis. For additional substantive information about this ICR, see the related notice published in the

Federal Register on April 19, 2022 (87 FR 23267).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: Multiple Worksite Report and the Report of Federal Employment and Wages.

OMB Control Number: 1220–0134.

Affected Public: Private Sector—Businesses or other for-profits, Not-for-profit institutions, Federal Government.

Total Estimated Number of Respondents: 148,442.

Total Estimated Number of Responses: 593,768.

Total Estimated Annual Time Burden: 219,694 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–19120 Filed 9–2–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Fire Protection (Underground Coal Mines)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 6, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Fire protection standards for underground coal mines are based on Section 311(a) of the Mine Act. Underground mine operators are required to submit to MSHA for approval, a plan for the instruction of miners in firefighting and evacuation procedures to be followed in event of an emergency. In addition, fire drills are to be conducted quarterly, equipment tested, and a record kept of the drills and testing results. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 11, 2022 (87 FR 28845). This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–MSHA.

Title of Collection: Fire Protection (Underground Coal Mines).

OMB Control Number: 1219–0054.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 156.

Total Estimated Number of Responses: 145,516.

Total Estimated Annual Time Burden: 16,254 hours.

Total Estimated Annual Other Costs Burden: $67.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–19119 Filed 9–2–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0009]

Traylor Bros. Inc.; Application for Modification of Permanent Variance and Interim Order; Grant of Interim Order; Request for Comments

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces an application for modification of a permanent variance and for an interim order submitted by Traylor Bros. Inc. (Traylor). The application seeks to modify a permanent variance relating to work in compressed air environments previously granted to Traylor to add Traylor-Shea Joint Venture (TSJV) as an additional employer and to add a new project, the Alexandria, Virginia RiverRenew tunneling project. Traylor also requests an interim order to be effective until OSHA issues a final decision on the application. This notice presents the agency's preliminary findings on Traylor's application and announces the

granting of an Interim Order. OSHA invites the public to submit comments on the variance modification application to assist the agency in determining whether to grant the applicant a modified permanent variance based on the conditions specified in this application.

DATES: Submit comments, information, documents in response to this notice, and request for a hearing on or before October 6, 2022. The Interim Order described in this notice will become effective on September 6, 2022, and shall remain in effect until the completion of the Alexandria RiverRenew project for Alexandria, Virginia and Washington, DC, the Interim Order is modified or revoked, or OSHA makes a final decision on the application for a modified permanent variance.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at: *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2022–0009). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.*

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

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

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.*

Copies of this Federal Register notice. Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's web page at *http://www.osha.gov.*

Hearing Requests. According to 29 CFR 1905.15, hearing requests must include: (1) a concise statement of facts detailing how the proposed Variance modification would affect the requesting party; (2) a specification of any statement or representation in the Variance application that the commenter denies, and a concise summary of the evidence offered in support of each denial; and (3) any views or arguments on any issue of fact or law presented in the variance application.

SUPPLEMENTARY INFORMATION:

I. Notice of Application

This notice addresses Traylor's application, by letter dated March 15, 2021, to modify the permanent variance granted to Traylor on March 11, 2016 (''2016 Variance'') (81 FR 12954) to include an additional employer, the Traylor Shea Joint Venture (TSJV), which is a joint venture made up of two construction companies, Traylor and J.F. Shea Construction, Inc. (Shea). TSJV was awarded the tunneling contract for the Alexandria RiverRenew Tunnel Project in Alexandria, Virginia and Washington, DC (OSHA–2022–0009–0002). Traylor also requested an Interim Order while OSHA evaluates the application (OSHA–2022–0009–0005). This notice covers the Alexandria RiverRenew tunneling project only and is not applicable to future tunneling projects by Traylor, Shea or TSJV.

Specifically, this notice addresses the application by Traylor and TSJV (the applicant) for a modification of the 2016 Variance and Interim Order from the provisions of the standard governing compressed air work that: (1) prohibit compressed-air worker exposure to pressures exceeding 50 pounds per square inch (p.s.i.) except in an emergency (29 CFR 1926.803(e)(5)); [1] (2) require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (3) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

OSHA has previously approved nearly identical provisions when granting several other very similar variances, as discussed in more detail in Section II. OSHA preliminarily concludes that the proposed modification to the 2016 Variance (81 FR 12954) is appropriate, grants an Interim Order temporarily allowing the proposed activity, and seeks comment on the proposed variance modification.

A. Background

The application for a modified permanent variance seeks to add a new employer, Traylor Shea Joint Venture (TSJV). TSJV is a contractor that works on complex tunnel projects using innovations in tunnel-excavation methods. The applicant's workers engage in the construction of tunnels using advanced shielded mechanical excavation techniques in conjunction with an earth pressure balance tunnel boring machine (TBM). Using shielded mechanical excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, TBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face through various geologies, and isolate that pressure to the forward section (the working chamber) of the TBM.

TSJV asserts that it bores tunnels using an TBM at levels below the water table through soft soils consisting of clay, silt, and sand. TBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. The forward-most portion of the TBM is the working chamber, and this chamber is the only pressurized segment of the TBM. Within the shield, the working chamber consists of two sections: the forward working chamber and the staging chamber. The forward working chamber is immediately behind the cutter head

[1] The decompression tables in Appendix A of subpart S express the maximum working pressures as pounds per square inch gauge (p.s.i.g.), with a maximum working pressure of 50 p.s.i.g. Therefore, throughout this notice, OSHA expresses the 50 p.s.i. value specified by § 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

and tunnel face. The staging chamber is behind the forward working chamber and between the man-lock door and the entry door to the forward working chamber.

The TBM has twin man-locks located between the pressurized working chamber and the non-pressurized portion of the machine. Each man-lock has two compartments. This configuration allows workers to access the man-locks for compression and decompression, and medical personnel to access the man-locks if required in an emergency.

TSJV's HOM for the Alexandria RiverRenew Project indicated that the maximum pressure to which it is likely to expose workers during project interventions for the Alexandria RiverRenew Tunnel Project is 52.5 p.s.i. Therefore, to work effectively, TSJV must perform hyperbaric interventions in compressed air at pressures nearly 5% higher than the maximum pressure specified by the existing OSHA standard, 29 CFR 1926.803(e)(5), which states: ''No employee shall be subjected to pressure exceeding 50 p.s.i. except in emergency'' (see footnote 1).

TSJV employs specially trained personnel for the construction of the tunnel. To keep the machinery working effectively, TSJV asserts that these workers must periodically enter the excavation working chamber of the TBM to perform hyperbaric interventions during which workers would be exposed to air pressures up to 52.5 p.s.i., which exceeds the maximum pressure specified by the existing OSHA standard at 29 CFR 1926.803(e)(5). These interventions consist of conducting inspections or maintenance work on the cutter-head structure and cutting tools of the TBM, such as changing replaceable cutting tools and disposable wear bars, and, in rare cases, repairing structural damage to the cutter head. These interventions are the only time that workers are exposed to compressed air. Interventions in the working chamber (the pressurized portion of the TBM) take place only after halting tunnel excavation and preparing the machine and crew for an intervention.

During interventions, workers enter the working chamber through one of the twin man-locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The man-locks and the working chamber are designed to accommodate three people, which is the maximum crew size allowed under the proposed variance. When the required decompression times are greater than work times, the twin man-locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man-lock at its disposal.

TSJV asserts that these innovations in tunnel excavation have greatly reduced worker exposure to hazards of pressurized air work because they have eliminated the need to pressurize the entire tunnel for the project and would thereby reduce the number of workers exposed, as well as the total duration of exposure, to hyperbaric pressure during tunnel construction. These advances in technology substantially modified the methods used by the construction industry to excavate subaqueous tunnels compared to the caisson work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803.

In addition to the reduced exposures resulting from the innovations in tunnel-excavation methods, TSJV asserts that innovations in hyperbaric medicine and technology improve the safety of decompression from hyperbaric exposures. These procedures, however, would deviate from the decompression process that OSHA requires for construction in 29 CFR 1926.803(e)(5) and (f)(1) and the decompression tables in Appendix A of 29 CFR 1926, subpart S. Nevertheless, according to TSJV, their use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the decompression tables specified by the existing OSHA standard.

TSJV therefore believes its workers will be at least as safe under its proposed alternatives as they would be under OSHA's standard because of the reduction in number of workers and duration of hyperbaric exposures, better application of hyperbaric medicine, and the development of a project-specific HOM, (OSHA–2022–0009–0002) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric or compressed-air workers (CAWs).

Based on an initial review of the application for a modified permanent variance and interim order for the construction of the Alexandria RiverRenew Tunnel Project in Alexandria, Virginia and Washington, DC, OSHA has preliminarily determined that Traylor/TSJV have proposed an alternative that would provide a workplace at least as safe and healthful as that provided by the standard.

II. The Variance Application

Pursuant to the requirements of OSHA's variance regulations (29 CFR 1905.11), the applicant has certified that it notified its workers [2] of the variance modification application and request for interim order by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant has certified that it informed its workers of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance modification application.

A. OSHA History of Approval of Nearly Identical Variance Requests

OSHA has previously approved several nearly identical variances involving the same types of tunneling equipment used for similar projects (tunnel construction variances). OSHA notes that it granted five subaqueous tunnel construction permanent variances from the same provisions of OSHA's compressed-air standard (29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii)) that are the subject of the present application: (1) Impregilo, Healy, Parsons, Joint Venture (IHP JV) for the completion of the Anacostia River Tunnel in Washington, DC (80 FR 50652 (August 20, 2015)); (2) Traylor JV for the completion of the Blue Plains Tunnel in Washington, DC (80 FR 16440, March 27, 2015)); (3) Tully/OHL USA Joint Venture for the completion of the New York Economic Development Corporation's New York Siphon Tunnel project (79 FR 29809, May 23, 2014)); and (4) Salini-Impregilo/Healy Joint Venture for the completion of the Northeast Boundary Tunnel in Washington, DC (85 FR 27767, May 11, 2020). OSHA also granted an Interim Order to Ballard Marine for the Suffolk County Outfall Tunnel project in West Babylon, New York (86 FR 5253, January 19, 2021). The proposed alternate conditions in this notice are nearly identical to the alternate conditions of the previous Permanent Variances.[3] OSHA is not aware of any

[2] See the definition of ''Affected employee or worker'' in section V.D of this Notice.

[3] The previous tunnel construction variances allowed further deviation from OSHA standards by permitting employee exposures above 50 p.s.i.. based on the composition of the soil and the amount of water that will be above the tunnel for various sections of this project. The current proposed modified permanent variance includes

injuries or other safety issues that arose from work performed under these conditions in accordance with the previous variances.

B. Variance From Paragraph (e)(5) of 29 CFR 1926.803, Prohibition of Exposure to Pressure Greater Than 50 p.s.i.

The applicant states that it may perform hyperbaric interventions at pressures greater than 50 p.s.i. in the working chamber of the TBM; this pressure exceeds the pressure limit of 50 p.s.i. specified for nonemergency purposes by 29 CFR 1926.803(e)(5). The TBM has twin man-locks, with each man-lock having two compartments. This configuration allows workers to access the man-locks for compression and decompression, and medical personnel to access the man-locks if required in an emergency.

TBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. As noted earlier, the forward-most portion of the TBM is the working chamber, and this chamber is the only pressurized segment of the TBM. Within the shield, the working chamber consists of two sections: the staging chamber and the forward working chamber. The staging chamber is the section of the working chamber between the man-lock door and the entry door to the forward working chamber. The forward working chamber is immediately behind the cutter head and tunnel face.

TSJV will pressurize the working chamber to the level required to maintain a stable tunnel face. Pressure in the staging chamber ranges from atmospheric (no increased pressure) to a maximum pressure equal to the pressure in the working chamber. The applicant asserts that they may have to perform interventions at pressures up to 52.5 p.s.i.

During interventions, workers enter the working chamber through one of the twin man-locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The maximum crew size allowed in the forward working chamber is three. At certain hyperbaric pressures (*i.e.,* when decompression times are greater than work times), the twin man-locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man-lock at its disposal.

Further, the applicant asserts that TSJV has developed a project-specific HOM (OSHA–2022–0009–0003) that describes in detail the hyperbaric procedures, the required medical examination used during the tunnel-construction project, the standard operating procedures and the emergency and contingency procedures. The procedures include using experienced and knowledgeable man-lock attendants who have the training and experience necessary to recognize and treat decompression illnesses and injuries. The attendants are under the direct supervision of the hyperbaric supervisor and attending physician. In addition, procedures include medical screening and review of prospective compressed-air workers (CAWs). The purpose of this screening procedure is to vet prospective CAWs with medical conditions (*e.g.,* deep vein thrombosis, poor vascular circulation, and muscle cramping) that could be aggravated by sitting in a cramped space (*e.g.,* a man-lock) for extended periods or by exposure to elevated pressures and compressed gas mixtures. A transportable recompression chamber (shuttle) is available to extract workers from the hyperbaric working chamber for emergency evacuation and medical treatment; the shuttle attaches to the topside medical lock, which is a large recompression chamber. The applicant believes that the procedures included in the HOM provide safe work conditions when interventions are necessary, including interventions above 50 p.s.i. or 50 p.s.i.g.

OSHA comprehensively reviewed the project-specific HOM and determined that the safety and health instructions and measures it specifies are appropriate, conform with the conditions in the 2016 Variance, and adequately protect the safety and health of the CAWs.

C. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR 1926, subpart S (see 29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules (the 1992 French Decompression Tables) that rely on staged decompression and supplement breathing air used during decompression with air or oxygen (as appropriate).[4] The applicant asserts decompression protocols using the 1992 French Decompression Tables for air or oxygen as specified by the Alexandria RiverRenew Tunnel Project-specific HOM are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR 1926, subpart S. Accordingly, the applicant would commit to following the decompression procedures described in that HOM, which would require it to follow the 1992 French Decompression Tables to decompress compressed-air worker (CAWs) after they exit the hyperbaric conditions in the working chamber.

Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. Traylor asserts that oxygen decompression has many benefits, including (1) keeping the partial pressure of nitrogen in the lungs as low as possible; (2) keeping external pressure as low as possible to reduce the formation of bubbles in the blood; (3) removing nitrogen from the lungs and arterial blood and increasing the rate of nitrogen elimination; (4) improving the quality of breathing during decompression stops so that workers are less tired and to prevent bone necrosis; (5) reducing decompression time by about 33 percent as compared to air decompression; and (6) reducing inflammation.

In addition, the project-specific HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and decompression. A trained and experienced man-lock attendant is also required to be present during hyperbaric exposures and decompression. This man-lock attendant is to operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), who is trained in hyperbaric operations, procedures, and safety, directly oversees all hyperbaric interventions and ensures that staff

substantively the same safeguards as the variances that OSHA granted previously even though employees will not be exposed to pressures higher than 52.5 p.s.i.g.

[4] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

follow the procedures delineated in the HOM or by the attending physician.

D. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression

TSJV is applying for a permanent variance from the OSHA standard at 29 CFR 1926.803(g)(1)(iii), which requires automatic controls to regulate decompression. As noted above, the applicant is committed to conducting the staged decompression according to the 1992 French Decompression Tables under the direct control of the trained man-lock attendant and under the oversight of the hyperbaric supervisor.

Breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in decompression illness (DCI), commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue (see footnote 16 in this notice discussing a 1985 NIOSH report on DCI).

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (*i.e.,* staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the use of automatically regulated continuous decompression.[5] In addition, the applicant asserts that staged decompression administered in accordance with its HOM is at least as effective as an automatic controller in regulating the decompression process because the HOM includes a hyperbaric supervisor (a competent person experienced and trained in hyperbaric operations, procedures, and safety) who directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops.

E. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber of sufficient size to accommodate all CAWs being decompressed at the end of the shift when total decompression time exceeds 75 minutes (see 29 CFR 1926.803(g)(1)(xvii)). Use of the special decompression chamber enables CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

Space limitations in the TBM do not allow for the installation and use of an additional special decompression lock or chamber. The applicant proposes that it be permitted to rely on the man-locks and staging chamber in lieu of adding a separate, special decompression chamber. Because only a few workers out of the entire crew are exposed to hyperbaric pressure, the man-locks (which, as noted earlier, connect directly to the working chamber) and the staging chamber are of sufficient size to accommodate all of the exposed workers during decompression. The applicant uses the existing man-locks, each of which adequately accommodates a three-member crew for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man-lock (during decompression stops) or exit the man-lock and move into the staging chamber where additional space is available. The applicant asserts that this alternative arrangement is as effective as a special decompression chamber in that it has sufficient space for all the CAWs at the end of a shift and enables the CAWs to move about and flex their joints to prevent neuromuscular problems.

F. Multi-State Variance

As previously stated in this notice, Traylor seeks a modified permanent variance from several provisions of OSHA's standards regulating work in compressed-air environments for TSJV's tunneling work on the Alexandria RiverRenew Project in Alexandria, Virginia and Washington, DC. The Commonwealth of Virginia has an OSHA-approved State Plan.

Twenty-eight state safety and health plans have been approved by OSHA under section 18 of the OSH Act.[6] Under 29 CFR 1902.8(c), an employer may apply to Federal OSHA for a variance where a state standard is identical to a federal standard addressed to the same hazard, and the variance would be applicable to employment or places of employment in more than one state, including at least one state with an approved plan.

Traylor's variance modification application fits the parameters of 29 CFR 1902.8, and Federal OSHA's action on this application will be deemed prospectively an authoritative interpretation of Traylor/TSJV's compliance obligations regarding the applicable state standards in the places of employment covered by the application. As part of the process of evaluating this request to modify the previously granted permanent variance, OSHA's Directorate of Cooperative and State Programs requested approval from the Virginia State Plan regarding this modification request. On May 26, 2022, the Virginia State Plan provided notice to OSHA that it will honor OSHA's actions on the variance modification request (see OSHA–2022–0009–0004).

III. Agency Preliminary Determinations

After reviewing the proposed alternatives, OSHA has preliminarily

[5] See, *e.g.,* Dr. Eric Kindwall, EP (1997), Compressed air tunneling and caisson work decompression procedures: development, problems, and solutions. *Undersea and Hyperbaric Medicine,* 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard. Dr. Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table and recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 p.s.i.g. . . . to the surface took 1h, at least half the time is spent at pressures less than 2 p.s.i.g. . . ., which provides less and less meaningful bubble suppression . . . .'' In addition, Dr. Kindwall addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

[6] Six State Plans (Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands) limit their occupational safety and health authority to state and local employers only. State Plans that exercise their occupational safety and health authority over both public- and private-sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

determined that the applicant's proposed alternatives on the whole, subject to the conditions in the request and imposed by this Interim Order, provide measures that are as safe and healthful as those required by the cited OSHA standards addressed in section II of this notice.

In addition, OSHA has preliminarily determined that each of the following alternatives are at least as effective as the specified OSHA requirements:

A. 29 CFR 1926.803(e)(5)

The applicant has developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i. The proposed alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions exceeding 50 p.s.i. while engaged in the construction of a subaqueous tunnel using advance shielded mechanical-excavation techniques in conjunction with the TBM. Prior to conducting interventions in the TBM's pressurized working chamber, TSJV halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.

B. 29 CFR 1926.803(f)(1)

The applicant has proposed to implement equally effective alternative measures to the requirement in 29 CFR 1926.803(f)(1) for compliance with OSHA's decompression tables. The HOM specifies the procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the decompression tables the applicant proposes to use (the 1992 French Decompression Tables). Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (*i.e.,* staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

As it did when granting the five previous permanent variances to IHP JV, Traylor JV, Tully JV, Salini-Impregilo Joint Venture, and Ballard, OSHA conducted a review of the scientific literature and concluded that the alternative decompression method (*i.e.,* the 1992 French Decompression Tables) TSJV proposed would be at least as safe as the decompression tables specified by OSHA when applied by trained medical personnel under the conditions that would be imposed by the 2016 Variance.

Some of the literature indicates that the alternative decompression method may be safer, concluding that decompression performed in accordance with these tables resulted in a lower occurrence of DCI than decompression conducted in accordance with the decompression tables specified by the standard. For example, H. L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996).[7] This project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCI cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08% compared to a previous incidence rate of 0.14%. The DCI incidence in the study by H. L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A.

OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables.[8]

OSHA's experience with the previous five variances, which all incorporated nearly identical decompression plans and did not result in safety issues, also provide evidence that the alternative procedure as a whole is at least as effective for this type of tunneling project as compliance with OSHA's decompression tables. The experience of State Plans[9] that either granted variances (Nevada, Oregon and Washington)[10] or promulgated a new standard (California)[11] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, provide additional evidence of the effectiveness of this alternative procedure.

C. 29 CFR 1926.803(g)(1)(iii)

The applicant developed, and proposed to implement, an equally effective alternative to 29 CFR 1926.803(g)(1)(iii), which requires the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The applicant's alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric entry and exit procedures, and providing a competent hyperbaric supervisor and attending physician certified in hyperbaric medicine to oversee all hyperbaric operations.

In reaching this preliminary conclusion, OSHA again notes the experience of previous nearly identical tunneling variances, the experiences of State Plan States, and a review of the literature and other information noted earlier.

D. 29 CFR 1926.803(g)(1)(xvii)

The applicant developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by 29 CFR 1926.803(g)(1)(xvii). The TBM's man-lock and working chamber appear

[7] Anderson HL (2002) Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine*, 29(3), pp. 172–188.

[8] Le Péchon JC, Barre P, Baud JP, Ollivier F (September 1996). Compressed air work—French Tables 1992—operational results. *JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS,* pp. 1–5 (see Ex. OSHA–2012–0036–0005).

[9] Under Section 18 of the OSH Act, Congress expressly provides that States and U.S. territories may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards. OSHA refers to such States and territories as ''State Plan States'' Occupational safety and health standards developed by State Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards (29 U.S.C. 667).

[10] These state variances are available in the docket for the 2015 Traylor JV variance: Exs. OSHA–2012–0035–0006 (Nevada), OSHA–2012–0035–0005 (Oregon), and OSHA–2012–0035–0004 (Washington).

[11] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

to satisfy all of the conditions of the special decompression chamber, including that they provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, again noting OSHA's previous experience with nearly identical variances including the same alternative, OSHA preliminarily determined that the TBM's man-lock and working chamber function as effectively as the special decompression chamber required by the standard.

Pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the agency preliminarily finds that when the employer complies with the conditions of the proposed modified variance, the working conditions of the employer's workers would be at least as safe and healthful as if the employer complied with the working conditions specified by paragraphs (e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) of 29 CFR 1926.803.

IV. Grant of Interim Order, Proposal for Modification of Permanent Variance, and Request for Comment

OSHA hereby announces the preliminary decision to grant an Interim Order modifying the previously granted permanent variance (81 FR 12954), March 11, 2016 to include a new Joint Venture Partner, Shea and a new tunneling project, the Alexandria RiverRenew project in Alexandria, VA and Washington, DC. This Interim Order permits TSJV's CAWs to perform interventions in hyperbaric conditions not exceeding 52.5 p.s.i.g. during the Alexandria RiverRenew Tunnel Project, subject to the conditions that follow in this document. This Interim Order will remain in effect until completion of the Alexandria RiverRenew Tunnel Project or until the agency modifies or revokes the Interim Order or makes a final decision on the application for a modified permanent variance. During the period starting with the publication of this notice until completion of the Alexandria RiverRenew Tunnel, or until the agency modifies or revokes the Interim Order or makes a final decision on the application for a modification of permanent variance, TSJV is required to comply fully with the conditions of the Interim Order as an alternative to complying with the following requirements of 29 CFR 1926.803 (hereafter, ''the standard'') that:

1. Prohibit Exposure to Pressure Greater than 50 p.s.i. (29 CFR 1926.803(e)(5));

2. Require the use of decompression values specified by the decompression tables in Appendix A of the compressed-air standard (29 CFR 1926.803(f)(1));

3. Require the use of automated operational controls (29 CFR 1926.803(g)(1)(iii)); and

4. Require the use of a special decompression chamber (1926.803(g)(1)(xvii)).

In order to avail itself of the Interim Order, TSJV must: (1) comply with the conditions listed in the Interim Order for the period starting with the grant of the Interim Order and ending with TSJV's completion of the Alexandria RiverRenew Tunnel Project (or until the agency modifies or revokes the Interim Order or makes a decision on its application for a modified permanent variance); (2) comply fully with all other applicable provisions of 29 CFR part 1926; and (3) provide a copy of this **Federal Register** notice to all employees affected by the proposed conditions, including the affected employees of other employers, using the same means it used to inform these employees of its application for a modified permanent variance.

OSHA is also proposing that the same requirements (see above section III, parts A through D) would apply to a modified permanent variance if OSHA ultimately issues one for this project. OSHA requests comment on those conditions as well as OSHA's preliminary determination that the specified alternatives and conditions would provide a workplace as safe and healthful as those required by the standard from which a variance is sought. After reviewing comments, OSHA will publish in the **Federal Register** the agency's final decision approving or rejecting the request for a modified permanent variance.

V. Description of the Specified Conditions of the Interim Order and the Application for a Modified Permanent Variance

This section describes the alternative means of compliance with 29 CFR 1926.803(e)(5),(f)(1), (g)(1)(iii), and (g)(1)(xvii) and provides additional detail regarding the proposed conditions that form the basis of Traylor's application for an Interim Order and for a modified permanent variance. The conditions are listed in Section VI. For brevity, the discussion that follows refers only to the modified permanent variance, but the same conditions apply to the Interim Order.

Proposed Condition A: Scope

The scope of the proposed modified permanent variance would limit coverage to the work situations specified. Clearly defining the scope of the proposed modified permanent variance provides Traylor, TSJV's employees, potential future applicants, other stakeholders, the public, and OSHA with necessary information regarding the work situations in which the proposed modified permanent variance would apply. To the extent that Traylor or TSJV exceeds the defined scope of this variance, it would be required to comply with OSHA's standards.

Pursuant to 29 CFR 1905.11, an employer (or class or group of employers) [12] may request a permanent variance for a specific workplace or workplaces. If OSHA approves a permanent variance, it would apply only to the specific employer(s) that submitted the application and only to the specific workplace or workplaces designated as part of the project. In this instance, if OSHA were to grant a modified permanent variance, it would apply to only the applicant, Traylor and TSJV, and only the Alexandria RiverRenew Tunnel Project.

Proposed Condition B: Duration

The Interim Order is only intended as a temporary measure pending OSHA's decision on the modified permanent variance, so this condition specifies the duration of the Order. If OSHA approves a modified permanent variance, it would specify the duration of the modified permanent variance as the remainder of the Alexandria RiverRenew Tunnel Project.

Proposed Condition C: List of Abbreviations

Proposed condition C defines a number of abbreviations used in the proposed modified permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the conditions specified by the proposed modified permanent variance.

Proposed Condition D: Definitions

The proposed condition defines a series of terms, mostly technical terms, used in the proposed modified permanent variance to standardize and

[12] A class or group of employers (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

clarify their meaning. OSHA believes that defining these terms serves to enhance the applicant's and its employees' understanding of the conditions specified by the proposed modified permanent variance.

Proposed Condition E: Safety and Health Practices

This proposed condition requires the applicant to develop and submit to OSHA an HOM specific to the Alexandria RiverRenew Tunnel Project at least six months before using the TBM for tunneling operations. The applicant must also submit, at least six months before using the TBM, proof that the TBM's hyperbaric chambers have been designed, fabricated, inspected, tested, marked, and stamped in accordance with the requirements of ASME PVHO–1.2019 (or the most recent edition of *Safety Standards for Pressure Vessels for Human Occupancy*). These requirements ensure that the applicant develops hyperbaric safety and health procedures suitable for the project.

The submission of the HOM to OSHA, which TSJV has already completed, enables OSHA to determine whether the safety and health instructions and measures it specifies are appropriate to the field conditions of the tunnel (including expected geological conditions), conform to the conditions of the variance, and adequately protect the safety and health of the CAWs. It also facilitates OSHA's ability to ensure that the applicant is complying with these instructions and measures. The requirement for proof of compliance with ASME PVHO–1.2019 is intended to ensure that the equipment is structurally sound and capable of performing to protect the safety of the employees exposed to hyperbaric pressure.

Additionally, the proposed condition includes a series of related hazard prevention and control requirements and methods (*e.g.,* decompression tables, job hazard analyses (JHA), operations and inspections checklists, incident investigation, and recording and notification to OSHA of recordable hyperbaric injuries and illnesses) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

Proposed Condition F: Communication

This proposed condition requires the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The proposed condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during hyperbaric operations. Availability of such reliable means of communications would enable affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during TBM operations.

Proposed Condition G: Worker Qualification and Training

This proposed condition requires the applicant to develop and implement an effective qualification and training program for affected workers. The proposed condition specifies the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work is intended to ensure that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Paragraph (2)(e) of this proposed condition requires the applicant to provide affected workers with information they can use to contact the appropriate healthcare professionals if the workers believe they are developing hyperbaric-related health effects. This requirement provides for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the potential severity of these effects.

Proposed Condition H: Inspections, Tests, and Accident Prevention

Proposed Condition H requires the applicant to develop, implement, and operate a program of frequent and regular inspections of the TBM's hyperbaric equipment and support systems, and associated work areas. This condition would help to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations. The condition would also enhance worker safety by reducing the risk of hyperbaric-related emergencies.

Paragraph (3) of this proposed condition requires the applicant to document tests, inspections, corrective actions, and repairs involving the TBM, and maintain these documents at the jobsite for the duration of the job. This requirement would provide the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were appropriate, prior to returning them to service.

Proposed Condition I: Compression and Decompression

This proposed condition would require the applicant to consult with the designated medical advisor regarding special compression or decompression procedures appropriate for any unacclimated CAW and then implement the procedures recommended by the medical consultant. This proposed provision would ensure that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during TBM operations. Accordingly, CAWs requiring acclimation would have an opportunity to acclimate prior to exposure to these hyperbaric conditions. OSHA believes this condition would prevent or reduce adverse reactions among CAWs to the effects of compression or decompression associated with the intervention work they perform in the TBM.

Proposed Condition J: Recordkeeping

Under OSHA's existing recordkeeping requirements in 29 CFR part 1904 regarding Recording and Reporting Occupational Injuries and Illnesses, the employer must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904) resulting from exposure of an employee to hyperbaric conditions by completing the OSHA Form 301 Incident Report and OSHA Form 300 Log of Work Related Injuries and Illnesses. The applicant did not seek a variance from this standard and therefore TSJV must comply fully with those requirements.

Examples of important information to include on the OSHA Form 301 Injury and Illness Incident Report (along with the corresponding question on the form) are:

Q14

- the task performed;

- the composition of the gas mixture (*e.g.,* air or oxygen);
- an estimate of the CAW's workload;
- the maximum working pressure;
- temperature in the work and decompression environments;
- unusual occurrences, if any, during the task or decompression

Q15

- time of symptom onset;
- duration between decompression and onset of symptoms

Q16

- type and duration of symptoms;
- a medical summary of the illness or injury

Q17

- duration of the hyperbaric intervention;
- possible contributing factors;
- the number of prior interventions completed by the injured or ill CAW; and the pressure to which the CAW was exposed during those interventions.[13]

Proposed Condition J would add additional reporting responsibilities, beyond those already required by the OSHA standard. The applicant would be required to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under proposed Condition K (using OSHA Form 301 Injury and Illness Incident Report to investigate and record hyperbaric recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8–1904.12), would enable the applicant and OSHA to assess the effectiveness of the modified permanent variance in preventing DCI and other hyperbaric-related effects.

Proposed Condition K: Notifications

Under the proposed condition, the applicant is required, within specified periods of time, to notify OSHA of: (1) any recordable injury, illness, in-patient hospitalization, amputation, loss of an eye, or fatality that occurs as a result of hyperbaric exposures during TBM operations; (2) provide OSHA a copy of the hyperbaric exposures incident investigation report (using OSHA Form 301 Injury and Illness Incident Report) of these events within 24 hours of the incident; (3) include on OSHA Form 301 Injury and Illness Incident Report information on the hyperbaric conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide the certification that affected workers were informed of the incident and the results of the incident investigation; (5) notify OSHA's Office of Technical Programs and Coordination Activities (OTPCA) and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington within 15 working days should the applicant need to revise the HOM to accommodate changes in its compressed-air operations that affect TSJVs ability to comply with the conditions of the proposed modified permanent variance; and (6) provide OTPCA and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington, at the end of the project, with a report evaluating the effectiveness of the decompression tables.

It should be noted that the requirement for completing and submitting the hyperbaric exposure-related (recordable) incident investigation report (OSHA 301 Injury and Illness Incident Report) is more restrictive than the current recordkeeping requirement of completing OSHA Form 301 Injury and Illness Incident Report within 7 calendar days of the incident (1904.29(b)(3)). This modified, more stringent incident investigation and reporting requirement is restricted to intervention-related hyperbaric (recordable) incidents only. Providing rapid notification to OSHA is essential because time is a critical element in OSHA's ability to determine the continued effectiveness of the variance conditions in preventing hyperbaric incidents, and the applicant's identification and implementation of appropriate corrective and preventive actions.

Further, these notification requirements also enable the applicant, its employees, and OSHA to assess the effectiveness of the modified permanent variance in providing the requisite level of safety to the applicant's workers and, based on this assessment, whether to revise or revoke the conditions of the proposed modified permanent variance. Timely notification permits OSHA to take whatever action may be necessary and appropriate to prevent possible further injuries and illnesses. Providing notification to employees informs them of the precautions taken by the applicant to prevent similar incidents in the future.

Additionally, this proposed condition requires the applicant to notify OSHA if it ceases to do business, has a new address or location for the main office, or transfers the operations covered by the proposed modified permanent variance to a successor company. In addition, the condition specifies that the transfer of the modified permanent variance to a successor company must be approved by OSHA. These requirements allow OSHA to communicate effectively with the applicant regarding the status of the proposed modified permanent variance, and expedite the agency's administration and enforcement of the modified permanent variance. Stipulating that an applicant is required to have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions specified by proposed modified permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the proposed modified permanent variance.

VI. Specific Conditions of the Interim Order and the Proposed Modified Permanent Variance

The following conditions apply to the Interim Order OSHA is granting to Traylor/TSJV for the Alexandria RiverRenew Tunnel Project. These conditions specify the alternative means of compliance with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). In addition, these conditions are specific to the alternative means of compliance with these requirements that OSHA is proposing for Traylor/TSJV's modified permanent variance. To simplify the presentation of the conditions, OSHA generally refers only to the conditions of the proposed modified permanent variance, but the same conditions apply to the Interim Order except where otherwise noted.[14]

The conditions would apply with respect to all employees of TSJV exposed to hyperbaric conditions. These conditions are outlined in this Section:

A. Scope

The Interim Order applies, and the Modified Permanent Variance would apply, only when TSJV stops the tunnel-

[13] See 29 CFR 1904 Recording and Reporting Occupational Injuries and Illnesses *(http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631)*; recordkeeping forms and instructions *(http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf)*; and OSHA Recordkeeping Handbook *(http://www.osha.gov/recordkeeping/handbook/index.html)*.

[14] In these conditions, OSHA is using the future conditional form of the verb (*e.g.,* ''would''), which pertains to the application for a modified permanent variance (designated as ''Permanent Variance'') but the conditions are mandatory for purposes of the Interim Order.

boring work, pressurizes the working chamber, and the CAWs either enter the working chamber to perform an intervention (*i.e.,* inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

The Interim Order and proposed modified permanent variance apply only to work:

1. That occurs in conjunction with construction of the Alexandria RiverRenew Tunnel Project, a tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an TBM;

2. In the TBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize and decompress employees entering and exiting the working chamber; and

3. Performed in compliance with all applicable provisions of 29 CFR part 1926 except for the requirements specified by 29 CFR 1926.803(e)(5),(f)(1), (g)(1)(iii), and (g)(1)(xvii).

B. Duration

The Interim Order granted to Traylor will remain in effect until TSJV completes the Alexandria RiverRenew Tunnel Project, OSHA modifies or revokes this Interim Order, or OSHA grants Traylor's request for a modified permanent variance in accordance with 29 CFR 1905.13. The proposed modified permanent variance, if granted, would remain in effect until the completion of TSJV's Alexandria RiverRenew Tunnel Project.

C. List of Abbreviations

Abbreviations used throughout this proposed modified permanent variance would include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. DCI—Decompression Illness
4. DMT—Diver Medical Technician
5. TBM—Earth Pressure Balanced Tunnel Boring Machine
6. HOM—Hyperbaric Operations Manual
7. JHA—Job hazard analysis
8. OSHA—Occupational Safety and Health Administration
9. OTPCA—Office of Technical Programs and Coordination Activities

D. Definitions

The following definitions would apply to this proposed modified permanent variance. These definitions would supplement the definitions in TSJV's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this proposed modified permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*).

2. *Atmospheric pressure*—the pressure of air at sea level, generally 14.7 pounds per square inch absolute (p.s.i.a)., 1 atmosphere absolute, or 0 p.s.i.g.

3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures not exceeding 52.5 p.s.i.g.

4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[15]

5. *Decompression illness*—an illness (also called decompression sickness or ''the bends'') caused by gas bubbles appearing in body compartments due to a reduction in ambient pressure. Examples of symptoms of decompression illness include, but are not limited to: joint pain (also known as the ''bends'' for agonizing pain or the ''niggles'' for slight pain); areas of bone destruction (termed dysbaric osteonecrosis); skin disorders (such as cutis marmorata, which causes a pink marbling of the skin); spinal cord and brain disorders (such as stroke, paralysis, paresthesia, and bladder dysfunction); cardiopulmonary disorders, such as shortness of breath; and arterial gas embolism (gas bubbles in the arteries that block blood flow).[16]

Note: Health effects associated with hyperbaric intervention, but not considered symptoms of DCI, can include: barotrauma (direct damage to air-containing cavities in the body such as ears, sinuses, and lungs); nitrogen narcosis (reversible alteration in consciousness that may occur in hyperbaric environments and is caused by the anesthetic effect of certain gases at high pressure); and oxygen toxicity (a central nervous system condition resulting from the harmful effects of breathing molecular oxygen (O_2) at elevated partial pressures).

6. *Diver Medical Technician*—Member of the dive team who is experienced in first aid.

7. *Earth Pressure Balanced Tunnel Boring Machine*—the machinery used to excavate a tunnel.

8. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[17]

9. *Hyperbaric*—at a higher pressure than atmospheric pressure.

10. *Hyperbaric intervention*—a term that describes the process of stopping the EPBTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutterhead structure.

11. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by TSJV for working in compressed air during the Alexandria RiverRenew Tunnel Project.

12. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.

13. *Man-lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into, or out of, a working chamber.

14. *Pressure*—a force acting on a unit area. Usually expressed as pounds per square inch (p.s.i.).

15. *p.s.i.a.*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i.a. Adding 14.7 to a pressure expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

16. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i.a Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g. At sea level the gauge pressure is 0 psig.

17. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the

[15] Adapted from 29 CFR 1926.32(f).

[16] See Appendix 10 of ''A Guide to the Work in Compressed-Air Regulations 1996,'' published by the United Kingdom Health and Safety Executive available from NIOSH at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-254/compReg1996.pdf*

[17] Also see 29 CFR 1910.146(b).

subject matter, the work, or the project.[18]

18. *Working chamber*—an enclosed space in the TBM in which CAWs perform interventions, and which is accessible only through a man-lock.

E. Safety and Health Practices

1. TSJV would have to adhere to the project-specific HOM submitted to OSHA as part of the application (see OSHA–2022–0009–0002). The HOM provides the minimum requirements regarding expected safety and health hazards (including anticipated geological conditions) and hyperbaric exposures during the tunnel-construction project.

2. TSJV would have to demonstrate that the TBM on the project is designed, fabricated, inspected, tested, marked, and stamped in accordance with the requirements of ASME PVHO–1.2019 (or most recent edition of *Safety Standards for Pressure Vessels for Human Occupancy*) for the TBM's hyperbaric chambers.

3. TSJV would have to implement the safety and health instructions included in the manufacturer's operations manuals for the TBM, and the safety and health instructions provided by the manufacturer for the operation of decompression equipment.

4. TSJV would have to ensure that there are no exposures to pressures greater than 52.5 p.s.i.g.

5. TSJV would have to ensure that air or oxygen is the only breathing gas in the working chamber.

6. TSJV would have to follow the 1992 French Decompression Tables for air or oxygen decompression as specified in the HOM; specifically, the extracted portions of the 1992 French Decompression tables titled, ''French Regulation Air Standard Tables.''

7. TSJV would have to equip man-locks used by employees with an air or oxygen delivery system, as specified by the HOM for the project. TSJV would be prohibited from storing in the tunnel any oxygen or other compressed gases used in conjunction with hyperbaric work.

8. Workers performing hot work under hyperbaric conditions would have to use flame-retardant personal protective equipment and clothing.

9. In hyperbaric work areas, TSJV would have to maintain an adequate fire-suppression system approved for hyperbaric work areas.

10. TSJV would have to develop and implement one or more Job Hazard Analysis (JHA) for work in the hyperbaric work areas, and review, periodically and as necessary (*e.g.,* after making changes to a planned intervention that affects its operation), the contents of the JHAs with affected employees. The JHAs would have to include all the job functions that the risk assessment [19] indicates are essential to prevent injury or illness.

11. TSJV would have to develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by the proposed modified permanent variance and this Interim Order (including all procedures required by the HOM approved by OSHA for the project, which this proposed variance would incorporate by reference). The checklists would have to include all steps and equipment functions that the risk assessment indicates are essential to prevent injury or illness during compressed-air work.

12. TSJV would have to ensure that the safety and health provisions of this project-specific HOM adequately protect the workers of all contractors and subcontractors involved in hyperbaric operations for the project to which the HOM applies.

F. Communication

TSJV would have to:

1. Prior to beginning a shift, implement a system that informs workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. Provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

(a) Use an independent power supply for powered communication systems, and these systems would have to operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(b) Test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

G. Worker Qualifications and Training

TSJV would have to:

1. Ensure that each affected worker receives effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction on hyperbaric conditions, before beginning hyperbaric operations, to each worker who performs work, or controls the exposure of others, and document this instruction. The instruction would need to include:

(a) The physics and physiology of hyperbaric work;

(b) Recognition of pressure-related injuries;

(c) Information on the causes and recognition of the signs and symptoms associated with decompression illness, and other hyperbaric intervention-related health effects (*e.g.,* barotrauma, nitrogen narcosis, and oxygen toxicity);

(d) How to avoid discomfort during compression and decompression;

(e) Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure; and

(f) Procedures and requirements applicable to the employee in the project-specific HOM.

3. Repeat the instruction specified in paragraph (G) of this proposed condition periodically and as necessary (*e.g.,* after making changes to its hyperbaric operations).

4. When conducting training for its hyperbaric workers, make this training available to OSHA personnel and notify the OTPCA at OSHA's national office and OSHA's nearest affected Area Office(s) before the training takes place.

H. Inspections, Tests, and Accident Prevention

1. TSJV would have to initiate and maintain a program of frequent and regular inspections of the TBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2), including:

(a) Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

(b) Ensuring that a competent person conducts daily visual checks and weekly inspections of the TBM.

2. Remove from service any equipment that constitutes a safety hazard until it corrects the hazardous condition and has the correction approved by a qualified person.

3. TSJV would have to maintain records of all tests and inspections of the TBM, as well as associated

[18] Adapted from 29 CFR 1926.32(m).

[19] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

corrective actions and repairs, at the job site for the duration of the job.

I. Compression and Decompression

TSJV would have to consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

J. Recordkeeping

In addition to completing OSHA Form 301 Injury and Illness Incident Report and OSHA Form 300 Log of Work-Related Injuries and Illnesses, TSJV would have to maintain records of:

1. The date, times (*e.g.,* time compression started, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.

2. The names of all supervisors and DMTs involved for each intervention.

3. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

4. The total number of interventions and the amount of hyperbaric work time at each pressure.

5. The results of the post-intervention physical assessment of each CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air for each hyperbaric intervention.

K. Notifications

1. To assist OSHA in administering the conditions specified herein, TSJV would have to:

(a) Notify the OTPCA and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington of any recordable injury, illness, or fatality (by submitting the completed OSHA Form 301 Injuries and Illness Incident Report) [20] resulting from exposure of an employee to hyperbaric conditions, including those that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria of 29 CFR 1904. The notification would have to be made within 8 hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality; a copy of the incident investigation (OSHA Form 301 Injuries and Illness Incident Report) must be submitted to OSHA within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information required by OSHA Form 301 Injuries and Illness Incident Report, the incident-investigation report would have to include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide certification to the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington within 15 working days of the incident that TSJV informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

(c) Notify the OTPCA and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington within 15 working days and in writing, of any change in the compressed-air operations that affects TSJV's ability to comply with the proposed conditions specified herein.

(d) Upon completion of the Alexandria RiverRenew Tunnel Project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington.

Note: The evaluation report would have to contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA Form 301 Injuries and Illness Incident Report and OSHA Form 300 Log of Work-Related Injuries and Illnesses, and relevant medical diagnoses, and treating physicians' opinions); and (4) root causes of any hyperbaric incidents, and preventive and corrective actions identified and implemented.

(e) To assist OSHA in administering the proposed conditions specified herein, inform the OTPCA and the OSHA Area Offices in Norfolk, Virginia and Baltimore/Washington as soon as possible, but no later than seven (7) days, after it has knowledge that it will:

(i) Cease doing business;

(ii) Change the location and address of the main office for managing the tunneling operations specified herein; or

(iii) Transfer the operations specified herein to a successor company.

(f) Notify all affected employees of this proposed modified permanent variance by the same means required to inform them of its application for a modified permanent variance.

2. OSHA would have to approve the transfer of the proposed modified permanent variance to a successor company through a new application for a modified variance.

VII. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on August 29, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–19118 Filed 9–2–22; 8:45 am]

BILLING CODE 4510–26–P

[20] See footnote 13.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Subject 30-Day Notice for the ''2022 Final Descriptive Report Update'' Proposed Collection; Comment Request

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: 2022 Final Descriptive Report Update. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''National Endowment for the

Arts'' under ''Currently Under Review;'' then check ''Only Show ICR for Public Comment'' checkbox. Once you have found this information collection request, select ''Comment,'' and enter or upload your comment and information. Alternatively, comments can be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: 2022 Final Descriptive Report Update.

OMB Number: 3135–0140.

Frequency: Annually.

Affected Public: Nonprofit organizations, government agencies, and individuals.

Estimated Number of Respondents: 15,838.

Estimated Time per Respondent: 2.47 hours.

Total Burden Hours: 43,311 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Final Descriptive Reports elicit relevant information from individuals, nonprofit organizations, and government arts agencies that receive funding from the National Endowment for the Arts. According to OMB 2 CFR part 200, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and that all terms and conditions have been fulfilled.

Dated: August 26, 2022.

Bonita Smith,

Director, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2022–18845 Filed 9–2–22; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and 71 comments from ten organizations were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

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.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Summary of Comments on the National Science Foundation Proposal and Award Policies and Procedures Guide and NSF's Responses

The draft NSF PAPPG was made available for review by the public on the NSF website at *http://www.nsf.gov/bfa/dias/policy/.* NSF received 159 responses from 45 organizations in response to the First **Federal Register** notice published on April 13, 2022, at 87 FR 21928. All comments have been considered in the development of the proposed version. Please see *http://www.nsf.gov/bfa/dias/policy/.* A summary of the significant changes and clarifications to the PAPPG has been incorporated into the document.

Title of Collection: ''National Science Foundation Proposal & Award Policies & Procedures Guide.''

OMB Approval Number: 3145–0058.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) sets forth NSF's mission and purpose:

''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense . . . .''

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

NSF's core purpose resonates clearly in everything it does: promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last six

decades, its ultimate mission remains the same.

Use of the Information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 50,000 proposals annually for new projects and makes approximately 11,000 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on merit evaluations of proposals submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Burden on the Public

It has been estimated that the public expends an average of approximately 120 burden hours for each proposal submitted. Since the Foundation expects to receive approximately 47,900 proposals in FY 2023, an estimated 5,748,000 burden hours will be placed on the public.

The Foundation has based its reporting burden on the review of approximately 47,900 new proposals expected during FY 2023. It has been estimated that anywhere from one hour to 20 hours may be required to review a proposal. We have estimated that approximately 5 hours are required to review an average proposal. Each proposal receives an average of 3 reviews, resulting in approximately 718,500 hours per year.

The information collected on the reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education. The estimated burden for the Reviewer Background Information (NSF 428A) is estimated at 5 minutes per respondent with up to 10,000 potential new reviewers for a total of 833 hours.

The aggregate number of burden hours is estimated to be 6,467,333. The actual burden on respondents has not changed.

Dated: August 29, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–19102 Filed 9–2–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 5, 12, 19, 26, October 3, 10, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of September 5, 2022

There are no meetings scheduled for the week of September 5, 2022.

Week of September 12, 2022—Tentative

There are no meetings scheduled for the week of September 12, 2022.

Week of September 19, 2022—Tentative

Monday, September 19, 2022

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

Week of September 26, 2022—Tentative

There are no meetings scheduled for the week of September 26, 2022.

Week of October 3, 2022—Tentative

There are no meetings scheduled for the week of October 3, 2022.

Week of October 10, 2022—Tentative

Tuesday, October 11, 2022

10:00 a.m. NRC All Employees Meeting (Public Meeting) (Contact: Anthony DeJesus: 301–287–9219)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, October 13, 2022

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting) (Contact: Jennie Rankin, 301–415–1530)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 1, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–19292 Filed 9–1–22; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0160]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by October 6, 2022. A request for a hearing or petitions for leave to intervene must be filed by November 7, 2022. This monthly notice includes all amendments issued, or proposed to be issued, from July 22, 2022, to August 18, 2022. The last monthly notice was published on August 9, 2022.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0160. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kathleen Entz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2464, email: *Kathleen.Entz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0160, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0160.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0160, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR), are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period

or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to

digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUEST(S)

Florida Power & Light Company, et al.; St. Lucie Plant, Units 1 and 2; St. Lucie County, FL	
Docket Nos	50–335, 50–389.
Application date	September 15, 2021, as supplemented by letter dated January 19, 2022.
ADAMS Accession Nos	ML21265A284 (Package), ML22019A069.
Location in Application of NSHC	Volume 2, Enclosure 2, Pages 2–27.
Brief Description of Amendments	The amendments would revise technical specifications to improved standard technical specifications, consistent with NUREG–1432, ''Standard Technical Specifications—Combustion Engineering Plants,'' Revision 5.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.
NRC Project Manager, Telephone Number	Natreon Jordan, 301–415–7410.

Holtec Decommissioning International, LLC; Palisades Nuclear Plant; Van Buren County, MI	
Docket No	50–255.
Application date	July 12, 2022.
ADAMS Accession No	ML22193A090.
Location in Application of NSHC	Page 13–14 (Section 5.2) of Enclosure.

LICENSE AMENDMENT REQUEST(S)—Continued

Brief Description of Amendment	The proposed amendment would revise the Permanently Defueled Emergency Plan and Permanently Defueled Emergency Action Level scheme to alter the Palisades emergency planning requirements to be commensurate with the significantly reduced risk associated with the spent fuel stored in the Palisades spent fuel pool after it has sufficiently decayed, such that the radiological impact of accidents is not expected to result in radioactive releases that exceed U.S. Environmental Protection Agency Protective Action Guidelines beyond the site boundary.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Erin Connolly, Corporate Counsel—Legal, Holtec International, Krishna P. Singh Technology Campus, 1 Holtec Blvd., Camden, NJ 08104.
NRC Project Manager, Telephone Number	Marlayna Doell, 301–415–3178.

Nine Mile Point Nuclear Station, LLC and Constellation Energy Generation, LLC; Nine Mile Point Nuclear Station, Unit 2; Oswego County, NY

Docket No	50–410.
Application date	May 24, 2022.
ADAMS Accession No	ML22144A018.
Location in Application of NSHC	Pages 4–6 of Attachment 1.
Brief Description of Amendment	The proposed license amendment would revise the surveillance requirements (SR) associated with Nine Mile Point 2 Technical Specifications (TS) Section 3.8.1, ''AC Sources—Operating,'' to reduce the number of fast starts of the emergency diesel generators (EDGs). Specifically, TS SR 3.8.1.2 would be revised to identify the ''Start Test'' testing requirements for the EDGs. In addition, a new SR would be created to identify the ''Fast-Start'' testing requirements for the EDGs.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, 101 Constitution Ave. NW, Washington, DC 20001.
NRC Project Manager, Telephone Number	Richard Guzman, 301–415–1030.

PSEG Nuclear LLC; Salem Nuclear Generating Station, Units 1 and 2; Salem County, NJ

Docket Nos	50–272, 50–311.
Application date	June 29, 2022.
ADAMS Accession No	ML22180A268.
Location in Application of NSHC	Pages 28–29 of Enclosure.
Brief Description of Amendments	The proposed license amendments would revise the Salem Nuclear Generating Station, Units 1 and 2, Technical Specification Action 3.8.1.1.b.4 to extend the allowed outage time for an inoperable emergency diesel generator from 72 hours to 14 days.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jodi Varon, PSEG Services Corporation, 80 Park Plaza, T–5, Newark, NJ 07102.
NRC Project Manager, Telephone Number	James Kim, 301–415–4125.

Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Houston County, AL

Docket Nos	50–348, 50–364.
Application date	June 30, 2022.
ADAMS Accession No	ML22181B145.
Location in Application of NSHC	Pages E–7–E–9 of Enclosure 1.
Brief Description of Amendments	The proposed amendments would revise the as-found setpoint low side tolerance for the pressurizer safety valves described in the Joseph M. Farley Nuclear Plant, Units 1 and 2, Technical Specification 3.4.10, ''Pressurizer Safety Valves.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	Stephanie Devlin-Gill, 301–415–5301.

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 1 and 2; Burke County, GA

Docket Nos	50–424, 50–425.
Application date	June 30, 2022.
ADAMS Accession No	ML22181B066.
Location in Application of NSHC	Pages E–29 to E–33 of Enclosure.
Brief Description of Amendments	The amendments would revise the licensing basis to support a selective scope application of the Alternative Source Term radiological analysis methodology and modifies Technical Specification (TS) 1.1, ''Definitions;'' TS 3.3.6, ''Containment Ventilation Isolation Instrumentation;'' TS 3.4.16, ''RCS [Reactor Coolant System] Specific Activity;'' TS 3.9.1, ''Boron Concentration;'' TS 3.9.2, ''Unborated Water Source Isolation Valves;'' TS 3.9.3, ''Nuclear Instrumentation;'' and TS 3.9.4, ''Containment Penetrations;'' consistent with Technical Specifications Task Force (TSTF) Travelers TSTF–51–A, ''Revise containment requirements during handling irradiated fuel and core alterations,'' Revision 2; TSTF–471–A, ''Eliminate use of term CORE ALTERATIONS in ACTIONS and Notes,'' Revision 1; and TSTF–490–A, ''Deletion of E Bar Definition and Revision to RCS Specific Activity Tech Spec,'' Revision 0.
Proposed Determination	NSHC.

LICENSE AMENDMENT REQUEST(S)—Continued

Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	John Lamb, 301–415–3100.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL; Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos	50–259, 50–260, 50–296, 50–327, 50–328, 50–390, 50–391.
Application date	July 13, 2022.
ADAMS Accession No	ML22196A366.
Location in Application of NSHC	Pages E2–E4 of Enclosure.
Brief Description of Amendments	The proposed amendments would revise each plant's technical specification definition of ''Leakage,'' clarify the requirements when pressure boundary leakage is detected, and add a Required Action when pressure boundary leakage is identified. The requested changes are in accordance with Technical Specification Task Force (TSTF) Traveler TSTF–554–A, Revision 1, ''Revise Reactor Coolant Leakage Requirements,'' which is part of the Consolidated Line Item Improvement Process.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL; Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos	50–259, 50–260, 50–296, 50–327, 50–328, 50–390, 50–391.
Application date	June 13, 2022.
ADAMS Accession No	ML22164A806.
Location in Application of NSHC	Pages E3–E4 of Enclosure.
Brief Description of Amendments	The proposed amendments would revise Section 1.3, ''Completion Times,'' and Section 3.0, ''Limiting Condition for Operation (LCO) Applicability'' and ''Surveillance Requirement (SR) Applicability,'' of each plant's technical specifications (TSs) to clarify the use and application of the TS usage rules and revise the application of SR 3.0.3 by adopting Technical Specification Task Force (TSTF) Traveler TSTF–529, Revision 4, ''Clarify Use and Application Rules.'' Specifically, TS Section 1.3 would be revised to clarify ''discovery,'' and discuss exceptions to starting the Completion Time at condition entry; TS Section 3.0 would be revised to clarify that LCO 3.0.4.a, LCO 3.0.4.b, and LCO 3.0.4.c are independent options; and SR 3.0.3 would be revised to allow application of SR 3.0.3 when an SR has not been previously performed and to clarify the application of SR 3.0.3.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos	50–327, 50–328, 50–390, 50–391.
Application date	July 27, 2022.
ADAMS Accession No	ML22209A002.
Location in Application of NSHC	Pages E5–E6 of Enclosure.
Brief Description of Amendments	The proposed amendments would revise each plant's Technical Specification 3.4.12 by adding a note to the Limiting Condition for Operation regarding pump testing.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA

Docket Nos	50–280, 50–281.
Application date	June 20, 2022.
ADAMS Accession No	ML22171A013.
Location in Application of NSHC	Pages 8–9 of Attachment 1.
Brief Description of Amendments	The amendments propose to delete expired license conditions, make administrative changes, and correct editorial errors.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

LICENSE AMENDMENT REQUEST(S)—Continued

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA	
Docket Nos	50–280, 50–281.
Application date	May 11, 2022, as supplemented by letter dated July 11, 2022.
ADAMS Accession Nos	ML22131A351, ML22192A075.
Location in Application of NSHC	Pages 10–12 of Attachment 1.
Brief Description of Amendments	The amendments propose to apply a risk-informed approach to demonstrate that the Fuel Handling Trolley Support Structure, as designed, meets the intent of a tornado resistant structure under the current licensing basis for a 360 miles per hour maximum tornado wind speed.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA	
Docket Nos	50–280, 50–281.
Application date	June 20, 2022, as supplemented by letter dated August 8, 2022.
ADAMS Accession Nos	ML22172A134, ML22220A216.
Location in Application of NSHC	Pages 21 to 24 of Attachment 1.
Brief Description of Amendments	The amendments propose to revise Technical Specification 3.6.1.2 to include a 10-day Allowed Outage Time for opposite unit cross-connect capability of the Auxiliary Feedwater System.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE(S)

Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ	
Docket Nos	50–528, 50–529, 50–530.
Amendment Date	August 11, 2022.
ADAMS Accession No	ML22178A004.
Amendment Nos	219 (Unit 1), 219 (Unit 2), and 219 (Unit 3).
Brief Description of Amendments	The amendments revised technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–567, ''Add Containment Sump TS to Address GSI [Generic Safety Issue]–191 Issues,'' for Palo Verde Nuclear Generating Station, Units 1, 2, and 3. The amendments added a new TS 3.6.7, ''Containment Sump,'' that includes an Action to address the condition of the containment sump made inoperable due to containment accident generated and transported debris exceeding the analyzed limits. The Action provided time to correct or evaluate the condition in lieu of an immediate plant shutdown. The NRC issued a final safety evaluation approving TSTF–567, on July 3, 2018 (ADAMS Package Accession No. ML18109A077).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Constellation FitzPatrick, LLC and Constellation Energy Generation, LLC; James A. FitzPatrick Nuclear Power Plant; Oswego County, NY	
Docket No	50–333.
Amendment Date	July 15, 2022.
ADAMS Accession No	ML22166A430.
Amendment No	351.
Brief Description of Amendment	The amendment modified the technical specifications (TS) to eliminate the response time testing requirements for TS Section 3.3.1.1, ''Reactor Protection System (RPS) Instrumentation,'' Reactor Pressure—High function, Reactor Vessel Water Level—Low (Level 3) function and TS Section 3.3.6.1, ''Primary Containment Isolation Instrumentation'' Reactor Vessel Water Level—Low Low Low (Level 1) function, Main Steam Line Pressure—Low function and Main Steam Line Flow—High function. The changes are consistent with the Boiling-Water Reactor Owner's Group Licensing Topical report as approved by the NRC. The amendment also deleted Surveillance Requirement 3.3.6.1.8.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC	
Docket No	50–261.
Amendment Date	August 3, 2022.
ADAMS Accession No	ML22159A295.
Amendment No	271.
Brief Description of Amendment	The amendment revised Technical Specification (TS) 3.4.3, ''RCS Pressure and Temperature (P/T) Limits.'' Specifically, a portion of TS Figure 3.4.3–2 (P/T limit cooldown curves) was corrected because it did not reflect the data approved in Amendment No. 248.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC	
Docket No	50–400.
Amendment Date	August 9, 2022.
ADAMS Accession No	ML22126A008.
Amendment No	194.
Brief Description of Amendment	The amendment revised Technical Specification 3.3.1, ''Reactor Trip System Instrumentation,'' to adjust the reactor trip on turbine trip interlock from P–7 (Low Power Reactor Trips Block) to P–8 (Power Range Neutron Flux).
Public Comments Received as to Proposed NSHC (Yes/No).	No.
National Institute of Standards and Technology, Center for Neutron Research Test Reactor, Montgomery County, Maryland	
Docket No	50–184.
Amendment Date	July 21, 2022.
ADAMS Accession No	ML22181A128.
Amendment No	13.
Brief Description of Amendment	This amendment revised Technical Specification 3.9.2 removing permission to use height checks to verify latching of fuel elements. The amendment also added the requirement to perform a rotational check of the fuel element head followed by a visual inspection of the latching mechanism orientation. The revised technical specification provides additional confidence that the fuel element is positioned properly in the core to ensure adequate cooling flow to the element during reactor operations.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Units 1 and 2; Goodhue County, MN	
Docket Nos	50–282, 50–306.
Amendment Date	July 28, 2022.
ADAMS Accession No	ML22166A389.
Amendment Nos	239 (Unit 1) and 227 (Unit 2).
Brief Description of Amendments	The amendments revised the technical specifications to accommodate a 24-month fuel cycle with a 25 percent grace period to permit up to 30 months to complete surveillance requirements.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Units 1 and 2; Goodhue County, MN	
Docket Nos	50–282, 50–306.
Amendment Date	August 17, 2022.
ADAMS Accession No	ML22181A000.
Amendment Nos	240 (Unit 1) and 228 (Unit 2).

LICENSE AMENDMENT ISSUANCE(S)—Continued

Brief Description of Amendments	The amendments revised Technical Specification 3.3.1, ''Reactor Trip System (RTS) Instrumentation'' for the Power Range RTS instrumentation channels.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

PSEG Nuclear LLC; Hope Creek Generating Station; Salem County, NJ

Docket No	50–354.
Amendment Date	August 10, 2022.
ADAMS Accession No	ML22194A817.
Amendment No	232.
Brief Description of Amendment	The amendment revised Technical Specifications (TS) Surveillance Requirement (SR) 4.8.4.4.a and SR 4.8.4.6.a, which describe performance of a Channel Functional Test for the Reactor Protection System and Power Range Neutron Monitoring System Electric Power Monitoring Channels, respectively. The amendment relocated the Mode requirements for performance of the SR to a separate Note in the TS and relocated the surveillance frequency to the licensee control. This change controls the frequency of performance of the SR via the Surveillance Frequency Control Program.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA

Docket Nos	50–387, 50–388.
Amendment Date	July 15, 2022.
ADAMS Accession No	ML22146A207.
Amendment Nos	281 (Unit 1) and 264 (Unit 2).
Brief Description of Amendments	The amendments adopted Technical Specification Task Force (TSTF) Traveler TSTF–564, ''Safety Limit MCPR [Minimum Critical Power Ratio],'' Revision 2, which revised the technical specification safety limit on MCPR to reduce the need for cycle-specific changes to the value while still meeting the regulatory requirement for a safety limit.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket No	50–482.
Amendment Date	August 16, 2022.
ADAMS Accession No	ML22199A294.
Amendment No	233.
Brief Description of Amendment	The amendment removed the Table of Contents from the Wolf Creek Generating Station, Unit 1, Technical Specifications and placed it under the licensee's control.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dated: August 30, 2022.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–19025 Filed 9–2–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–102 and CP2022–106]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 7, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505

(Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–102 and CP2022–106; *Filing Title:* USPS Request to Add Priority Mail Contract 759 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 30, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 7, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–19141 Filed 9–2–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95634; File No. 4–698]

Joint Industry Plan; Order Instituting Proceedings To Determine Whether To Approve or Disapprove an Amendment to the National Market System Plan Governing the Consolidated Audit Trail

August 30, 2022.

I. Introduction

On May 13, 2022, the Operating Committee for Consolidated Audit Trail, LLC (''CAT LLC''), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''): [1] BOX Exchange LLC; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe C2 Exchange, Inc.; Cboe Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; Long-Term Stock Exchange, Inc.; MEMX, LLC; Miami International Securities Exchange LLC; MIAX Emerald, LLC; MIAX PEARL, LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Nasdaq PHLX LLC; The NASDAQ Stock Market LLC, New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; NYSE Chicago, Inc.; and NYSE National, Inc. (collectively, the ''Participants,'' ''self-regulatory organizations,'' or ''SROs'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Exchange Act''),[2] and Rule 608 thereunder,[3] a proposed amendment to the CAT NMS Plan (''Proposed Amendment'') to implement a revised funding model (''Executed Share Model'') for the consolidated audit trail (''CAT'') and to establish a fee schedule for Participant CAT fees in accordance with the Executed Share Model (''Proposed Participant Fee Schedule'').[4] The Proposed Amendment was published for comment in the **Federal Register** on June 1, 2022.[5]

This order institutes proceedings, under Rule 608(b)(2)(i) of Regulation NMS,[6] to determine whether to disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate.

II. Background

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the SROs to submit a national market system (''NMS'') plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities.[7] On November 15, 2016, the Commission approved the CAT NMS Plan.[8] Under the CAT NMS Plan, the Operating Committee of the Company, of which each Participant is a member, has the discretion (subject to the funding principles set forth in the Plan) to establish funding for the Company to operate the CAT, including establishing fees to be paid by the Participants and Industry Members.[9]

The Plan specified that, in establishing the funding of the Company, the Operating Committee shall establish ''a tiered fee structure in which the fees charged to: (1) CAT Reporters [10] that are Execution Venues,[11] including ATSs,[12] are based upon the level of market share; (2) Industry Members' non-ATS activities

[1] The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''CAT NMS Plan Approval Order''). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (''Company''). On August 29, 2019, the Participants replaced the CAT NMS Plan in its entirety with the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC (''CAT LLC''), which became the Company. The latest version of the CAT NMS Plan is available at *https://catnmsplan.com/about-cat/cat-nms-plan.*

[2] 15 U.S.C. 78k–1(a)(3).

[3] 17 CFR 242.608.

[4] *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (May 13, 2022) (''Transmittal Letter'').

[5] *See* Securities Exchange Act Release No. 94984 (May 25, 2022), 87 FR 33226 (''Notice''). Comments received in response to the Notice can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-a.htm.*

[6] 17 CFR 242.608(b)(2)(i).

[7] 17 CFR 242.613.

[8] *See supra* note 1.

[9] *See* CAT NMS Plan, *supra* note 1, at Section 11.1(b). The CAT NMS Plan defines ''Industry Member'' as ''a member of a national securities exchange or a member of a national securities association.'' *See also id.,* at Section 1.1.

[10] The CAT NMS Plan defines ''CAT Reporter'' as ''each national securities exchange, national securities association and Industry Member that is required to record and report information to the Central Repository pursuant to SEC Rule 613(c).'' *Id.* at Section 1.1.

[11] The CAT NMS Plan defines ''Execution Venue'' as ''a Participant or an alternative trading system ('ATS') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' *Id.*

[12] *Id.*

are based upon message traffic; and (3) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members).'' [13] Under the Plan, such fees are to be implemented in accordance with various funding principles, including an ''allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations'' and the ''avoid[ance of] any disincentives such as placing an inappropriate burden on competition and reduction in market quality.'' [14]

On May 15, 2020, the Commission adopted amendments to the CAT NMS Plan designed to increase the Participants' financial accountability for the timely completion of the CAT (''Financial Accountability Amendments'').[15] The Financial Accountability Amendments added Section 11.6 to the CAT NMS Plan to govern the recovery from Industry Members of any fees, costs, and expenses (including legal and consulting fees, costs and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from June 22, 2020 until such time that the Participants have completed Full Implementation of CAT NMS Plan Requirements [16] (''Post-Amendment Expenses''). Section 11.6 establishes target deadlines for four critical implementation milestones (Periods 1, 2, 3 and 4) [17] and reduces the amount of fee recovery available to the Participants if these deadlines are missed.[18]

III. Summary of Proposal

The Operating Committee proposes to replace the funding model set forth in Article XI of the CAT NMS Plan (the ''Original Funding Model'') with the Executed Share Model. The Original Funding Model uses a bifurcated funding approach in which costs associated with building and operating the CAT would be borne by (1) Industry Members (other than ATSs that execute transactions in Eligible Securities [19] (''Execution Venue ATSs'')) through fixed tiered fees based on message traffic for Eligible Securities, and (2) Participants and Industry Members that are Execution Venue ATSs for Eligible Securities through fixed tiered fees based on market share. Unlike the Original Funding Model, the Executed Share Model would assess fees on clearing firms and Participants based on the executed equivalent share volume of transactions in Eligible Securities.

The Operating Committee also proposes to adopt a fee schedule to establish the CAT fees applicable to Participants based on the Executed Share Model. The Participant Fee Schedule would establish the process for calculating the CAT fees applicable to Participants under the Executed Share Model.

A. Description of Amendments

1. Allocation of Fee Among Participants and Industry Member Clearing Brokers

Pursuant to the Proposed Amendment, a CAT fee would be imposed on all transactions in Eligible Securities, whether occurring on-exchange or over-the-counter.[20] For each transaction, the applicable Participant,[21] the Industry Member clearing broker for the seller (''CBS'') and the Industry Member clearing broker for the buyer (''CBB'') would each pay a fee equal to the number of executed equivalent shares in the transaction [22] multiplied by one-third and a specified fee rate (''Fee Rate'').[23] According to the Operating Committee, requiring the CBS, the CBB and the Participant in a transaction to pay one-third of the fee recognizes their roles in the transaction [24] and would increase the Participants' cost responsibility to 33% from the 25% proposed in the prior fee proposals.[25] The Operating Committee explains that it decided to assess fees upon clearing firm Industry Members because this is the current practice for fees such as the options regulatory fee (''ORF'') and would reduce administrative burdens.[26] The Operating Committee acknowledges that this approach ''may impose an excessive financial burden'' on clearing firms and suggests that they pass-through the CAT fees to their client, who may pass-through their CAT fees until the fees are imposed on the account that executed the transaction.[27]

2. Calculation of the Fee Rate

The Executed Share Model would apply to the recovery of certain CAT costs that have already been paid by the Participants (''Past CAT Costs'') through the assessment of a fee on the CBS and the CBB in a transaction.[28] Participants, CBSs and CBBs would be subject to fees for the ongoing budgeted costs of the CAT, as determined by the Operating Committee, after the implementation of

[13] *Id.* at Section 11.2(c). *See* Article XI of the CAT NMS Plan for additional detail.

[14] *See* CAT NMS Plan, *supra* note 1, at Section 11.2(b) and (e).

[15] *See* Securities Exchange Act Release No. 88890, 85 FR 31322 (May 22, 2020).

[16] ''Full Implementation of CAT NMS Plan Requirements'' means ''the point at which the Participants have satisfied all of their obligations to build and implement the CAT, such that all CAT system functionality required by Rule 613 and the CAT NMS Plan has been developed, successfully tested, and fully implemented at the initial Error Rates specified by Section 6.5(d)(i) or less, including functionality that efficiently permits the Participants and the Commission to access all CAT Data required to be stored in the Central Repository pursuant to Section 6.5(a), including Customer Account Information, Customer-ID, Customer Identifying Information, and Allocation Reports, and to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any related allocation information provided in an Allocation Report. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).'' *See* CAT NMS Plan, *supra* note 1, at Section 1.1.

[17] *Id.* at Section 11.6(a)(i).

[18] *Id.* at Section 11.6(a)(ii) and (iii).

[19] The CAT NMS Plan defines ''Eligible Securities'' as including all NMS securities and all OTC Equity Securities. *See* CAT NMS Plan, *supra* note 1, at Section 1.1. *See also* Notice, *supra* note 5, 87 FR at 33228.

[20] *See* Notice, *supra* note 5, 87 FR at 33228. Specifically, CAT fees would be charged with regard to trades reported to CAT by the national securities exchanges and by FINRA via the Alternative Trading Facility (''ADF''), Over-the-Counter Reporting Facility (''ORF'') and the Trade Reporting Facilities (''TRF''). *Id.* at 33234.

[21] The applicable Participant for the transaction would be the national securities exchange on which the transaction was executed or FINRA for a transaction that was not executed on an exchange. *Id.* at 33226, 33227.

[22] CAT Data would be used to calculate the CAT fees. Specifically, CAT Data would be used to identify the clearing brokers for each transaction. *Id.* at 33234. CAT Data is defined as ''data derived from Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as 'CAT Data' from time to time.'' *See* CAT NMS Plan, *supra* note 1, at Section 1.1. The Participants explain that using CAT Data for CAT fee calculations provides administrative efficiency since the data is accessible through the CAT. *See* Notice, *supra* note 5, 87 FR at 33234.

[23] *See* Notice, *supra* note 5, 87 FR at 33226, 33229.

[24] *Id.* at 33232.

[25] *Id.* at 33233. *See also infra* note 118.

[26] *See* Notice, *supra* note 5, 87 FR at 33233.

[27] *Id.* The Operating Committee explains that this pass-through process would be similar to how Industry Members handle other fees, such as Section 31 fees and the ORF. *Id.*

[28] *Id.* at 33227.

the CAT fees (''Prospective CAT Costs'').[29]

For Prospective CAT Costs, under the Proposed Amendment, at the beginning of each year, the Operating Committee would set the Fee Rate to be used to determine CAT fees [30] and would announce the applicable Fee Rate via a CAT alert.[31] Specifically, the Operating Committee would calculate the Fee Rate applicable to Participants and clearing brokers by dividing the CAT costs budgeted for the upcoming year by the projected total executed equivalent share volume of all transactions in Eligible Securities for that year.[32] In addition to setting the Fee Rate at the beginning of a year, the Operating Committee may, but is not required to, adjust the Fee Rate once during the year either to coordinate the CAT fees with adjustments to budgeted or actual CAT costs or volume projections during the year.[33] The Operating Committee explains that this would avoid too frequent Fee Rate changes for CAT Reporters.[34] Once set, a Fee Rate would remain in effect until a new Fee Rate is adopted.[35] The Operating Committee asserts that this would prevent periods without the collection of CAT fees, which would ''adversely affect the ability of the CAT to fund its operations and, therefore, would have a significant negative effect on the CAT's ability to fulfill its regulatory purpose.'' [36] The Operating Committee will not file an amendment to the CAT NMS Plan every time it adopts or adjusts the Fee Rate.[37] However, the Participants would each submit fee filings under Section 19(b) to implement any new Fee Rates or adjustments to the Fee Rate applicable to Industry Members.[38]

a. Executed Equivalent Share Volume

Under the Proposed Amendment, executed equivalent share volume would be used both to determine the CAT fee for a transaction in Eligible Securities and to calculate the applicable Fee Rate. The Operating Committee states that ''trading activity provides a reasonable proxy for cost burden on the CAT, and therefore is an appropriate metric for allocating CAT costs among CAT Reporters.'' [39]

The Operating Committee explains that the Executed Share Model would use the concept of executed equivalent share volume because NMS Stocks, Listed Options and OTC Equity Securities, which comprise Eligible Securities, each have different trading characteristics.[40] For NMS Stocks, each executed share for a transaction would be counted as one executed equivalent share.[41] For Listed Options, each executed contract for a transaction would be counted using the contract multiplier applicable to the specific Listed Option in the transaction (one Listed Option typically represents 100 shares, but it may represent a different number of shares).[42] Each executed share for a transaction in OTC Equity Securities would be counted as 0.01 executed equivalent shares.[43] The Operating Committee states that a ''disproportionately large number of shares are involved in transactions involving OTC Equity Securities versus NMS Stocks'' because many OTC Equity Securities are priced below one-dollar per share and lower priced shares trade in larger quantities.[44] Therefore, the Operating Committee proposes to apply a discount to executed shares for transactions in OTC Equity Securities as otherwise, CAT Reporters transacting in OTC Equity Securities would incur higher CAT fees under the Executed Share Model.[45] The Operating Committee explains that the discount was based on an analysis of different metrics comparing the markets for OTC Equity Securities and NMS Stocks.[46]

As discussed above, the Operating Committee would calculate the Fee Rate applicable to Participants and clearing brokers by dividing the CAT costs budgeted for the upcoming year by the projected total executed equivalent share volume of all transactions in Eligible Securities for that year.[47] To determine the projected total executed equivalent share volume of transactions in Eligible Securities for a year, the Operating Committee would double the total executed equivalent share volume from the prior six months.[48] The Operating Committee explains that data from the prior six months ''provides an appropriate balance between using data from a period that is sufficiently long to avoid short term fluctuations while providing data close in time to the upcoming year.'' [49] The Operating Committee represents that it would regularly monitor the actual total executed equivalent share volume for deviations from the projected volume.[50]

The Operating Committee would be permitted to adjust the projected volume as it reasonably deems appropriate for the prudent operation of the Company, basing the adjusted projection on the total executed equivalent share volume of transactions from six months prior to the date of the determination of the new projection.[51] If the Operating Committee adjusts the projection during the year and decides to adjust the Fee Rate, the adjusted projection would be used to calculate the new Fee Rate for the remaining months in the year.[52] The Operating Committee would provide the projected total executed equivalent share volume for transactions in Eligible Securities and any adjustments to the projections on the CAT NMS Plan website.[53]

The Operating Committee asserts that the use of executed equivalent share volume would be an improvement to the Original Funding Model's use of message traffic.[54] First, the Operating Committee states that a study of CAT cost drivers demonstrated that, while message traffic is a factor in CAT costs, technology costs, such as data processing and storage costs, are the primary factors in CAT costs.[55] Second, the Operating Committee explains that fees based on message traffic could adversely impact certain Industry

[29] *Id.* at 33226.

[30] The Fee Rate would be established through a majority vote of the Operating Committee. *See* Notice, *supra* note 5, 87 FR at 33227.

[31] *Id.*

[32] *Id.* at 33226–27.

[33] *Id.* at 33227.

[34] *Id.*

[35] *Id.* The Operating Committee states that that the Fee Rate would not automatically terminate. *See* Notice, *supra* note 5, 87 FR at 33227.

[36] *Id.* The Operating Committee also states that this would ensure that it would have the CAT budget and CAT Data to collect CAT fees. *Id.*

[37] *Id.*

[38] *Id.* at 33227, n.12; *id.* at 33229. The Participants expect to provide advance notice of Fee Rate changes before implementing such changes. *See* Notice, *supra* note 5, 87 FR at 33229, n.23.

[39] *Id.* at 33232.

[40] *Id.* at 33228.

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *See* Notice, *supra* note 5, 87 FR at 33228.

[45] *Id.* at 33228–29.

[46] *Id.* at 33229.

[47] *Id.* at 33226–27.

[48] *Id.* at 33228. The Participants state that CAT Data would be used in the calculation of the projected total executed equivalent share volume for the Fee Rate. *Id.* at 33234.

[49] *See* Notice, *supra* note 5, 87 FR at 33228.

[50] *Id.*

[51] *Id.* The projected volume would be adjusted to address potential deviations of the projections from actual transactions during the year. *Id.*

[52] *Id.*

[53] *Id.*

[54] The Original Funding Model uses message traffic as the basis of Industry Member CAT fees. *See* Section 11.3(b) of the CAT NMS Plan, *supra* note 1. In a response to comments on the CAT NMS Plan Approval Order, the Participants stated that, ''because there is a strong correlation between message traffic and the size of a broker-dealer and because message traffic is a key component of the costs of operating the CAT, message traffic is an appropriate criteria for placing broker-dealers in a particular fee tier.'' *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, at 23 (Sept. 23, 2016), available at *https://www.sec.gov/comments/4-698/4-698.shtml.*

[55] *See* Notice, *supra* note 5, 87 FR at 33232.

Member because such fees ''may not correlate with common revenue or fee models.'' [56] Third, the Operating Committee asserts that fees based on message traffic could increase complexity and adversely impact ''competition, liquidity, or other aspects of market structure.'' [57] One example would be market makers who typically generate high levels of message traffic, and would likely have ''outsized fees'' with message traffic-based fees.[58] Further, the Operating Committee explains that because the number of messages vary per order, the use of message traffic to determine CAT fees could result in unpredictable fees for Industry Members.[59] The Operating Committee also states that the Commission has recognized the use of transaction volume in setting fees, providing FINRA's Trading Activity Fee (''TAF'') as an example.[60]

In addition, the Operating Committee asserts that the Executed Share Model would not unfairly burden or favor a product or product type [61] because the model recognizes the different types of securities by counting executed equivalent share volume differently for NMS Stocks, Listed Options and OTC Equity Securities.[62]

b. Budgeted Costs

Section 11.1(a) of the CAT NMS Plan requires the Operating Committee to annually approve an operating budget for the Company which would include projected costs to develop and operate the CAT for the year, the sources of revenue to cover the costs, and the funding of any reserve the Operating Committee reasonably deems appropriate for the prudent operation of the Company.[63] The Operating Committee proposes that the budgeted costs set forth in the annual operating budget would be used to determine the Fee Rate.[64] The budgeted costs would comprise estimated fees, costs and expenses to be incurred by the Company for the development, implementation and operation of the CAT during the year, which would include costs for the Plan Processor, insurance, and third-party support, as well as an operational reserve.[65] The Operating Committee states that using budgeted CAT costs to determine the Fee Rate would allow the Company to collect fees before bills become payable.[66]

Under the Proposed Amendment, the budgeted CAT costs for the year could be adjusted to address potential changes related to the CAT as the Operating Committee reasonably deems appropriate for the prudent operation of the Company.[67] If the Operating Committee adjusts budgeted CAT costs during the year, the adjusted budgeted CAT costs would be used to calculate a new Fee Rate for the remaining months of the year.[68]

3. Past CAT Costs

The Operating Committee proposes that CBBs and CBSs would be required to pay CAT fees related to Past CAT Costs, which are certain costs that the Participants have already paid prior to the effectiveness of the CAT fees pursuant to the Executed Share Model.[69] The Operating Committee states that Past CAT Costs incurred prior to January 1, 2022 are $337,688,610, which does not include $48,874,937 of excluded costs that the Participants do not intend to collect from Industry Members (''Excluded Costs'').[70] Under the Executed Share Model, $225,125,740 of the $337,688,610 in Past CAT Costs would be paid by CBBs and CBSs. Specifically, CBBs would pay one-third of $337,688,610 ($112,562,870), and CBSs would pay one-third of $337,688,610 ($112,562,870).[71] The Operating Committee states that the Participants would not pay the remaining one-third because they have already paid this amount,[72] explaining that they have paid all CAT costs to date.[73] The Participants would not be reimbursed for the remaining one-third [74] and they would be responsible for 100% of the Excluded Costs as well as certain costs related to the conclusion of the relationship with the Initial Plan Processor.[75] CBBs and CBSs would also be required to pay CAT fees for CAT costs incurred between January 1, 2022 and the implementation of the CAT fee.[76] The actual CAT costs for 2022 will be available in audited financial statements after the end of the year.[77]

The CAT fee for Past CAT Costs would be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate approved by the Operating Committee.[78] Current CBSs and CBBs would pay a CAT fee for Past CAT Costs calculated by multiplying the executed equivalent share volume of the transactions they cleared in the past month by the applicable Fee Rate (calculated based on Past CAT Costs and current projected total equivalent share volume) and by one-third.[79] The Operating Committee explains that it is appropriate to impose fees for Past CAT Costs on current Industry Members, and not on Industry Members active when the Past CAT Costs were incurred, using their current activity since they would be benefiting from the CAT.[80] The Operating Committee further explains that it would be difficult to impose fees on Industry Members for their activity in the past because some Industry Members may no longer be in business and it might be difficult to establish transactions from years past.[81] The Operating Committee adds that Industry Members would not have taken into consideration retroactive fees when entering into the past transactions.[82]

The Fee Rate for Past CAT Costs would be calculated by dividing the Past CAT Costs for a period determined by the Operating Committee (''relevant period'') by the projected total executed equivalent share volume of all transactions in Eligible Securities for the relevant period.[83] The Fee Rate for CAT fees related to Past CAT Costs would be calculated using the actual past costs and not budgeted costs.[84]

The Proposed Amendment states that ''[t]he CAT fees related to past CAT Costs would be calculated based on current transactions, not transactions that occurred in the past when the costs were incurred, and collected from current Industry Members, not Industry

[56] *Id.*

[57] *Id.*

[58] *Id.* The Operating Committee states that it had proposed a discount on market maker fees in prior models, but such a discount would add complexity. *Id.*

[59] *Id.*

[60] *See* Notice, *supra* note 5, 87 FR at 33232.

[61] *Id.* at 33233–34.

[62] *Id.*

[63] *See* CAT NMS Plan, *supra* note 1, at Section 11.1(a).

[64] *See* Notice, *supra* note 5, 87 FR at 33227.

[65] *Id.* Any surpluses collected will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits, in accordance with Section 11.1(c) of the CAT NMS Plan. *Id.* at 33228.

[66] *Id.* at 33227.

[67] *Id.* at 33228. The Operating Committee explains that an adjustment to the budget may be necessary if actual costs are more or less than the budget or if there are unanticipated expenditures. *Id.*

[68] *See* Notice, *supra* note 5, 87 FR at 33228.

[69] *Id.* at 33230.

[70] *Id.* The Proposed Amendment states that the Excluded Costs were incurred from November 15, 2017 through November 15, 2018 and are related to the delay in the start of reporting to the CAT.

[71] *Id.*

[72] *Id.*

[73] *Id.* at 33227.

[74] *See* Notice, *supra* note 5, 87 FR at 33230.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] *See* Notice, *supra* note 5, 87 FR at 33230.

[81] *Id.*

[82] *Id.*

[83] *Id.*

[84] *Id.*

Members active in the past when the costs were incurred.'' [85] The Proposed Amendment provides the following example of the calculation of CAT fees for Past CAT Costs: ''if the CAT fee were in place for June 2022, each CBB and CBS with transactions in Eligible Securities in May 2022 would pay a CAT fee related to Past CAT Costs calculated by multiplying the executed equivalent share volume of the transactions they cleared in May 2022 by the applicable Fee Rate (calculated based on Past CAT Costs and current projected total equivalent share volume) and by one-third.'' [86]

The one-third of Past CAT Costs that are not allocated to Industry Members would not be allocated to the Participants under the Executed Share Model.[87] The Operating Committee instead proposes that CAT fees for such Past CAT Costs that are collected from Industry Members would be allocated to the Participants on a pro rata basis to repay outstanding loan notes of the Participants to the Company.[88]

4. Assessment and Collection of Fees

The Operating Committee proposes to establish a system for the collection of CAT fees from Participants and Industry Members in compliance with Section 11.4 and Section 3.7(b) of the CAT NMS Plan. Participants would be required to pay monthly fees based on transactions in Eligible Securities from the prior month.[89] The Plan Processor would calculate the CAT fees for each Participant using transaction data based on CAT Data for the Participant.[90] Participants would be required to begin paying CAT fees in the first month after the conclusion of the period covered by the Financial Accountability Milestones, subject to Commission approval of the Proposed Amendment and the CAT fees becoming effective for Participants and Industry Members.[91] Unless a longer period is indicated, within thirty days of receiving an invoice or other notice requesting payment, each Participant would be required to pay all fees or other amounts required to be paid, and interest on an outstanding balance until such fee or amount is paid at a per annum rate the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.[92]

5. Industry Member CAT Fees

As proposed, the Participants would each submit fee filings under Section 19(b) to adopt CAT fees for their Industry Members and would also submit a fee filings under Section 19(b) to implement any new Fee Rates or adjustments to the Fee Rate.[93] The Participants would submit Section 19(b) fee filings for Industry Member CAT fees related to Prospective CAT Costs [94] and Section 19(b) fee filings for Industry Member CAT fees related to Past CAT Costs.[95] For Prospective CAT Costs, the fee filings would require CBBs and CBSs to pay a monthly fee for each transaction they clear from the prior month.[96]

6. Cost Discipline Mechanisms

The Operating Committee states that CAT cost discipline mechanisms—specifically, a cost-based funding structure, cost transparency, cost management efforts, and oversight—help ensure the ongoing reasonableness of CAT costs and fees.[97] With respect to the funding structure, the Operating Committee states that, pursuant to the CAT NMS Plan, the Company operates on a break-even basis and as a business league under Section 501(c)(6) of the Internal Revenue Code.[98] On transparency, the Operating Committee states that the Company makes detailed financial information about the CAT publicly available, including maintaining a web page that makes publicly available consolidated annual financial statements.[99] The Company also publishes on the web page the Company's annual operating budget and updates to the budget.[100] In addition, the Operating Committee states that it has held webinars for the industry that covered CAT costs and potential alternative funding models and that they intend to hold additional webinars on cost and funding in the future.

With respect to cost management efforts, the Operating Committee maintains that it regularly undertakes efforts to reduce CAT costs and oversees the CAT's annual budget with input from several CAT working groups, including a Cost Management Working Group. The Operating Committee also states that the Plan Processor engages in efforts to provide its services cost-effectively, such as by ''review[ing] options to lower computer and storage needs.'' [101] Finally, the Operating Committee explains that the Commission has oversight over the CAT's funding and operations and that proposed amendments to the Plan to implement fees and cost management efforts are subject to review by the Commission and the public.[102]

7. Conforming Changes to CAT NMS Plan

In order for the Executed Share Model to be consistent with the terms of the CAT NMS Plan, the Operating Commission proposes to amend certain sections to the CAT NMS Plan, as described below.

a. Definition of Execution Venue

The Operating Committee proposes to delete the term ''Execution Venue'' from Section 1.1 of the CAT NMS Plan.[103] The Operating Committee explains that the concept of an Execution Venue was relevant to the Original Funding Model which would have charged fees to Execution Venues fees based on market share, but is not relevant for the Executed Share Model because CAT fees would be allocated based on executed equivalent shares in transactions by Participants, CBBs and CBSs.[104]

b. Use of Executed Equivalent Shares for CAT Fees

The Operating Committee also proposes to amend Sections 11.2(b) and (c) and Sections 11.3(a) and (b) of the CAT NMS Plan to incorporate the use of executed equivalent shares in transactions in Eligible Securities to calculate CAT fees.[105] The proposed amendments to Section 11.2 of the CAT NMS Plan would revise the CAT NMS Plan's funding principles which were intended to be used to establish a fee structure that is equitable.[106] The Operating Committee proposes to amend Section 11.2(b) to remove the requirement that in establishing funding for the Company, the Operating Committee would seek to take into account distinctions in the securities trading operations of Participants and Industry Members.[107] The Operating Committee explains that this provision was related to the use of message traffic

[85] *Id.*

[86] *See* Notice, *supra* note 5, 87 FR at 33230.

[87] *Id.*

[88] *Id.*

[89] *Id.* at 33229.

[90] *Id.*

[91] *Id.*

[92] *See* Notice, *supra* note 5, 87 FR at 33229.

[93] *Id.* at 33226–29. The Participants expect to provide advance notice of Fee Rate changes before implementing such changes. *Id.* at 33229, n.23.

[94] *Id.* at 33229.

[95] *Id.* at 33230.

[96] *Id.* at 33229. The CAT fees would be calculated by the Plan Processor using transaction data in CAT Data. *See* Notice, *supra* note 5, 87 FR at 33229–30.

[97] *Id.* at 33234.

[98] *Id.* at 33234–35.

[99] *Id.* at 33235.

[100] *Id.*

[101] *Id.*

[102] *See* Notice, *supra* note 5, 87 FR at 33235.

[103] *Id.* at 33237.

[104] *Id.*

[105] *Id.* at 33237–38.

[106] *See* CAT NMS Plan, *supra* note 1, at Appendix C–85.

[107] *See* Notice, *supra* note 5, 87 FR at 33238.

and market share to calculate CAT fees because these related to the impact of CAT Reporters on the Company's resources and operations.[108] The Operating Committee states that this provision is not relevant under the Executed Share Model, which would not use message traffic or market share to calculate CAT fees.[109]

The Operating Committee further proposes to amend Section 11.2(c) to remove statements that fees charged to Industry Members and Execution Venues would be based on message traffic and level of market share, respectively.[110] The statements would be replaced with the requirement that fees charged to Industry Members and Participants would be based on executed equivalent share volume of transactions in Eligible Securities.[111]

Section 11.3(a) of the CAT NMS Plan describes how fees will be assessed and calculated for Execution Venues and Section 11.3(b) describes how fees will be assessed and calculated for Industry Members.[112] The Operating Committee proposes to delete the text of Section 11.3(a) and (b) and replace it with a description of how fees would be assessed and calculated for Participants and clearing brokers under the Executed Share Model.[113] The Operating Committee also proposes to add to Section 11.3(a) new Sections 11.3(a)(ii), (a)(iii) and (a)(iv) to require the Participants to pay Prospective CAT Costs, to describe how the Fee Rate will be calculated for Prospective CAT Costs, and to state that the Participants are not required to pay a CAT fee related to Past CAT Costs and that the two-thirds of the Past CAT Costs collected from Industry Members would be allocated on a pro rata basis to the Participants for repayment of outstanding loan notes to the Company.[114] In addition, the Operating Committee proposes to add to Section 11.3(b) new Sections 11.3(b)(iii) and (b)(iv) to require clearing brokers to pay CAT fees related to Past CAT Costs, to describe how the Fee Rate will be calculated for Past CAT Costs, and to describe the clearing brokers' obligation to pay a CAT fee for Prospective CAT Costs.[115]

c. Elimination of Tiered Fees

The Operating Committee proposes to remove references to tiered fees and related concepts from Sections 11.1(d), 11.2(c), 11.3(a) and 11.3(b) of the CAT NMS Plan.[116] The Operating Committee explains that the Executed Share Model would not charge a tiered fee and would instead charge Participants, CBBs and CBSs a CAT fee that is based on their executed equivalent share volume.[117] The Operating Committee asserts that this would address commenters' concerns about the use of tiering in the Participants' proposed 2018 and 2021 funding models.[118]

d. No Fixed Fees

The Operating Committee proposes to replace references to ''fixed fees'' in Section 11.3(a) of the CAT NMS Plan with ''fees.'' [119] The Operating Committee explains that the concept of a fixed fee is not relevant under the Executed Share Model, under which fees for Participants, CBBs and CBSs would vary in accordance with the executed equivalent share volume of transactions.[120]

8. Alternative Models Considered

The Operating Committee describes several other potential funding models that it considered but dismissed and explains why the Executed Share Model was the best choice. The alternative models discussed are the Participants' proposed 2018 and 2021 funding models,[121] a model in which Industry Members and Participants would pay fees solely based on revenue,[122] a model in which both Industry Members and Participants would pay fees based on message traffic in the CAT,[123] and a model that would calculate a CAT fee similar to the proposed Executed Share Model except only the CBS would be assessed a fee and not the CBB or Participant in a transaction.[124] The Operating Committee also briefly describes other possible funding models it considered but concluded that the Executed Share Model was the most advantageous model and that it provides an equitable allocation of reasonable fees among CAT Reporters.[125]

9. Consistency With the CAT NMS Plan and the Exchange Act

The Operating Committee attests that the Executed Share Model satisfies the CAT NMS Plan funding principles and other requirements, as proposed to be amended by the Proposed Amendment, as well as requirements of the Exchange Act.[126] Specifically, the Operating Committee explains that the Executed Share Model satisfies the funding principles in Section 11.2(a)–(f) of the CAT NMS Plan, as proposed to be amended by the Proposed Amendment,[127] and that the Executed Share Model would satisfy Section 11.1(c) of the CAT NMS Plan, which requires the Company to time the imposition and collection of fees in a manner reasonably related to the timing when the Company expects to incur development and implementation costs, and which requires that any surplus of Company resources over its expenses be treated as an operational reserve to offset future fees.[128] The Operating Committee adds that the Company intends to operate as a business league within the meaning of Section 501(c)(6) of the Internal Revenue Code, as stated in Article VIII. of the CAT NMS Plan, which requires the Company to not be organized for profit and that no part of its net earnings can inure to the benefit of any private shareholder or individual.[129]

The Operating Committee also argues that the Executed Share Model is consistent with Exchange Act requirements. Specifically, the Operating Committee explains that the proposed CAT fees would provide for the equitable allocation of reasonable dues, fees and other charges,[130] that the Executed Share Model would provide for reasonable fees,[131] and that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[132] Further, the Operating Committee attests that the Executed Share Model would not impose any burden on competition that

[108] *Id.*

[109] *Id.*

[110] *Id.*

[111] *Id.*

[112] *See* CAT NMS Plan, *supra* note 1, at Sections 11.3(a) and 11.3(b).

[113] *See* Notice, *supra* note 5, 87 FR at 33238, 33239.

[114] *Id.* at 33238.

[115] *Id.* at 33239.

[116] *Id.*

[117] *Id.*

[118] *Id. See also* Securities Exchange Act Release Nos. 82451 (Jan. 5, 2018), 83 FR 1399 (Jan. 11, 2018) (notice of filing of the 2018 proposed CAT funding model); 91555 (Apr. 14, 2021), 86 FR 21050 (Apr. 21, 2021) (notice of filing of the 2021 proposed CAT funding model). Both prior funding model proposals were withdrawn by the Participants. *See* Securities Exchange Act Release Nos. 82892 (Mar. 16, 2018), 83 FR 12633 (Mar. 22, 2018) (withdrawal of the 2018 proposed CAT funding model); 93817 (Dec. 17, 2021), 86 FR 72656 (Dec. 22, 2021) (withdrawal of the 2021 proposed CAT funding model).

[119] *See* Notice, *supra* note 5, 87 FR at 33240.

[120] *Id.*

[121] *Id.* at 33235–36.

[122] *Id.* at 33236.

[123] *Id.* at 33237.

[124] *Id.*

[125] *See* Notice, *supra* note 5, 87 FR at 33237.

[126] *Id.* at 33241.

[127] *Id.* at 33241–42.

[128] *Id.* at 33242.

[129] *Id.*

[130] *Id. See also* 15 U.S.C. 78f(b)(4), 15 U.S.C. 78o–3(b)(5).

[131] *See* Notice, *supra* note 5, 87 FR at 33242.

[132] *Id.* at 33243. *See also* 15 U.S.C. 78f(b)(5), 15 U.S.C. 78o–3(b)(6).

is not necessary or appropriate,[133] and that the proposed fee schedule fairly and equitably allocates costs among CAT Reporters.[134]

In further support of the Proposed Amendment, the Operating Committee asserts that the Executed Share Model is similar to existing fees,[135] is a straightforward approach,[136] results in predictable fees,[137] is easy to administer,[138] and treats different trading products and venues equally.[139] The Operating Committee explains that the Executed Share Model would operate similarly to sales value fees that the Commission previously determined were consistent with the Exchange Act: specifically, Section 31 fees, FINRA's TAF, and the ORF.[140] The Operating Committee represents that the number of executed equivalent shares in a transaction and the Fee Rate would be made readily available and the adjustments for Listed Options and for OTC Equity Securities would be straightforward calculations.[141] The Operating Committee further asserts that the fees would be predictable because the Fee Rate would be established in advance so CAT Reporters could calculate for themselves the applicable fees and can estimate and validate their fees using their trading data,[142] and that customers who would be the recipient of pass-through CAT fees could also calculate their own fees.[143] Additionally, the Operating Committee represents that administration of CAT fees would be simple because the Executed Share Model relies on a basic calculation and a predetermined Fee Rate, and fees would be collected in a manner similar to the collection of other Industry Member fees.[144] The Operating Committee also attests that the Executed Share Model would treat transactions equally regardless of the venue on which they are executed by applying the same Fee Rate to securities executed on-exchange or over-the-counter and regardless of how the trade occurred.[145] Further, the Operating Committee explains that the Executed Share Model would recognize the different trading characteristics of different securities by counting executed equivalent share volume differently for NMS Stocks, Listed Options and OTC Equity Securities.[146]

B. Proposed Participant Fee Schedule

The Operating Committee proposes to adopt a fee schedule that would describe how fees for Participants would be calculated and collected.

1. Participant CAT Fee

Proposed provision (a) of the Proposed Participant Fee Schedule describes how the CAT fee for national securities exchange and national securities association Participants would be calculated. Specifically, provision (a)(1) states that national securities exchange Participants would pay a fee for each transaction in Eligible Securities executed on the exchange based on CAT Data, where the fee for each transaction would be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate.[147]

Proposed provision (a)(2) states that national securities association Participants would pay a fee for each transaction in Eligible Securities executed otherwise than on exchange based on CAT Data and, as for national securities exchange Participants, the fee would be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate.[148]

2. Fee Rate

Proposed provision (b) of the Proposed Participant Fee Schedule would describe how the Fee Rate would be calculated. Proposed provision (b)(1) states that the Fee Rate will be calculated by the Operating Committee at the start of the year by dividing the budgeted CAT costs for the year by the projected total executed equivalent share volume of all transactions in Eligible Securities for the year.[149] The provision also states that, if necessary, the Fee Rate may be adjusted once in the year due to changes in the budgeted or actual costs or projected or actual total executed equivalent share volume during the year.[150]

Proposed provision (b)(2) explains how executed equivalent shares would be counted for transactions in NMS Stocks, Listed Options, and OTC Equity Securities. For NMS Stocks, each executed share in a transaction would be counted as one executed equivalent share.[151] For Listed Options, each executed contract for a transaction would be counted based on the multiplier applicable to the specific Listed Option.[152] For OTC Equity Securities, each executed share for a transaction would be counted as 0.01 executed equivalent share.[153]

Proposed provision (b)(3) explains the composition of the budgeted CAT costs for the year. These would be comprised of all fees, costs and expenses budgeted to be incurred by or for the Company in connection with the development, implementation and operation of the CAT as set for in the annual operating budget approved by the Operating Committee pursuant to Section 11.1(a) of the CAT NMS Plan, or as adjusted during the year by the Operating Committee.[154]

Proposed provision (b)(4) states that the projected total executed equivalent share volume of all transactions in Eligible Securities for each relevant period would be determined by the Operating Committee based on the executed equivalent share volume of all transactions in Eligible Securities for the prior six months.[155]

3. Fee Payments/Collection

Proposed provision (c) of the Proposed Participant Fee Schedule requires that each Participant pay the CAT fee described in proposed provision (a) to Consolidated Audit Trail, LLC on a monthly basis based on the transactions in the prior month.[156]

IV. Summary of Comments

A. Consistency With the Exchange Act

Commenters object to the Proposed Amendment.[157] Several commenters

[133] *See* Notice, *supra* note 5, 87 FR at 33243. *See also* 15 U.S.C. 78f(b)(8), 15 U.S.C. 78o–3(b)(9).

[134] *See* Notice, *supra* note 5, 87 FR at 33243.

[135] *Id.* at 33231–32.

[136] *Id.* at 33233.

[137] *Id.*

[138] *Id.*

[139] *Id.* at 33233–34.

[140] *See* Notice, *supra* note 5, 87 FR at 33231–32.

[141] *Id.* at 33233.

[142] *Id.*

[143] *Id.*

[144] *Id.*

[145] The Operating Committee states that the Fee Rate would be the same even if a trade was completed in a manner that generates more message traffic. *Id.*

[146] *See* Notice, *supra* note 5, 87 FR at 33233–34.

[147] *Id.* at 33246.

[148] *Id.*

[149] *Id.*

[150] *Id.*

[151] *Id.*

[152] *See* Notice, *supra* note 5, 87 FR at 33246.

[153] *Id.*

[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] *See* Letters to Vanessa Countryman, Secretary, Commission from Larry Harris, Fred V. Keenan Chair in Finance, U.S.C. Marshall School of Business (June 21, 2022) (''Harris Letter''); Kirsten Wegner, Chief Executive Officer, Modern Markets Initiative (June 21, 2022) (''MMI Letter''); Marcia E. Asquith, Corporate Secretary, Executive Vice President, Board and External Relations, FINRA (June 22, 2022) (''FINRA Letter''); Ellen Greene, Managing Director, Equities & Options Market Structure, and Joseph Corcoran, Managing Director, Associated General Counsel, Securities Industry and Financial Markets Association (June 22, 2022) (''SIFMA Letter''); and Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. (June 22, 2022) (''Virtu Letter''). All comments received in response to the Notice can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-a.htm.*

argue the Proposed Amendment is generally inconsistent with the Exchange Act.[158] One commenter states that the Proposed Amendment lacks sufficient information for the Commission to determine whether the Executed Share Model is consistent with the Exchange Act.[159] Another commenter states that the Executed Share Model is arbitrary and ''largely unfounded on principles upon which the Commission could reasonably conclude that CAT NMS would be fairly funded.'' [160] Two commenters disagree with the Participants' assertion that the Executed Share Model is similar to other transaction-based fees approved by the Commission is adequate justification for consistency with the Exchange Act.[161] One of these commenters states that, although the Proposed Amendment asserts that the Executed Share Model is fair because it operates in a manner that is similar to other fee rules that the Commission found consistent with the Exchange Act, like the TAF, Section 31 fee and the ORF, the Proposed Amendment fails to provide ''insight as to why these other fee frameworks, which apply to completely different contexts, should serve as a model here.'' [162] Two commenters state that the Proposed Amendment lacks sufficient detail for the Commission to articulate a satisfactory explanation for approval, as required by *Susquehanna Int'l Grp., LLP* v. *SEC,* 866 F.3d 442, 443 (D.C. Cir. 2017).[163]

In its response to comments.[164] CAT LLC maintains that the Executed Share Model satisfies the requirements of the Exchange Act and should be approved by the Commission.[165] CAT LLC states, ''[t]he Executed Share Model would provide reasonable fees that are equitably allocated, not unfairly discriminatory, and do not impose an undue burden on competition, in that the model reflects a reasonable effort to allocate costs based on the extent to which different CAT Reporters participate in and benefit from the equities and options markets.'' [166] CAT LLC reiterates that the Executed Share Model would be consistent with past fee structures that have been approved by the Commission and argues that the Executed Share Model is ''transparent, would be relatively easy to calculate and administer, and is designed not to have an impact on market activity because it is neutral as to the location and manner of execution.'' [167] CAT LLC states that its obligation is to demonstrate that the proposed model is consistent with the Exchange Act and the rules and regulations thereunder, not to prove that the proposed model is superior to other proposals.[168]

Commenters also argue that the Proposed Amendment generally does not result in an equitable allocation of reasonable dues, fees and other charges.[169] One commenter states that the Proposed Amendment fails to meet the requirements under the Exchange Act that CAT funding provides ''for the equitable allocation of reasonable dues, fees and other charges.'' [170] Another commenter argues that the Proposed Amendment provides no support for why using executed share volume as the basis for the cost allocation methodology, instead of message traffic, is equitable.[171] The commenter adds that the argument that executed share volume is related to cost generation is not enough to demonstrate that use of it is reasonable and equitable.[172] This commenter further states that the Executed Share Model is inconsistent with the Exchange Act because it abandons cost alignment principles and lacks transparency about its impact.[173]

Several commenters question the proposed cost allocation between Industry Members and Participants.[174] One commenter states that the Proposed Amendment offers no justification why allocating costs by thirds to the Participant, the buy-side, and the sell-side is equitable in the context of the CAT NMS Plan.[175] The commenter argues that ''the Proposal also does not provide adequate support for the overall allocation between Participants and industry members or the allocation of costs between equity and options.'' [176] Another commenter argues that the fee structure disproportionately shifts CAT costs to Industry Members and investors.[177] The commenter states that the proposed allocation is arbitrary, lacks justification and does not account for the fees the Participants already collect from the industry.[178] The commenter believes the two-thirds allocation was only chosen because it appears somewhat better for Industry Members than the 75%/25% (Industry Member/Participant) cost allocation proposed in the prior model, and that none of the arguments used by the Participants provide a reasonable basis why a two-thirds/one-third split is appropriate.[179]

One commenter argues that the proposed cost allocation methodology is inconsistent with Exchange Act fee standards because most costs would be imposed on Industry Members.[180] The commenter states that the Participants do not account for ''the time and expense Industry Members have devoted to developing and maintaining internal systems to be able to report the CAT, as well as the time and expense Industry Members have devoted to assisting the Operating Committee with its job of developing reporting specifications that allow the CAT to achieve its regulatory purpose.'' [181] The commenter states that the Participants have not taken Industry Members' time and expenses into account when deciding to allocate two-thirds of the CAT costs to Industry Members and that ''this omission is a flaw with the Participants' decision to allocate two-thirds of the CAT costs to Industry Members and its inclusion would demonstrate that the Participants' Executed Share Model does not provide for the equitable allocation of reasonable fees.'' [182]

In response to comments requesting further justification for the proposed allocation of one-third of the CAT fee to the CBB, CBS and Participant in a transaction, and for allocating two-thirds of the costs to Industry Members,[183] CAT LLC states that the proposed allocation satisfies the Exchange Act and that the proposed allocation recognizes the three primary roles in a transaction and assesses an equal fee to each role, taking a similar approach to the TAF, ORF and Section 31 fees, but also assigning a fee to the

[158] *See* Harris Letter at 1; FINRA Letter at 4; SIFMA Letter at 1–2, 3, 4; Virtu Letter at 7.

[159] *See* SIFMA Letter at 1–2, 3.

[160] *See* Harris Letter at 1.

[161] *See* FINRA Letter at 4; SIFMA Letter at 4.

[162] *See* FINRA Letter at 4.

[163] *See* SIFMA Letter at 3; Virtu Letter at 7.

[164] *See* Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Aug. 16, 2022) (''Response Letter''). The Response Letter states, ''CAT LLC notes that these responses represent the consensus of the Participants, but that all Participants may not fully agree with each response set forth in this letter.'' *Id.* at 2.

[165] *Id.*

[166] *Id.*

[167] *Id.*

[168] *Id.*

[169] *See* FINRA Letter at 2, 3–4; Virtu Letter at 2.

[170] *See* Virtu Letter at 2.

[171] *See* FINRA Letter at 3.

[172] *Id.* at 3–4.

[173] *Id.* at 2.

[174] *See* FINRA Letter at 3, 4; Virtu Letter at 1–4; SIFMA Letter at 1–5.

[175] *See* FINRA Letter at 3.

[176] *Id.* at 4.

[177] *See* Virtu Letter at 1.

[178] *Id.* at 2.

[179] *Id.* at 3–4.

[180] *See* SIFMA Letter at 1–2.

[181] *Id.* at 4.

[182] *Id.* at 4–5.

[183] *See* FINRA Letter at 3, 4; SIFMA Letter at 4; Virtu Letter at 3–4.

Participant and the buyer.[184] CAT LLC adds that the proposed two-thirds allocation to Industry Members reflects the greater level of CAT costs that are created by Industry Members as compared to Participants.[185] CAT LLC explains that Industry Members originate trading activity, which necessitates message traffic, and that CAT costs are dominated by data processing and storage costs, which are related to message traffic.[186] CAT LLC also states that the complexity of Industry Member business models impacts the complexity of CAT reporting requirements, and that the processing and storage of complex reporting scenarios requires the use of complex algorithms, which result in substantial CAT data processing and storage costs.[187] In comparison, CAT LLC represents that Participant activity is not as complex.[188] Accordingly, CAT LLC believes that because the complexity of Industry Members' business models contribute significantly to the costs of the CAT, it is ''reasonable and equitable to require that Industry Members pay a substantial portion of those costs.'' [189]

CAT LLC further adds that allocating to Participants a greater percentage of CAT costs would be inequitable because: (1) there are 25 Participants and 1,100 Industry Members; (2) Participants only represent 4% of total CAT Reporter revenue while Industry Members represent 96%; and (3) certain individual Industry Members ''have revenue in excess of some or all of the Participants.'' [190]

In response to the comment that the Proposed Amendment does not take into account internal costs incurred by Industry Members to comply with CAT reporting requirements,[191] CAT LLC states that ''there is no precedent for regulatory fees to be determined based on the cost of compliance of the regulated entity'' [192] and that it disagrees with the approach.[193] CAT LLC states that the CAT funding model is designed to assess fees to recover direct CAT costs and not Industry Members' costs to comply with CAT.[194] Additionally, CAT LLC argues that it is infeasible to accurate determine each Industry Member's compliance costs ''without recordkeeping requirements and appropriate standards to determine expenses accurately.'' [195] CAT LLC adds that the Participants' own ''substantial internal compliance costs'' are not accounted for by the proposed Executed Share Model.[196]

One commenter objects to the proposed allocation of costs among the Participants.[197] The commenter argues that the Proposed Amendment disproportionately allocates the increase in the Participants' allocation to FINRA instead of equitably among the Participants.[198] The commenter states that, compared to the prior proposal, FINRA's share would increase from 4.1% of total costs to 10.8%, whereas the share for options exchanges would decrease from 10.4% to 8.9% and the share for equities exchanges would increase modestly from 10.5% to 13.6%.[199] The commenter argues that the Proposed Amendment only addresses this increase in FINRA's allocation through a footnote stating that ''FINRA's contribution would likely increase in comparison to prior models.'' [200] The commenter adds that FINRA would have to fund any costs that are not recovered through TRF contractual arrangements through increases to FINRA member fees, and that the downstream impact of FINRA's allocation is not acknowledged in the Proposed Amendment.[201] The commenter also questions the rationale in the Proposed Amendment that FINRA's allocation is appropriate because of its ''responsibility for securities traded in the over-the-counter market,'' stating that the proposed funding model is supposed to recover the costs of CAT's operation as a system and not the costs of using CAT data for regulatory purposes.[202]

In response to the comment objecting to the rationale provided for FINRA's allocation in the Proposed Amendment,[203] CAT LLC states that FINRA's allocation is appropriate because it reflects FINRA's role in transactions taking place on the over-the-counter market as allocations to exchanges under the Executed Share Model reflect their role in transactions taking place on their markets.[204] CAT LLC also responds to the criticism that the increase in FINRA's allocation was not made readily apparent by stating that the Proposed Amendment explained that each Participant's contributions would change under the Executed Share Model, based on types and amounts of securities trading on-exchange or over-the-counter, and that the Proposed Amendment contained a chart listing illustrative fees for the Participants.[205] CAT LLC also states that it could not definitively represent in the Proposed Amendment that FINRA's contribution would always be increased over prior models in any given time period.[206]

Commenters also express concerns about the allocation of Prospective and Past CAT Costs.[207] Two commenters question whether the allocation of Prospective CAT Costs is consistent with the Exchange Act.[208] One commenter argues that the Participants have not provided a reasonable basis to conclude that the proposed two-thirds allocation to Industry Members and one-third allocation to Participants is appropriate in light of the statement in the Proposed Amendment [209] that prospective operational costs are estimated to be $110 million in a year and that certain Industry Members would pay almost $12 million per year.[210]

Another commenter states that the Participants are unable to show that the proposed methodology for Prospective CAT Costs is an equitable allocation of reasonable fees [211] and therefore ''do not address the fact that the Executed Share Model for Prospective CAT Costs allocates two-thirds of CAT costs to Industry Members for exchange transactions and more for off-exchange transactions.'' [212] The commenter states that Industry Members, who would be subject to two-thirds of Prospective CAT Costs under the Executed Share Model, already pay FINRA's operating costs through regulatory fines and fees; therefore, Industry Members would additionally be indirectly assessed FINRA's one-third CAT fee for off-exchange transactions.[213] Similarly, another commenter notes that the proposed allocation would result in two-thirds of CAT costs for exchange transactions being imposed on Industry Members, and that this amount would be higher for off-exchange transactions

[184] *See* Response Letter at 5.
[185] *Id.*
[186] *Id.*
[187] *Id.* at 6.
[188] *Id.*
[189] *Id.*
[190] *See* Response Letter at 6.
[191] *See* SIFMA Letter at 4–5.
[192] *See* Response Letter at 9.
[193] *Id.*
[194] *Id.*
[195] *Id.*
[196] *Id.* at n.46, at 10.
[197] *See* FINRA Letter at 5–8.
[198] *Id.*
[199] *Id.* at 5.
[200] *Id.* at 5–6.
[201] *Id.* at 7.
[202] *Id.* at 6.
[203] *See* FINRA Letter at 6.
[204] *See* Response Letter at 11.
[205] *Id.*
[206] *Id.*
[207] *See* SIFMA Letter at 4–6, 7; Virtu Letter at 3–5.
[208] *Id.*
[209] *See* Virtu Letter at 3.
[210] *Id.*
[211] *See* SIFMA Letter at 4.
[212] *Id.*
[213] *Id.*

as FINRA would be assessed one-third as the venue fee and Industry Members would be indirectly assessed FINRA's portion of CAT costs as they pay the entire costs of operating FINRA.[214]

In response to the comment stating that Industry Members will be allocated more than two-thirds of Prospective CAT Costs since they pay FINRA's operating costs through regulatory fees and fines,[215] CAT LLC states that ''this argument inappropriately looks to how any fee is ultimately paid for, rather than the fee at issue.'' [216] CAT LLC explains that under the proposed Executed Share Model, CAT fees would be the same whether a transaction took place over-the-counter or on an exchange and all Participants would be subject to the same fee treatment to avoid CAT fees becoming a competitive issue among the Participants.[217] CAT LLC states that each Participant, not just FINRA, will have to determine how it will pay its CAT fees and may pass-through to its members its own CAT fees through regulatory, trading or other fees.[218] CAT LLC asserts that ''[a]ny review of how the Participants obtain their funds to pay CAT fees is beyond the scope of the CAT fee filing.'' [219] CAT LLC adds that Industry Members may determine themselves to pass their CAT fees to their customers, as they do with Section 31 fees; therefore, the Industry Member allocation of CAT costs could be passed entirely through to investors.[220]

Commenters also question whether the allocation of Past CAT Costs is consistent with the Exchange Act.[221] One commenter argues that Industry Members should not be assessed any fees related to the decision to employ Thesys Technologies, LLC as the Plan Processor or legal or consulting fees incurred by the Participants in the creation of the CAT NMS Plan.[222] The commenter states that the Proposed Amendment fails to provide how of much of the allocation to Industry Members is related to Thesys Technologies, LLC, and, therefore, the Participants have not demonstrated how the Executed Share Model is consistent with the Exchange Act.[223] The commenter also argues that Industry Members were not subject to CAT obligations before the CAT NMS Plan's approval, had no input into the selection of the service providers, and that ''it is difficult to envision how the Participants could demonstrate that such an allocation provides for the equitable allocation of reasonable fees due to the fact that the CAT NMS Plan did not exist during the period prior to its approval.'' [224]

In response to this comment,[225] CAT LLC states that the Participants would be fully responsible for all CAT costs incurred from November 15, 2017 through November 15, 2018 due to the one-year delay in the start of reporting to the CAT, as well as costs related to the conclusion of the relationship with the initial plan processor, which were $14,749,362.[226] CAT LLC adds that Section 11.1(c) of the CAT NMS Plan authorizes the imposition of fees on Industry Members for costs incurred prior to the data of approval of the CAT NMS Plan, including legal and consulting costs.[227] CAT LLC states that it is therefore appropriate to recover these costs from Industry Members.[228]

Two commenters argue that the Proposed Amendment is deficient in justifying why Industry Members should have to pay two-thirds of Past CAT Costs because the Participants were solely responsible for the decision-making that created the costs.[229] One commenter states that the Participants have mismanaged the CAT project ''with cost overruns and problematic spending decisions'' [230] and that Industry Members ''had absolutely no decision-making authority.'' [231]

In response to the comment arguing that Industry Members should not be responsible for Past CAT Costs for which they had no decision-making authority,[232] CAT LLC states that Industry Members are expected to contribute to the costs of CAT, including historical costs.[233]

Several commenters list additional concerns about the proposed cost allocation.[234] One commenter states that fees should only be assessed on the sell-side, not the buy-side as Section 31 fees are assessed only on sellers.[235] The commenter states that charging the buy-side would require expensive modifications to existing systems, and recommends either the inclusion of a cost-benefit analysis on charging both the buy-side and sell-side, or amending the Proposed Amendment to exclude the buy-side.[236] Another commenter contrasts the Executed Share Model against existing transaction-based fee models, stating that the proposed model requires clearing firms to assess fees on buyers and sellers in transactions, unlike fees such as the Section 31 fee, which is only assessed on the seller in the transaction.[237]

In response to the comments questioning the assessment of CAT fees on the buy-side instead of solely on the sell-side,[238] CAT LLC states that transaction-based fees that are charged to both sides of the transaction, such as the ORF and Participant-imposed trading fees, are regularly used in the industry.[239]

One commenter states that it is impossible to determine whether the allocation to Industry Members and investors is fair and equitable because the Proposed Amendment fails to include details about CAT operating costs.[240] This commenter also states that the Proposed Amendment fails to address that costs on Industry Members may be passed on to investors, which would make it more expensive for investors to access the markets.[241] This commenter additionally questions why Industry Members and investors should be responsible for a CAT fee when the Participants are already funded by market participants through membership fees, registration and licensing fees, regulatory fees, and proprietary market data and market access fees.[242]

In response to the comment objecting to the imposition of a CAT fee on Industry Members because they are already subject to other Participant fees,[243] CAT LLC states that Rule 613 and the CAT NMS Plan permit the assessment of a CAT-specific fee on Industry Members to contribute to the funding of the CAT.[244] CAT LLC adds that ''existing regulatory fees are not designed to address the substantial

[214] *See* FINRA Letter at 4.
[215] *See* SIFMA Letter at 4.
[216] *See* Response Letter at 7.
[217] *Id.*
[218] *Id.* at 7–8.
[219] *Id.* at 8.
[220] *Id.*
[221] *See* SIFMA Letter at 6, 7; Virtu Letter at 4.
[222] *See* SIFMA Letter at 7.
[223] *Id.*
[224] *Id.*
[225] *See* SIFMA Letter at 7.
[226] *See* Response Letter at 28–29. CAT LLC explains that these costs could be reasonably identified and are more appropriately borne by the Participants. *Id.* at 29.
[227] *Id.*
[228] *Id.*
[229] *See* SIFMA Letter at 6–7; Virtu Letter at 4.
[230] *See* Virtu Letter at 4.
[231] *Id.*
[232] *Id.*
[233] *See* Response Letter at 22.
[234] *See* FINRA Letter at 4; Harris Letter at 11–13; Virtu Letter at 2–4; MMI Letter at 3, 4; SIFMA Letter at 9–10.
[235] *See* MMI Letter at 4.
[236] *Id.* at 3.
[237] *See* SIFMA Letter at 9–10.
[238] *See* MMI Letter at 3; SIFMA Letter at 9–10.
[239] *See* Response Letter at 12.
[240] *See* Virtu Letter at 4.
[241] *Id.*
[242] *Id.* at 2–3.
[243] *See* Virtu Letter at 2–3.
[244] *See* Response Letter at 13–14.

additional costs related to CAT.'' [245] CAT LLC also states that adopting a CAT-specific fee would be more transparent than a general regulatory fee designed to cover a variety of regulatory costs because CAT LLC would be fully transparent about the costs of the CAT.[246]

One commenter argues that the Proposed Amendment lacks adequate support for the cost allocation between equities and options.[247] Another commenter expresses concerns about the Proposed Amendment's treatment of options transactions and the proposed discount for OTC Equity Securities.[248] For example, the commenter states that the proposed assignment of equivalent shares to options trades based on their nominal multiplier is arbitrary and that options trades would be unfairly burdened as fees collected for options would be twice the fees for equities.[249] The commenter also states that the proposed 0.01 equivalent share factor for OTC Equity Securities is arbitrary [250] and argues that a discount for OTC equities for identical-sized transactions in OTC and NMS stocks trading at the same price would unfairly subsidize the OTC market.[251]

In response to the comment stating that the Proposed Amendment does not provide adequate support for the allocation of costs between equities and options,[252] CAT LLC states that the Executed Share Model would use equivalent executed share volume to ''normalize options and equities in the calculation of fees.'' [253] Further, CAT LLC explains that the equivalent executed share volume approach recognizes the different trading characteristics of options, equities and OTC Equity Securities by counting transactions in each of these types of securities differently for purposes of calculating CAT fees.[254]

Commenters also question whether other aspects of the Proposed Amendment are consistent with the Exchange Act.[255] One commenter states that the Proposed Amendment subjects market participants to unfair discrimination because it fails to meet the requirements under the Exchange Act that CAT funding not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.[256]

Several commenters suggest the Proposed Amendment imposes a burden on competition.[257] One commenter states generally that the Proposed Amendment fails to meet the requirements under the Exchange Act that CAT funding does not ''impose any burden on competition not necessary or appropriate in furtherance of the purposes'' of the Exchange Act.[258] One commenter believes the Proposed Amendment would impose an undue burden on FINRA by shifting nearly all of the Participants' increased share of the costs to FINRA.[259] The commenter states that FINRA will need to fund the costs through increases to its member fees, and that the potential impacts on the industry arising from FINRA's allocation are not addressed in the Proposed Amendment.[260] Another commenter states that the Proposed Amendment imposes an undue burden on clearing firms by not sufficiently addressing the impact of the Executed Share Model on clearing firms, which would have to pay their share of costs as well as act as fee collectors, requiring them to develop new systems and processes to implement the model.[261] Finally, one commenter argues that the Proposed Amendment imposes an undue burden on the options markets, stating that proposed fees for options trades under the Executed Share Model would always be greater on a risk-transferred basis than fees for equities trades because options trades transfer less risk than equity trades of the same number of shares in the underlying security.[262] The commenter states that fees collected for options would average twice the fees for equities and options trades would be unfairly burdened.[263]

In response to the comment stating that the Executed Share Model would impose an undue burden on FINRA,[264] CAT LLC states that the Executed Share Model assesses CAT fees in the same manner regardless of whether a transaction is executed over-the-counter or on an exchange,[265] and treats each Participant in the same manner as all have the same regulatory obligations under the Exchange Act and use CAT Data for the same regulatory purposes,[266] and that the same treatment would avoid making CAT fees a competitive issue among the Participants.[267] CAT LLC states that FINRA's fee is calculated based on substantial activity in the over-the-counter market, explaining that 34% of executed equivalent share volume in Eligible Securities took place in the over-the-counter market in 2021.[268]

In response to the comment arguing that the Proposed Amendment does not sufficiently address the impact of the Executed Share Model on clearing firms, which would have to act as fee collectors under the model and develop new systems and processes accordingly,[269] CAT LLC states that ''CAT LLC proposes to make use of clearing firms for fee collection as this proposal would make use of existing industry collection systems for efficiency and cost purposes.'' [270]

B. Transparency

Several commenters discuss a lack of transparency in the Proposed Amendment into actual costs and anticipated costs.[271] Three commenters state that the Proposed Amendment is lacking detail about the makeup of the actual and anticipated costs that will be incurred in operating the CAT.[272] One commenter states that this lack of detail makes it impossible for Industry Members and the Commission to determine whether the proposed allocation to the Industry Members is fair and equitable.[273] Another commenter argues that the level of CAT cost transparency is insufficient to allow Industry Members and the Commission to determine whether the costs incurred and fees imposed by the CAT are fair and reasonable.[274]

In response to comments arguing that a lack of transparency into CAT costs prevents Industry Members and the Commission from determining whether the proposed allocation, costs incurred and CAT fees satisfy the requirements of the Exchange Act,[275] CAT LLC attests that ''CAT LLC provides substantial cost transparency for CAT costs, including transparency above and beyond what is required, and more than other national

[245] *Id.* at 13.
[246] *Id.* at 14.
[247] *See* FINRA Letter at 4.
[248] *See* Harris Letter at 11–13.
[249] *Id.* at 12.
[250] *Id.* at 13.
[251] *Id.* at 12.
[252] *See* FINRA Letter at 4.
[253] *See* Response Letter at 10.
[254] *Id.*
[255] *See* Virtu Letter at 2; FINRA Letter at 6–8; SIFMA Letter at 9–10; Harris Letter at 12.
[256] *See* Virtu Letter at 2.
[257] *See* Virtu Letter at 2; FINRA Letter at 6–8; SIFMA Letter at 9–10; Harris Letter at 12.
[258] *See* Virtu Letter at 2.
[259] *See* FINRA Letter at 6–8.
[260] *Id.*
[261] *See* SIFMA Letter at 9–10.
[262] *See* Harris Letter at 12.
[263] *Id.*
[264] *See* FINRA Letter at 6.
[265] *See* Response Letter at 10.
[266] *Id.*
[267] *Id.* at 11.
[268] *Id.*
[269] *See* SIFMA Letter at 9.
[270] *See* Response Letter at 12.
[271] *See* Harris Letter at 14; MMI Letter at 3–5; Virtu Letter at 3–6, 7; SIFMA Letter at 8–9.
[272] *See* MMI Letter at 4–5; Virtu Letter at 4; SIFMA Letter at 8.
[273] *See* Virtu Letter at 4.
[274] *See* SIFMA Letter at 8.
[275] *See* SIFMA Letter at 8, Virtu Letter at 4–7.

market system plans.'' [276] CAT LLC states that the Commission does not need additional public cost transparency, such as the detailed cost information requested by the commenters, to evaluate the Proposed Amendment under the Exchange Act,[277] arguing that ''[k]nowledge of every minute detail about the inner operation of CAT LLC is not necessary to evaluate the proposed fee.'' [278] CAT LLC states that it makes publicly available, in accordance with Section 9.2(a) of the CAT NMS Plan, an audited balance sheet, income statement, statement of cash flows and statement of changes in equity, and has published on the CAT NMS Plan website consolidated annual financial statements from 2017 through 2021.[279] Additionally, CAT LLC states that it voluntarily provides its annual operating budget and periodical updates to the budget on the CAT NMS Plan website.[280] CAT LLC also states that the Commission and the Advisory Committee attend Operating Committee meetings, which discuss financial matters,[281] and adds that it has held webinars detailing CAT costs and alternative funding models.[282]

One commenter specifically states that the Proposed Amendment ''lacks adequate information about the anticipated annual fees and costs to run the CAT for Industry Members and investors (i) to project with any degree of confidence what they will be obligated to pay each year or (ii) to assess the reasonableness of the projected costs . . . Furthermore, our understanding is that the budget for 2022 is not a fixed amount and could in fact result in significantly higher costs to the Industry Members and investors than projected. Without reasonable transparency into the costs and drivers of the costs, how will Market Participants and investors know how much expense to expect in 2023 or beyond?'' [283] Another commenter suggests that rate-setting be done on a rolling 12-month (or longer) basis rather than every year, to ensure that fees are more stable while producing financing costs and investment returns that the CAT can accommodate.[284]

In response to the comment questioning how market participants could budget for costs that significantly exceed projections,[285] CAT LLC states that it provides budget updates on the CAT NMS Plan website to inform CAT reporters and investors of any budget changes.[286]

Another commenter states that ''the level of CAT cost transparency continues to be insufficient . . . for example, the CAT operating budget provides only the following, high-level categories of technology costs related to actual and Prospective CAT Costs: (i) cloud hosting services; (ii) operating fees; (iii); CAIS operating fees; and (iv) change request fees . . . In addition, under general and administrative expenses, there is a category for public relations costs. Yet nowhere in the budget are these categories further defined or explained.'' [287] In addition, the commenter recommends that the CAT operating budget be subject to an annual public review process overseen by the Commission.[288] The commenter suggests that the review process includes annual Commission approval of the CAT operating budget, similar to how the Commission's annual budget is subject to Congressional review.[289]

In response to the comment recommending that the Commission oversee an annual public review process of the CAT operating budget,[290] CAT LLC states that: (1) the suggested budget review process is not necessary or appropriate as CAT is a private entity subject to the requirements of the Exchange Act, not a governmental entity responsible to the taxpaying public; (2) CAT fees are already subject to review and public comment under Rule 608 of Regulation NMS and Section 19(b) of the Exchange Act and Rule 19b–4 thereunder; and (3) the Commission can request budget and financial information if it believes it is necessary for the Commission to review any CAT fee proposals.[291]

One commenter states that they asked FINRA for more detailed information surrounding both historical and future operational costs, but were only provided high-level budget information.[292] The commenter states that the lack of detail on costs that the Industry Members are projected to bear causes the commenter to feel that they ''are being asked to hand over a blank check with the amount to be filled in later.'' [293] The commenter argues that due to the lack of detail on the historical and projected costs, ''the Executed Share Model lacks sufficient detail to allow the Commission to articulate a satisfactory explanation for its approval as required by the D.C. Circuit's opinion in *Susquehanna Int'l Grp., LLP* v. *SEC,* 866 F.3d 442, 443 (D.C. Cir. 2017).'' [294]

Another commenter addresses the refund mechanism for excess collections, stating that the Proposed Amendment does not offer detail regarding the reconciliation of fees if actual CAT costs exceed or are less than the budgeted CAT costs.[295] The commenter states that because CAT LLC operates as a tax-exempt organization under Section 501(c)(6) of the Internal Revenue Code, it should not have the ability to keep profits by building up excessive reserves for fees paid in excess of actual expenses.[296] The commenter asserts that when excessive fees are collected, there should be a refund mechanism,[297] and without such a refund mechanism, the CAT may be able to collect excessive reserves from the fees paid by Industry Members that ''would allow it, for example, to adopt some form of self-insurance to the extent it experienced a data breach.'' [298] The commenter believes that the Participants should provide greater transparency into what happens when excess fees are collected so that the Commission can understand the fee reconciliation process and determine whether the inclusion of a refund mechanism is necessary for the Proposed Amendment to meet the Exchange Act fee standards.[299]

In response to the comment,[300] CAT LLC states that CAT fees collected in excess of costs would not be refunded to any CAT Reporters.[301] CAT LLC explains that it operates on a break-even process with fees to cover costs and an appropriate reserve.[302] According to CAT LLC, surpluses would not be distributed to the Participants as profits [303] and would be treated as an operational reserve to offset future

[276] *See* Response Letter at 18.
[277] *Id.*
[278] *Id.*
[279] *Id.* at 19.
[280] *Id.*
[281] *Id.*
[282] *See* Response Letter at 19–20.
[283] *See* Virtu Letter at 4–5.
[284] *See* Harris Letter at 14.
[285] *See* Virtu Letter at 5.
[286] *See* Response Letter at 20.
[287] *See* SIFMA Letter at 8.
[288] *Id.* at 8–9.
[289] *Id.* at 9.
[290] *See* SIFMA Letter at 8–9.
[291] *See* Response Letter at 21.
[292] *See* Virtu Letter at 7.
[293] *Id.*
[294] *Id.*
[295] *See* SIFMA Letter at 9.
[296] *Id.*
[297] *Id.*
[298] *Id.*
[299] *Id.*
[300] *Id.*
[301] *See* Response Letter at 21. CAT LLC also states that, with other fees, such as Section 31-related fees, there are no refunds for over or under-collection of fees; the fee rate would be adjusted going forward. *Id.* at 22.
[302] *Id.*
[303] CAT LLC states that it is organized as a business league to mitigate concerns that its earnings could be used to benefit the Participants. *Id.* at 20, 21.

fees.[304] CAT LLC further states that it would be required to recalculate the fee rate each year based on the budget for the upcoming year, and the budget would include excess fees collected the prior year.[305] CAT LLC also notes that the fee rate would be subject to a mid-year review to determine whether an adjustment would be necessary and such reviews would take any excess fees collected from the prior period into consideration.[306] With respect to a shortfall in CAT fees, CAT LLC explains that the operational reserve may be used in a shortfall, and that, in addition to recalculating the Fee Rate every year based on the upcoming year's budget (reflecting any shortfall in fees collected in the prior year), it may adjust the Fee Rate once per year to coordinate the fees with changes to the budget, actual CAT costs, or volume projections.[307]

Two commenters express concerns about a lack of transparency in the Proposed Amendment with respect to Past CAT Costs.[308] One commenter states that the Participants did not provide a detailed breakdown of historical costs that would allow one to examine the reasonableness of costs incurred.[309] Rather, according to the commenter, the financial statements made available by the Participants ''only include top-line, categorical expense information—not a detailed breakdown of costs and expenditures that would allow a third-party to make an objective determination about the reasonableness and appropriateness of costs incurred,'' and lack customary related-party transaction disclosures and ''disclosure of how much revenue and profit is generated by Plan Participants from services they provide to the CAT.'' [310]

In response to the comment stating that the Proposed Amendment does not provide customary related-party transaction disclosures,[311] CAT LLC states that it has provided ''substantial disclosures about CAT costs,'' that it is organized as a business league, which prevents earnings from being used to benefit the Participants, and that FINRA CAT expenses are disclosed within the public financial statements and budget disclosed for the CAT.[312]

With respect to Past CAT Costs, one commenter argues that the Participants are treating Industry Members unfairly by not providing them enough detail and transparency to understand the costs they are being asked to pay.[313] The commenter states that the proposed allocation of Past CAT Costs cannot be supported under the Exchange Act due to the lack of detail provided on such costs.[314] The commenter states that the Participants have not provided any detail or discussion of how they concluded that Excluded Costs are $48,874,937 or how CAT costs prior to January 1, 2022 are $337,688,610 (two-thirds of which Industry Members would be allocated under the Proposed Amendment).[315] The commenter adds, ''in fact, the proposal contains no discussion of these cost amounts at all, or even a definition for the term 'Excluded Costs.''' [316] According to this commenter, the Proposed Amendment's ''lack of discussion and information does not afford the Commission or the public the ability to evaluate whether the allocation of Past CAT Costs meets the Exchange Act fee standards.'' [317]

This commenter states that the Proposed Amendment lacks transparency into how much of the Industry Member cost allocation is related to ''the Participant's failed decision to initially designate Thesys Technologies, LLC as the CAT Plan Processor.'' [318] The commenter states that, given this lack of transparency, the Participants have not demonstrated that the Executed Share Model is consistent with Exchange Act fee standards.[319] The commenter also argues that the Proposed Amendment lacks a discussion of how quickly the Participants plan to recoup Past CAT Costs, stating that if the Participants want to recoup the costs over a short period of time, the result will be higher fees on Industry Members.[320] The commenter believes that without this discussion, the Commission cannot evaluate whether the Executed Share Model meets Exchange Act fee standards.[321]

In response to the comment about the lack of transparency into the amount of costs proposed to be allocated to Industry Members attributed to the selection of the initial plan processor,[322] CAT LLC states that the Participants would be fully responsible for all CAT costs incurred from November 15, 2017 through November 15, 2018 due to the one-year delay in the start of reporting to the CAT, which were $48,874,937, as well as costs related to the conclusion of the relationship with Thesys Technologies, LLC, which were $14,749,362.[323]

In response to the comment noting a lack of detail in the Proposed Amendment about how quickly the Participants intend to recoup Past CAT Costs,[324] CAT LLC states that only Industry Members would be subject to fees to recover Past CAT Costs and details of those fees, including the periods over which the fees would be recovered, would be contained in the Participants' fee filings pursuant to Section 19 of the Exchange Act and Rule 19b–4 thereunder.[325] CAT LLC adds that Past CAT Costs will be broken out into six periods and provides proposed allocations.[326] CAT LLC also explains how the Fee Rate for Past CAT Costs would be calculated.[327]

CAT LLC explains that CAT fees would be designed to collect certain costs paid by the Participants prior to the effectiveness of the CAT fees pursuant to the Executed Share Model.[328] CAT LLC states, ''[t]he Past CAT Costs would include a portion of certain costs incurred prior to January 1, 2022 as well as costs incurred after January 1, 2022 but prior to the effectiveness of the CAT fees pursuant to the Executed Share Model. With regard to costs incurred prior to January 1, 2022, the Participants would remain responsible for 100% of $48,874,937 of Excluded Costs and $14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor.'' [329] CAT LLC states that the actual costs prior to 2022 are detailed in

[304] *Id.*

[305] *Id.* at 22.

[306] *See* Response Letter at 22.

[307] *Id.*

[308] *See* SIFMA Letter at 6–7; Virtu Letter at 6, 7.

[309] *See* Virtu Letter at 6.

[310] *Id.*

[311] *Id.* at 6, 7.

[312] *See* Response Letter at 20.

[313] *See* SIFMA Letter at 6–7.

[314] *Id.* at 6.

[315] *Id.*

[316] *Id.*

[317] *Id.*

[318] *Id.* at 7.

[319] *See* SIFMA Letter at 7.

[320] *Id.*

[321] *Id.*

[322] *Id.*

[323] *See* Response Letter at 28–29. CAT LLC explains that these costs could be reasonably identified and are more appropriately borne by the Participants. *Id.* at 29.

[324] *See* SIFMA Letter at 6, 7 and 9.

[325] *See* Response Letter at 23. CAT LLC explains that it would be required to establish any Fee Rate, which would have to be approved by a majority of the Operating Committee. *Id.* at 33. Each of the Participants would file fee filings pursuant to Section 19(b) and Rule 19b–4 thereunder to establish the initial Fee Rate (for fees related to Past CAT Costs or going forward costs) for Industry Member CAT fees and for any changes to those initial rates. *Id.* at 33–34. CAT LLC states that it does not plan to submit an amendment to the CAT NMS Plan each time the Fee Rate is established or changed as the Participants are signatories to the Plan and would be required to comply with the Fee Rate pursuant to the process set forth in the Plan. *Id.* at 33.

[326] *Id.* at 23–28. *See also infra* Section IV.H. for detail on the Past CAT Costs provided by CAT LLC.

[327] *See* Response Letter at 23.

[328] *Id.*

[329] *Id.*

audited financial statements provided on the CAT NMS Plan website.[330]

C. Input From Industry Members

Four commenters state that the Proposed Amendment lacks Industry Member input.[331] The commenters believe that the Participants and the industry should work together to develop a funding model.[332] Two commenters state that the Participants did not allow Industry Member involvement in the Proposed Amendment.[333] Two commenters urge the Commission to encourage the Participants to work with the Industry Members on developing a funding model.[334]

In response to comments stating that Industry Members were not permitted to provide substantive input on the Executed Share Model,[335] CAT LLC states that Industry Members and other market participants have been able to provide meaningful input into the funding model through participation on the Advisory Committee, which has had the opportunity to participate in Operating Committee meetings where funding proposals were discussed,[336] webinars held by CAT LLC on CAT costs and potential alternative funding models, and through the notice and comment processes afforded by Rule 608 of Regulation NMS and Section 19 of the Exchange Act for the CAT NMS Plan, the current and prior proposed funding models and the related Participant fee filings.[337]

D. Comments Regarding Conflict of Interest

Several commenters assert that the Participants have a conflict of interest in assessing fees to fund the CAT.[338] One commenter states that the Participants are ''seeking to advance their own commercial interests at the expense of the Industry Members and the investors by proposing a fee structure that disproportionately shifts the costs for the CAT onto the Industry Members and the investors they serve.'' [339] Two commenters state that the Participants, with the exception of FINRA, are for-profit entities.[340] One commenter states that certain Participants, voting as a bloc on the Proposed Amendment, in affiliated exchange groups, have substantially greater influence over the funding model and how fees will be charged.[341] The commenter also states that Industry Members cannot vote on CAT NMS Plan matters and that pursuant to this voting structure, the Operating Committee approved a funding model that allocates to FINRA a disproportionate share of CAT costs.[342] Similarly, another commenter argues that the Industry Members are not voting members of the Operating Committee, and thus have no way to direct the cost control efforts of the Participants or change their course if the cost control efforts prove to be unsuccessful.[343]

In response to the comment criticizing the voting structure of the Operating Committee and Industry Member representation on the Operating Committee,[344] CAT LLC states that the voting structure and composition of the Operating Committee are outside of the scope of the Proposed Amendment.[345] CAT LLC asserts that the composition of the Operating Committee is consistent with the Exchange Act.[346]

One commenter states that, while the Proposed Amendment addresses the fact that a clearing firm is free to pass its CAT fees through to its broker-clients, and the broker-clients are then free to pass them through to the end account, it is silent about whether the SROs may do the same.[347] This commenter ''supports the inclusion of clear language that SROs may not pass through CAT fees, either directly or as an increase to Section 31 fee recapture.'' [348] The commenter explains that if the Participants are permitted to pass through their fees, they may bear none of the costs or responsibilities for CAT.[349] The commenter argues proposed funding model will be ''more robust'' if key participants have ''skin in the game.'' [350] Another commenter argues that the Proposed Amendment fails to state that the costs imposed on Industry Members may ultimately be passed on to the investing public.[351] The commenter states that these would be substantial costs that will make it more expensive for investors to access capital markets.[352]

In response to comments expressing concern about passing through CAT fees, CAT LLC states that it supports the concept of pass-through fees because: (1) in adopting Rule 613, the Commission contemplated that the Participants would be able to recover the costs of funding the central repository from their members; [353] (2) the Commission stated in the CAT NMS Plan adopting release that Industry Members may seek to pass on to investors their costs of building and maintaining the CAT, which may include their costs as well as costs passed on to them by the Participants; [354] (3) pass-through fees are commonly used, with Section 31 fees and the TAF and ORF fees being current examples of other fees that are regularly passed-through; [355] (4) commenters on prior proposals suggested a model similar to the Section 31 fees that would allow the fee to be passed through to Industry Members and their customers; [356] and (5) regulatory costs increase costs for all market participants and ''[e]ven if such pass throughs were limited or prohibited, CAT costs would be distributed in other ways.'' [357]

E. Alternative Models

Commenters also recommend that the Proposed Amendment pursue alternative funding models to the Executed Share Model.[358] Two commenters suggest funding models using message traffic as the basis of fees.[359] One commenter states that it had presented a message traffic alternative that would provide for more predictable fees than prior message traffic models and was based on prospective rates.[360] However, the commenter states that some Industry Members believe that message-traffic models are too complex so the commenter is open to alternative models that use ''workable cost proxy metrics'' that are consistent with the Exchange Act.[361]

In response to the comment presenting a message traffic model, CAT LLC states that executed share volume

[330] *Id.*

[331] *See* FINRA Letter at 8–9; Virtu Letter at 7; MMI Letter at 2, 5; SIFMA Letter at 2.

[332] *Id.*

[333] *See* Virtu Letter at 7; SIFMA Letter at 2.

[334] *See* MMI Letter at 2, 5; Virtu Letter at 7.

[335] *See* FINRA Letter at 8–9; MMI Letter at 2.

[336] The Response Letter states ''CAT LLC notes that the Advisory Committee has not indicated support for the Executed Share Model or any other funding model.'' *See* Response Letter at 32, n.115.

[337] *Id.* at 31–32.

[338] *See* FINRA Letter at 8; MMI Letter at 2; SIFMA Letter at 8; Virtu Letter at 1, 4.

[339] *See* Virtu Letter at 1.

[340] *See* FINRA Letter at 8, Virtu Letter at 1.

[341] *See* FINRA Letter at 8.

[342] *Id.*

[343] *See* SIFMA Letter at 8.

[344] *See* FINRA Letter at 8.

[345] *See* Response Letter at 33.

[346] *Id.* at 32–33.

[347] *See* MMI Letter at 2.

[348] *Id.*

[349] *Id.*

[350] *Id.*

[351] *See* Virtu Letter at 4.

[352] *Id.*

[353] *See* Response Letter at 15.

[354] *Id.*

[355] *Id.* at 15–16.

[356] *Id.* at 17.

[357] *Id.*

[358] *See* FINRA Letter at 4, 8; Harris Letter at 4, 5, 8, 13; SIFMA Letter at 5–6.

[359] *See* FINRA Letter at 8; Harris Letter at 4, 5, 8, 13.

[360] *See* FINRA Letter at 8.

[361] *Id.*

is an improvement on the message traffic model suggested by the commenter.[362] CAT LLC states that technology costs, such as data processing and storage, comprise the majority of CAT costs, not message traffic, and are driven by the CAT NMS Plan requirements, data complexity, and timelines.[363] CAT LLC explains that, due to these costs and requirements and ''other issues with the message traffic model and other considerations'' [364] it is focusing instead on the Executed Share Model instead of the message traffic and market share metrics used in the Original Funding Model.[365]

The other commenter states that a model that uses message traffic would result in more predictable fees than the Executed Share Model by producing less variable cash flow.[366] The commenter further states that the Proposed Amendment dismisses the use of message traffic fees because they would require discounting certain activity to avoid fees that would adversely impact market making activity.[367] However, the commenter states that not using the Message Traffic Model would result in an unfair and inefficient outcome.[368] The commenter states that if options market participants do not pay all of the costs they impose on CAT NMS, entities in the equity markets would subsidize options market trading and options market entities would have little incentive to control their costs.[369] The commenter recommends that the CAT collect a fixed fee per message from all entities creating messages, and collect a fee from traders that is proportional to the value of the underlying equity risk exchanged under the commenter's suggested Risk Transfer Model (in which users would be assigned funding in proportion to usage and the fees would be proportional to the dollar value of the risk transferred in each transaction).[370] The commenter states that the funding model should allocate 75% of CAT funding to cost recovery fees based on message count, putting a substantial fraction of funding costs on equity options markets because they generate a disproportionate share of messages.[371] The commenter states that if message traffic is not used as a basis for fees, the funding model should instead use the commenter's suggested Risk Transfer Model.[372]

One commenter suggests an alternative allocation where the Participants and Industry Members would be allocated 50% of Prospective CAT Costs.[373] The Industry Member allocation would take into account Industry Member funding of FINRA.[374] The commenter states that this alternative would provide for an equal sharing of such CAT costs between Participants and Industry Members and would also appear to be justifiable under the Exchange Act fee standards because it treats Participants and Industry Members the same from a cost allocation perspective.[375]

In response to the comment, CAT LLC states that the suggested allocation would not equitably allocate costs between and among Industry Members and Participants because ''Industry Members have far greater financial resources than the Participants, and the complexity of Industry Members' chosen business models contribute substantially to the costs of the CAT.'' [376] CAT LLC adds that the commenter did not justify why the suggested allocation would satisfy Exchange Act standards.[377]

A commenter suggests another alternative allocation where costs would be allocated to those Participants and Industry Members most directly responsible for the costs.[378] The commenter states that, because Industry Members and their customers are directly responsible for creating the order and transactional data that is initially ingested into the CAT system, Industry Members should be responsible for the cost associated with this initial ingestion of the data into the CAT system.[379] The commenter states that the Participants should be responsible for the costs associated with the stages after the data is initially ingested into the CAT system because the regulators directly control and benefit from these stages of the CAT system after ingestion.[380] The commenter adds that the Participants and the Commission designed and imposed on the Industry Members a multitude of reports, fields, and data types spelled out in hundreds of pages of technical specifications and answers to Frequently Asked Questions for the sole benefit of the Participants and Commission, and as Industry Members bear the burden of producing the data in this format, the Participants should bear the costs of processing the complex data they required.[381] The commenter believes that this allocation would be consistent with the Exchange Act fee standard and the CAT NMS Plan funding principle that the allocation should ''tak[e] into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations.'' [382]

In response to the comment,[383] CAT LLC states that the suggested allocation method is impractical and would not result in an equitable allocation of reasonable fees.[384] CAT LLC argues that the suggested allocation inaccurately limits Industry Members' responsibility for CAT costs to ingestion costs when the complexity of Industry Members' business models also results in significant data processing and storage costs.[385] Further, CAT LLC disagrees with the commenter's statement that Industry Members will not benefit from the CAT, explaining that the CAT is designed to benefit all market participants, with direct benefits to Industry Members.[386]

F. Executed Share Model and the Cost Alignment Funding Principle

One commenter argues that the Executed Share Model is inconsistent with the cost alignment funding principle of the CAT NMS Plan.[387] The commenter explains that the Participants are proposing to delete language in the CAT NMS Plan funding principles that requires the Participants to take into account ''distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations.'' [388] The commenter states that the Participants have concluded that the principle ''is no longer relevant'' and that it is not feasible to determine cost burden imposed by individual CAT Reporters due to the inter-related nature of CAT's cost drivers.[389] The commenter states that the Participants merely state that that executed share volume is ''related to, but not precisely linked to'' CAT

[362] *See* Response Letter at 3.
[363] *Id.* at 4.
[364] *Id.* at 3.
[365] *Id.* at 3–4.
[366] *See* Harris Letter at 4.
[367] *Id.* at 5.
[368] *Id.*
[369] *Id.*
[370] *Id.* at 13.
[371] *Id.*
[372] *See* Harris Letter at 8, 13.
[373] *See* SIFMA Letter at 5.
[374] *Id.*
[375] *Id.*
[376] *See* Response Letter at 7.
[377] *Id.*
[378] *See* SIFMA Letter at 5–6.
[379] *Id.*
[380] *Id.*
[381] *Id.*
[382] *Id.*
[383] *Id.*
[384] *See* Response Letter at 8.
[385] *Id.*
[386] *Id.* at 9.
[387] *See* FINRA Letter at 4.
[388] *Id.*
[389] *Id.*

cost-generation,[390] and the commenter believes that this is inadequate to demonstrate that use of executed share volume is reasonable and equitable.[391] The commenter states that ''the Proposal fails to establish a sufficient nexus between executed share volume and the technology burdens that generate CAT costs and fails to relate each reporter group's allocation to the burden that each reporter group imposes on CAT.'' [392] This commenter states that the Proposed Amendment ''seeks to amend the core funding principles to align with an unjustified allocation methodology.'' [393] While the commenter is receptive to modifications to the funding principles, it believes that changes to the core principles must be ''well-reasoned and transparent and must continue to support the achievement of a fair and equitable outcome.'' [394]

In response to the comment arguing that the Proposed Amendment fails to adequately link executed share volume to the technology burdens that create CAT costs,[395] CAT LLC states that, although the Exchange Act does not require a CAT Reporter's fees to be a proxy for its cost burden on the CAT,[396] executed share volume is related to a CAT Reporter's cost burden because ''trading activity provides a reasonable proxy for cost burden on the CAT'' [397] as increased trading activity is correlated with increased cost burden because it impacts message traffic, data processing and storage.[398] CAT LLC explains that it is not feasible to determine the exact cost burden of each CAT Reporter so trading activity is a reasonable proxy, and that transaction-based fees for Industry Members are commonly used by Participants since Industry Members generally effect transactions.[399] CAT LLC adds that the commenter, FINRA, uses the TAF, a transaction-based trading activity fee, and that in approving the fee, the Commission found that transaction volume was sufficiently correlated to FINRA's regulatory responsibilities.[400] CAT LLC believes the same logic should apply to the Executed Share Model.[401] CAT LLC concludes that ''executed share volume is an appropriate metric for allocating CAT costs among CAT Reporters'' [402] and that the use of executed share volume would result in reasonable and equitably allocated CAT fees.[403]

G. Other Comments

The Commission also received comments on other topics related to the funding model.

One commenter states that the proposed funding model should have included an explanation of how executed share volume will be calculated and should explain which ''trade'' event reported by CAT Reporters will be used to determine executed share volume: MEOT, MEOF, or allocation.[404] The commenter recommends that the executed share volume count only MEOT shares.[405] The commenter suggests the Proposed Amendment include a set of ''business rules'' for calculating Executed Share Volume and that FINRA CAT be required to publish a detailed specification for calculating volume.[406] The commenter states that Industry Members should have an opportunity to review both before the billing process.[407]

In response to the comment arguing that the Proposed Amendment lacks a description of the trades that would be used to calculate executed share volume,[408] CAT LLC explains that the Proposed Amendment states that CAT fees will be assessed for trades reported to CAT by FINRA via the ADF, the ORF, and the TRF, and by the exchanges, and that the same transaction data in the CAT Data would be used to calculate the projected total executed equivalent share volume for the Fee Rate.[409] CAT LLC adds that executed share volume would not be based on other trade-related data in the CAT, like MEOTs, and that Participant-reported trades, rather than MEOTs and other trade data in the CAT that is reported by Industry Members would be the ''most efficient and effective source for calculating executed share volume.'' [410]

One commenter states that the Proposed Amendment should provide detail on how the clearing firm for the seller and/or buyer on each share traded will be determined and how calculations are proposed to be made if the buyer or seller operates with multiple clearing firms.[411] The commenter also asks how the Participants would accurately identify the clearing firm in a transaction, providing as an example a CAT Reporter with multiple clearing firms.[412]

In response to the comment asking how clearing firms would be identified in a transaction, especially when an Industry Member could have multiple clearing firms,[413] CAT LLC states that Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan requires the reporting of the SRO-Assigned Market Participant Identifier of the clearing broker in an execution and that this information would be provided through the transaction data in CAT Data to identify the relevant clearing firm in a transaction.[414]

Commenters also suggest protocols that would assist clearing firms and Industry Members in determining and validating CAT fees.[415] One commenter recommends that the Operating Committee and FINRA CAT be required to provide ''detailed data to each clearing firm and to each CAT reporter so that fees may be validated,'' [416] and suggests that the Operating Committee provide estimated fees per CAT Reporter to allow CAT Reporters to see the impact of the fees, and that these estimates should ''indicate which clearing firm(s) would be charged for which portion(s) of the Reporter's traded shares.'' [417] The commenter also recommends that the proposed funding model ''set forth parameters to avoid inefficiencies in the calculation of fees that would result in a mismatch between fees collected and fees required to cover the cost of operating the CAT . . . [and] clear procedures to avoid miscollection of fees.'' [418]

[390] *Id.*

[391] *Id.*

[392] *Id.*

[393] *See* FINRA Letter at 5. The commenter states that the Executed Share Model instead places the greatest emphasis on the funding principle relating to the ''ease of billing and other administrative functions,'' favoring that principle over cost alignment.

[394] *Id.*

[395] *Id.* at 4.

[396] *See* Response Letter at 3.

[397] *Id.*

[398] *Id.*

[399] *Id.*

[400] *Id.* at 4.

[401] *Id.*

[402] *See* Response Letter at 3.

[403] *Id.*

[404] *See* MMI Letter at 3–4.

[405] *Id.* at 3, n.2.

[406] *Id.* at 3.

[407] *Id.*

[408] *Id.* at 3–4.

[409] *See* Response Letter at 18.

[410] *Id.*

[411] *See* MMI Letter at 4.

[412] *Id.* at 3, n.2.

[413] *Id.* at 4.

[414] *See* Response Letter at 12–13. CAT LLC also states that it will adopt policies, procedures, and practices regarding the billing and collection of fees in compliance with Section 11.1(d) of the CAT NMS Plan. *Id.* at 17.

[415] *See* MMI Letter at 4–5; SIFMA Letter at 10.

[416] *See* MMI Letter at 4–5.

[417] *Id.* at 4.

[418] *Id.* at 4–5.

Similarly, another commenter states that, because under the Executed Share Model, clearing firms would be tasked with determining the CAT fees attributable to each client from a monthly lump sum based on transaction activity, the CAT should break-out for each clearing firm the CAT fees attributable to each of the clearing firm's clients.[419] The commenter also suggests that the CAT break-out and share with each Industry Member the Industry Member's share of monthly CAT costs.[420]

In response to the comments suggesting that CAT LLC provide detailed data to each clearing firm and Industry Member regarding Industry Member CAT fees and trading activity,[421] CAT LLC agrees that this data should be made available to clearing firms and their clients because ''such data would allow clearing firms to determine which part of the CAT fees are attributable to their clearing clients and would facilitate any pass throughs of fees.'' [422]

One commenter states that the Proposed Amendment fails to charge regulators for the costs of filling regulatory queries, which will result in overuse of the CAT system because regulators will not bear the costs they impose on the CAT.[423] The commenter argues that this failure will make operating the CAT more expensive than it should be and will result in the inefficient allocation of query resources.[424]

Two commenters state that the Proposed Amendment lacks a cost-benefit analysis.[425] One of the commenters argues that the Proposed Amendment fails to balance the regulatory benefits of CAT with the costs.[426] The other commenter states that industry systems are currently set up to assess fees, such as Section 31 fees, on sellers, but not purchasers, and as a result, changing the existing industry-wide systems to charge both purchasers and sellers would ''come not only at great cost to industry, but also introduce complexity due to change, without stated benefit.'' [427] This commenter believes that the Proposed Amendment should include a cost-benefit analysis of charging a ''CAT fee on both the purchase and sale of securities, or alternatively be amended to a fee solely on sellers, to conform to existing frameworks and business practices.'' [428]

One commenter agrees with the Proposed Amendment's elimination of tiered pricing and fixed fees.[429] This commenter states that these proposed changes would remove a system that is unnecessarily complex, creates ''perverse incentives'' in tiering and burdens competition because it increases the cost of entry for new entrants.[430] This commenter also recommends two principles that could be used to develop a fair funding model: the Cost Recovery Principle and the Benefits Received Principle.[431]

Two commenters argue that the Proposed Amendment's statement that the Executed Share Model is consistent with existing fees is irrelevant.[432] One commenter states that the Participants should have explained how the existing fees are an appropriate model for CAT fees.[433] Another commenter states that similarity to other transaction-based fees that have been approved by the Commission (*e.g.,* TAF, Section 31, ORF) is not an adequate basis to show that the Executed Share Model is consistent with relevant standards; each proposed fee must be individually supported.[434]

In response to the comments who disagree with the use of existing fees as support for the Executed Share Model,[435] CAT LLC explains that it cited the other transaction-based regulatory fees to demonstrate that there is precedent for the use of trading activity as a metric for calculating fees for a variety of regulatory activity,[436] and that the Commission has found that such fees satisfy the requirements of the Exchange Act.[437] CAT LLC states that the proposed CAT fees would operate similar to the precedent.[438]

H. Past CAT Costs

In its response, CAT LLC includes discussion and a table that breaks out the Past CAT Costs into six periods.[439] The discussion and tables in this subsection are set forth as substantially prepared by CAT LLC.

CAT LLC states that Past CAT Costs would include costs related to the FAM periods as well as costs from prior to the first FAM period, and potentially costs after the FAM periods depending upon the effectiveness of the CAT fees pursuant to the Executed Share Model.[440]

[419] *See* SIFMA Letter at 10.

[420] *Id.*

[421] *See* MMI Letter at 4–5; SIFMA Letter at 10.

[422] *See* Response Letter at 12.

[423] *See* Harris Letter at 6.

[424] *Id.*

[425] *See* Virtu Letter at 5; MMI Letter at 3.

[426] *See* Virtu Letter at 4.

[427] *See* MMI Letter at 3.

[428] *Id.*

[429] *See* Harris Letter at 14.

[430] *Id.*

[431] *Id.* at 3.

[432] *See* FINRA Letter at 4; SIFMA Letter at 4.

[433] *See* FINRA Letter at 4.

[434] *See* SIFMA Letter at 4.

[435] *See* FINRA Letter at 3–4; SIFMA Letter at 4.

[436] *See* Response Letter at 4.

[437] *Id.* at 3–4.

[438] *Id.* at 4. CAT LLC also states that the Original Funding Model relied on a transaction-based CAT fee as the Original Funding Model based fees for Participants on market share and therefore on executed transactions. *Id.* at 5, n.24.

[439] *Id.* at 23–28. CAT LLC states that four of the six periods are the Financial Accountability Milestones (''FAM'') periods set forth in Section 11.6 of the CAT NMS Plan. Section 11.6 of the CAT NMS Plan establishes target deadlines for four implementation milestones (1) July 31, 2020—Initial Industry Member Core Equity and Option Reporting; (2) December 31, 2020—Full Implementation of Core Equity Reporting Requirements; (3) December 31, 2021—Full Availability and Regulatory Utilization of Transactional Database Functionality; and (4) December 31, 2022—Full Implementation of CAT NMS Plan Requirements. *Id.* at 23–24.

[440] *See* Response Letter at 24. *See also id.* at 29–31 (discussing costs that CAT LLC is seeking to recover during the first three periods of the FAM). The Commission notes that in May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that the Participants may recover from Industry Members if the Participants fail to meet the target deadlines. *See supra* notes 15–18 and accompanying text. The Commission believes it is most appropriate to consider whether the Participants have met the target deadlines established for each Financial Accountability Milestone in connection with proposals related to the imposition of CAT fees on broker-dealers. For that reason, in issuing this Order, the Commission makes no determinations regarding whether the Participants have achieved the Financial Accountability Milestones set forth in Section 1.1 of the CAT NMS Plan or the potential application of fee reduction provisions set forth in Section 11.6 of the CAT NMS Plan.

Dates cost incurred	Period	Total CAT costs *	Proposed 1/3 allocation to CBBs *****	Proposed 1/3 allocation to CBSs *****	Proposed 1/3 allocation to participants (and previously paid) *****
Prior to June 22, 2020	N/A	** $143,919,521	$47,973,174	$47,973,174	$47,973,174
June 22, 2020–July 31, 2020	FAM Period 1	$6,377,343	2,125,781	2,125,781	2,125,781
Aug. 1, 2020–Dec. 31, 2020	FAM Period 2	$42,976,478	14,325,493	14,325,493	14,325,493
Jan. 1, 2021–Dec. 31, 2021	FAM Period 3	$144,415,268	48,238,423	48,238,423	48,238,423
Jan. 1, 2022–Dec. 31, 2022	FAM Period 4	Budgeted $174,766,871 ***	TBD	TBD	TBD
Post Dec. 31, 2022	TBD ****	TBD ****	*** TBD	*** TBD	*** TBD

* These costs exclude costs of $14,749,362 related to the conclusion of the relationship with the Initial Plan Processor.
** These costs exclude $48,874,937 of Excluded Costs.
*** As 2022 remains in progress, these costs are budgeted costs, not actual. Past CAT Costs, however, would be based on actual costs, and the costs included would depend on the effective date of any CAT fees.
**** Depending on the effective date of any CAT fees, costs from the period after December 31, 2022 may also be included in Past CAT Costs.
***** Total of proposed allocated costs may not agree to total CAT Costs due to rounding.

a. Costs Incurred Prior to June 22, 2020

Past CAT Costs include costs incurred by CAT prior to June 22, 2020 and already funded by the Participants. As noted above, the Past CAT Costs for the period prior to June 22, 2020 are $143,919,521. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($47,973,174) and CBSs paying one-third ($47,973,174). The following provides additional detail about the costs from this period.

- In accordance with Section 11.1(c) of the CAT NMS Plan, the Past CAT Costs include ''fees, costs and expenses (including legal and consulting fees and expenses) incurred by the Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.'' Specifically, Past CAT Costs include costs incurred from 2012 through November 20, 2016 related to the development of the National Market System Plan Governing the Process of Selecting a Plan Processor and Developing a Plan for the Consolidated Audit Trail (''Selection Plan'') and the CAT NMS Plan as well as the Plan Processor selection process pursuant to the Selection Plan. The Past CAT Costs incurred during this period are $13,842,881. Participants would remain responsible for one-third of this cost (which they have previously paid) ($4,614,294), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($4,614,294) and CBSs paying one-third ($4,614,294).
- The Past CAT Costs for this period include costs incurred after the formation of the CAT NMS Plan and prior to the selection of the Initial Plan Processor for the CAT, which covers the period from November 21, 2016 through April 5, 2017. The Past CAT Costs for this period are $2,933,869. Participants would remain responsible for one-third of this cost (which they have previously paid) ($977,956), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($977,956) and CBSs paying one-third ($977,956).
- The Past CAT Costs include a subset of the total costs incurred during the period in which Initial Plan Processor for the CAT was operating, which was April 6, 2017 through March 28, 2019. The total costs for this period are $106,256,258. The Participants, however, have determined to exclude from the Past CAT Costs all costs incurred from November 15, 2017 through November 15, 2018 (''Excluded Costs'') due to the delay in the start of reporting to the CAT. The Excluded Costs are $48,874,937. Accordingly, the Past CAT Costs for this period are $57,381,321.[441] Participants would remain responsible for Excluded Costs as well as one-third of these Past CAT Costs (both of which they have previously paid) ($16,291,646), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($16,291,646) and CBSs paying one-third ($16,291,646).
- The Past CAT Costs include the costs incurred from the date of FINRA CAT's selection as the Plan Processor on March 29, 2019 through June 21, 2020. The Past CAT Costs for this period are $69,761,450. These costs are net of costs related to the conclusions of the relationship with the Initial Plan Processor of $7,337,345. Participants would remain responsible for costs related to the conclusion of the relationship with the Initial Plan Processor as well as one-third of these Past CAT Costs (both of which they have previously paid) ($23,253,817), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($23,253,817) and CBSs paying one-third ($23,253,817).

The following table breaks down the Past CAT Costs for the period prior to June 22, 2020 into the categories set forth in the audited financial statements for the Company:

Operating expense	Total past CAT costs for period prior to June 22, 2020
Technology Costs *	$105,044,520
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669

* Capitalized developed technolgy costs are already included in ''Technology Costs'' and therefore the non-cash amortization of these capitalized developed technology costs of $2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from ''Operating Expense.''

b. CAT Costs Incurred in Period 1

Past CAT Costs include costs incurred by CAT and already funded by Participants during FAM Period 1, which covers the period from June 22, 2020–July 31, 2020. The Past CAT Costs for Period 1 are $6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid) ($2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($2,125,781) and CBSs paying one-third ($2,125,781). The following table breaks down the Past CAT Costs for Period 1 into the categories set forth in the audited financial statements for the Company:

[441] Section II(B)(3) below provides further discussion of costs related to the Initial Plan Processor. The Commission notes that the section cited is in the Response Letter at 28–29.

Operating expense	Total past CAT costs for Period 1
Technology Costs	*$5,681,670
Legal	481,687
Consulting	137,209
Insurance	
Professional and administration	69,077
Public relations	7,700

*Capitalized developed technolgy costs are already included in ''Technology Costs'' and therefore the non-cash amortization of these capitalized developed technology costs of $362,121 incurred during Period 1 have been appropriately excluded from ''Operating Expense.''

c. CAT Costs Incurred in Period 2

Past CAT Costs include costs incurred by CAT and already funded by Participants during FAM Period 2, which covers the period from August 1, 2020–December 31, 2020. Participants would remain responsible for one-third of this cost (which they have previously paid) ($14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($14,325,492.70) and CBSs paying one-third ($14,325,492.70). The Past CAT Costs for Period 2 are $42,976,478. The following table breaks down the Past CAT Costs for Period 2 into the categories set forth in the audited financial statements for the Company:

Operating expense	Total past CAT costs for Period 2
Technology Costs*	$38,221,127
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940

*Capitalized developed technolgy costs are already included in ''Technology Costs'' and therefore the non-cash amortization of these capitalized developed technology costs of $1,892,505 incurred during Period 2 have been appropriately excluded from ''Operating Expense.''

d. CAT Costs Incurred in Period 3

Past CAT Costs include costs incurred by CAT and already funded by Participants during FAM Period 3, which covers the period from January 1, 2021–December 31, 2021. The Past CAT Costs for Period 3 are $144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid) ($48,238,423), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third ($48,238,423) and CBSs paying one-third ($48,238,423). The following table breaks down the Past CAT Costs for Period 3 into the categories set forth in the audited financial statements for the Company:

Operating expense	Total past CAT costs for Period 3
Technology Costs	$134,402,774
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400

*Capitalized developed technolgy costs are already included in ''Technology Costs'' and therefore the non-cash amortization of these capitalized developoed technology costs of $5,108,044 incurred during Period 3 have been appropriately excluded from ''Operating Expense.''

e. CAT Costs Incurred in Period 4

Past CAT Costs would include CAT costs incurred by CAT and already funded by Participants (or to be funded by Participants) during FAM Period 4, which covers the period from January 1, 2022–December 31, 2022 (depending on the completion of the FAM for Period 4), and incurred prior to the implementation of the CAT fees pursuant to the Executed Share Model. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CBBs paying one-third and CBSs paying one-third. Given that 2022 remains in progress, the following table provides budgeted (as opposed to actual) figures for costs for Period 4. The current budgeted CAT costs for Period 4 are $174,766,871.

Operating expense	Total past CAT costs for Period 4 through June 2022
Technology Costs	$163,609,591
Legal	7,162,084
Consulting	1,400,000
Insurance	1,820,122
Professional and administration	682,674
Public relations	92,400

Budgeted CAT costs for 2022 are $174,766,871 and currently available on the CAT website;[442] actual CAT costs for 2022 will be available in audited financial statements for the Company after year end.

[442] *See* Consolidated Audit Trail, LLC 2022 Financial and Operating Budget, *https://www.catnmsplan.com/sites/default/files/2022-04/04.06.22-CAT-2022-Budget.pdf*).

V. Proceedings To Determine Whether To Approve or Disapprove the Proposed Amendment

The Commission is instituting proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS,[443] and Rules 700 and 701 of the Commission's Rules of Practice,[444] to determine whether to disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the Proposed Amendment to inform the Commission's analysis.

Rule 608(b)(2) of Regulation NMS provides that the Commission ''shall approve a national market system plan or proposed amendment to an effective national market system plan, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.'' [445] Rule 608(b)(2) further provides that the Commission shall disapprove a national market system plan or proposed amendment if it does not make such a finding.[446] In the Notice, the Commission sought comment on the Proposed Amendment, including whether the Proposed Amendment is consistent with the Exchange Act.[447] In this order, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[448] the Commission is providing notice of the grounds for disapproval under consideration:

- Whether, consistent with Rule 608 of Regulation NMS, the Participants have demonstrated how the Proposed Amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market

[443] 17 CFR 242.608.

[444] 17 CFR 201.700; 17 CFR 201.701.

[445] 17 CFR 242.608(b)(2).

[446] *Id.*

[447] *See* Notice, *supra* note 5.

[448] 17 CFR 242.608(b)(2)(i).

system, or otherwise in furtherance of the purposes of the Exchange Act; [449]

• Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(4) [450] and Section 15A(b)(5),[451] of the Exchange Act, which require that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities'' and that the rules of a national securities association ''provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls;''

• Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(5) [452] and Section 15A(b)(6),[453] of the Exchange Act, which require that the rules of a national securities exchange or national securities association ''promote just and equitable principles of trade . . . protect investors and the public interest; and [to be] not designed to permit unfair discrimination between customers, issuers, brokers, or dealers;''

• Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(8) [454] and Section 15A(b)(9) [455] of the Exchange Act, which require that the rules of a national securities exchange or national securities association ''do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act];''

• Whether the Participants have demonstrated how the Proposed Amendment is consistent with the funding principles of the CAT NMS Plan that are not proposed to be amended by the Proposed Amendment, which principles state that the Operating Committee shall seek, among other things, ''to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company,'' [456] ''to provide for ease of billing and other administrative functions,'' [457] ''to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality,'' [458] and ''to build financial stability to support the Company as a going concern;'' [459]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the plan participants that filed the NMS plan filing.'' [460] The description of the NMS plan filing, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding.[461] Any failure of the plan participants that filed the NMS plan filing to provide such detail and specificity may result in the Commission not having a sufficient basis to make an affirmative finding that the NMS plan filing is consistent with the Exchange Act and the applicable rules and regulations thereunder.[462]

VI. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Amendment. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Amendment is consistent with Section 11A, Section 6(b)(4), Section 6(b)(5), Section 6(b)(8), Section 15A(b)(5), Section 15A(b)(6), Section 15A(b)(9), or any other provision of the Exchange Act, or the rules and regulations thereunder, or the funding principles of the CAT NMS Plan. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[463] any request for an opportunity to make an oral presentation.[464] The Commission asks that commenters address the sufficiency and merit of the Participants' statements in support of the Proposed Amendment,[465] in addition to any other comments they may wish to submit about the proposed rule changes. In particular, the Commission seeks comment on the following:

1. Commenters' views on whether the Executed Share Model is consistent with the funding principles in the CAT NMS Plan that are not proposed to be amended by the Proposed Amendment, which principles state that the Operating Committee shall seek, among other things, ''to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company,'' [466] ''to provide for ease of billing and other administrative functions,'' [467] ''to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality,'' [468] and ''to build financial stability to support the Company as a going concern;'' [469]

2. Commenters' views on whether the Participants have demonstrated why it consistent with the Exchange Act and Rule 608 of Regulation NMS for the Executed Share Model to allocate one-third of Prospective CAT Costs to Participants, one-third of Prospective CAT Costs to CBS and one-third of Prospective CAT Costs to CBBs;

3. Commenters' views on potential alternative allocations of CAT costs to Industry Members and Participants, including the allocations considered, but rejected, by the Participants, and the alternative allocations suggested by commenters as discussed in this order;

4. Commenters' views on whether a cost-based approach would be preferable to the proposed Executed Share Model. Commenters' views on the Operating Committee's statement that ''[i]n light of the many inter-related cost drivers of the CAT (*e.g.,* storage, message traffic, processing), determining the precise cost burden imposed by each individual CAT Reporter on the CAT is not feasible,'' [470] and that ''trading activity provides a reasonable proxy for cost burden on the CAT, and therefore is an appropriate metric for allocating CAT costs among CAT Reporters;'' [471]

[449] 17 CFR 242.608(b)(2).

[450] 15 U.S.C. 78f(b)(4).

[451] 15 U.S.C. 78o–3(b)(5).

[452] 15 U.S.C. 78f(b)(5).

[453] 15 U.S.C. 78o–3(b)(6).

[454] 15 U.S.C. 78f(b)(8).

[455] 15 U.S.C. 78o–3(b)(9).

[456] *See* CAT NMS Plan, *supra* note 1, at Section 11.2(a).

[457] *Id.* at Section 11.2(d).

[458] *Id.* at Section 11.2(e).

[459] *Id.* at Section 11.2(f).

[460] 17 CFR 201.701(b)(3)(ii).

[461] *Id.*

[462] *Id.*

[463] 17 CFR 242.608(b)(2)(i).

[464] Rule 700(c)(ii) of the Commission's Rules of Practice provides that ''[t]he Commission, in its sole discretion, may determine whether any issues relevant to approval or disapproval would be facilitated by the opportunity for an oral presentation of views.'' 17 CFR 201.700(c)(ii).

[465] *See* Notice, *supra* note 5.

[466] *See* CAT NMS Plan, *supra* note 1, at Section 11.2(a).

[467] *Id.* at Section 11.2(d).

[468] *Id.* at Section 11.2(e).

[469] *Id.* at Section 11.2(f).

[470] *See* Notice, *supra* note 5, 87 FR at 33232.

[471] *Id.*

5. Commenters' views on how fees would be passed on to Industry Members and investors if all CAT costs were allocated to Participants; views on how this outcome would be different than under the Participants' proposal; views on whether such an approach would benefit or harm efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

6. Commenters' views on whether the proposed assessment of a CAT fee on FINRA would indirectly impose FINRA's CAT fee on Industry Members, and therefore increase Industry Members' share of CAT fees. If so, commenters' views on whether this would result in a burden on competition for FINRA and for Industry Members, particularly those who trade OTC Equity Securities. Additionally, commenters' views on whether FINRA should be assessed a CAT fee in the same manner as the national securities exchanges;

7. Commenters' views on whether equities Participants and Industry Members that transact in equities would subsidize the activity of options Participants and Industry Members that transact in options under the proposal; views on how this subsidization would benefit or harm efficiency, competition, and capital formation; views on whether there are other benefits or costs of adopting such an approach; and any views (in detail) on whether there is an alternative approach that would be more beneficial to efficiency, competition, or capital formation;

8. Commenters' views on whether the Participants have demonstrated why imposing CAT fees only on clearing brokers, instead of on all Industry Members is consistent with the Exchange Act and Rule 608 of Regulation NMS, and whether such allocation is an unreasonable burden on competition; commenters' views on the proposed imposition of the Industry Member portion of the CAT fee on both buy- and sell-side clearing brokers instead of solely on sell-side clearing brokers;

9. Commenters' views on whether the Participants should be required to change the Fee Rate when the budget or projected executed equivalent share volume changes;

10. Commenters' views on whether the Fee Rate should be permitted to be recalculated if the budgeted CAT costs or the projected total executed equivalent share volume of transactions change more than once in a year;

11. Commenters' views on whether it is necessary or appropriate in the public interest for the Proposed Amendment to permit the Fee Rate to potentially remain in effect even if the budget or projected executed equivalent share volume changes (both would be used to calculate the Fee Rate under the Executed Share Model) or if the Fee Rate should sunset after a year. For example, if the Commission temporarily suspends and institutes proceedings to determine whether to approve or to disapprove a Section 19(b) fee filing to institute a new Fee Rate, the old Fee Rate could remain in effect during the proceedings;

12. Commenters' views on whether the Proposed Amendment's statement that the Participants do not intend to file a new separate amendment to the CAT NMS Plan for Participants each time a new Fee Rate is approved by the Operating Committee is consistent with the Exchange Act;

13. Commenters' views on whether the Proposed Amendment provides sufficient clarity and detail regarding the content and process relating to the fee filing pursuant to Section 19(b) and Rule 19b–4 thereunder with regard to Fee Rate changes applicable to Industry Members;

14. Commenters' views on the proposed Participant CAT fee, including views on its calculation; any views on whether the proposed fee raises any competitive issues; and any views on whether the proposed fee is consistent with the funding principles expressed in the CAT NMS Plan;

15. Commenters' views on the Proposed Amendment's methods of counting executed equivalent shares for NMS Stocks, Listed Options, and OTC Equity Securities, including the appropriateness of the discount to 1% for OTC Equity Security share volume;

16. Commenters' views on the Proposed Amendment's use of total executed equivalent share volume from the prior six months to determine a projected total for the year instead of using the past year's total executed equivalent share volume;

17. Commenters' views on the calculation of the Past CAT Costs Fee Rate, including any views on the relevant period to be used by the Operating Committee to calculate the Fee Rate for Past CAT Costs;

18. Commenters' views on whether it is appropriate to allocate one-third of Past CAT Costs to CBBs and one-third of Past CAT Costs to CBSs. Commenters' views on the composition and transparency of Past CAT Costs to be so allocated;

19. Commenters' views on whether the Participants have demonstrated why allowing the Participants to be responsible for one-third of Past CAT Costs and to collect two-thirds of Past CAT Costs from clearing brokers on a pro rata basis, rather than based on the executed equivalent share volume of transactions in Eligible Securities, is consistent with the Exchange Act and Rule 608 of Regulation NMS;

20. Commenters' views on whether the Proposed Amendment contains sufficient detail on how CAT fees for Past CAT Costs would be allocated to Participants on a pro rata basis;

21. Commenters' views on whether it is appropriate to use transaction activity from the past month to determine the CAT fee for Past CAT Costs (that were incurred months or years before);

22. Commenters' views on the Proposed Amendment's requirement that CAT fees related to Past CAT Costs would be collected from current Industry Members and not Industry Members that were active at the time when the Past CAT Costs were incurred;

23. Commenters' views on the transparency of the Proposed Amendment and the level of detail made available into Past CAT Costs and Prospective CAT Costs;

24. Commenters' views on the costs that would be included in the proposed definition of Budgeted CAT Costs in the Proposed Participant Fee Schedule; commenters' views on whether the Proposed Amendment needs a discussion of how the budget will be reconciled to fees;

25. Commenters' views on the decision to use total budgeted costs for the CAT for the relevant year to calculate fees related to Prospective CAT Costs for Participants and Industry Members, rather than costs already incurred; and views on the treatment of any surpluses;

26. Commenters' views on how any inherent conflicts of interest may be addressed in the Proposed Amendment;

27. Commenters' views on whether, and if so how, the Proposed Amendment would affect efficiency, competition or capital formation;

28. Commenters' views on whether modifications to the Proposed Amendment, or conditions to its approval, would be necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act;

29. Commenters' views on the proposed changes to the funding principle in Section 11.2(b) of the CAT NMS Plan to eliminate the requirement that the Operating Committee shall seek to take into account distinctions in the

securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations;

30. Commenters' views on the proposed changes to the funding principle in Section 11.2(c) of the CAT NMS Plan, including the elimination of requirements related to a tiered fee structure in which the fees charged are based on market share for Participants and Industry Members based on message traffic, and comparability between or among CAT Reporters;

31. Commenters' views on the proposed changes to Section 11.1(d) of the CAT NMS Plan to remove references to the assignment of tiers in order to conform the Plan to the Executed Shares Model; and

32. Commenters' views on the proposed changes to Section 11.3 of the CAT NMS Plan in order to conform the Plan to the Executed Shares Model by revising the manner in which fees to recover costs will be assessed on Participants and Industry Members.

The Commission also requests that commenters provide analysis to support their views, if possible.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposals should be approved or disapproved by September 27, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal October 11, 2022. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to. Please include File Number 4–698 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 4–698. 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 (*https://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 Participants' principal offices. 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 4–698 and should be submitted on or before September 27, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[472]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19111 Filed 9–2–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95635; File No. SR–FINRA–2022–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rule 6730 (Transaction Reporting) To Enhance TRACE Reporting Obligations for U.S. Treasury Securities

August 30, 2022.

I. Introduction

On May 23, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 6730 (Transaction Reporting) to Enhance TRACE Reporting Obligations for U.S. Treasury Securities. The proposed rule change was published for comment in the **Federal Register** on June 3, 2022.[3] On July 13, 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] The Commission received five comments on the proposal.[6] FINRA submitted a response to the comments on August 18, 2022.[7] This order approves the proposed rule change.

II. Description of the Proposal

FINRA is proposing two changes to its Trade Reporting and Compliance Engine (''TRACE'')[8] reporting rules to enhance the regulatory audit trail and require members to report transactions in U.S. Treasury Securities[9] to FINRA in a more timely manner. Information reported to TRACE regarding transactions in U.S. Treasury Securities[10] is used for regulatory and

[472] 17 CFR 200.30–3(a)(85).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95003 (May 27, 2022), 87 FR 33844 (June 3, 2022) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 95270 (July 13, 2022), 87 FR 43065 (July 19, 2022).

[6] *See* letters to Vanessa Countryman, Secretary, Commission, from Rob Toomey, Managing Direct & Associate General Counsel, and Charles de Simone, Managing Director, Technology and Operations, Securities Industry and Financial Markets Association (''SIFMA''), dated June 24, 2022 (''SIFMA Letter''); Howard Meyerson, Managing Director, Financial Information Forum (''FIF''), dated June 24, 2022 (''FIF Letter''); Gerard O'Reilly, Co-CEO and Chief Investment Officer, Dimensional Fund Advisors LP, dated June 22, 2022; Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities, dated June 24, 2022 (''Citadel Letter''); Joanna Mallers, Secretary, FIA Principal Traders Group, dated June 24, 2022 (''FIA Letter''). The comment letters are available at: *https://www.sec.gov/comments/sr-finra-2022-013/srfinra2022013.htm.*

[7] *See* letter to Vanessa Countryman, Secretary, Commission, from Robert McNamee, FINRA, dated August 18, 2022 (''FINRA Response Letter'').

[8] TRACE is the FINRA-developed system that facilitates the mandatory reporting of over-the-counter transactions in eligible fixed income securities. *See generally* FINRA Rule 6700 Series.

[9] Under Rule 6710(p), a ''U.S. Treasury Security'' means a security, other than a savings bond, issued by the U.S. Department of the Treasury (the ''Treasury Department'') to fund the operations of the federal government or to retire such outstanding securities. The term ''U.S. Treasury Security'' also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the Treasury Department.

[10] FINRA members began reporting information on transactions in U.S. Treasury Securities to TRACE on July 10, 2017. *See FINRA Regulatory Notice* 16–39 (October 2016); *see also* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Order Granting Accelerated Approval of File No. SR–FINRA–2016–027). *See* Notice, *supra* note 3, at 33844–45.

other official sector [11] purposes and is not disseminated publicly.[12] Among other regulatory uses, FINRA makes the data available to the official sector to assist in the monitoring and analysis of the U.S. Treasury Security markets. The first proposed change would require members to report electronically executed transactions in U.S. Treasury Securities to TRACE in the finest increment captured by the system that executed the transaction. FINRA is proposing to provide an exception from the amended execution timestamp provision for members with limited trading volume in U.S. Treasury Securities. The second proposed change would reduce the reporting timeframe for transactions in U.S. Treasury Securities.

Execution Timestamps

Existing Supplementary Material .04 to Rule 6730 provides that, when reporting transactions in U.S. Treasury Securities executed electronically to TRACE, FINRA members must report the Time of Execution [13] pursuant to paragraph (c)(8) of Rule 6730 to the finest increment of time captured by the member's system (*e.g.,* millisecond, microsecond), but at a minimum, in increments of seconds.[14] The ''member's system'' referenced in the existing rule refers to the system that is used to report the transaction to TRACE (*i.e.,* the member's ''reporting system''). Under the existing FINRA rule and related guidance, if a member uses multiple systems to facilitate trade reporting and those systems differ in granularity, then the member may use the finest increment that is common across all systems.[15] As a result, currently FINRA members may use a reporting system to report a trade to TRACE in an increment of time that is less precise than that captured by the system that is used to execute the transaction (*i.e.,* the ''execution system'').[16]

To improve the granularity and consistency of transaction information for U.S. Treasury Securities, FINRA is proposing to amend Supplementary Material .04 to Rule 6730 to instead provide that, when reporting transactions in U.S. Treasury Securities executed electronically, members must report the Time of Execution pursuant to paragraph (c)(8) of Rule 6730 to the finest increment of time captured by the execution system (*e.g.,* millisecond, microsecond), but reporting must be in an increment of (i) no longer than a second and (ii) no shorter than a microsecond. Amended Supplementary Material .04 would not require FINRA members to update execution systems for U.S. Treasury Securities—instead members must update their reporting systems, if necessary, to ensure that their TRACE reports reflect the finest increment of time captured by the execution system (but not finer than a microsecond).[17] Therefore, a FINRA member may be required to update its reporting system for U.S. Treasury Securities if such reporting system does not currently report to TRACE to the same level of granularity as the execution system.[18]

FINRA is also proposing to add new Supplementary Material .07 to Rule 6730 to provide a limited exception for members with limited trading volume in U.S. Treasury Securities from the proposed requirement to report electronically executed transactions in U.S. Treasury Securities to the finest increment of time captured by the execution system.[19] The proposed Supplementary Material would define a ''member with limited trading volume in U.S. Treasury Securities'' as a FINRA member that executed transactions in U.S. Treasury Securities of $10 million or less in average daily par value, computed by aggregating buy and sell transactions, during the preceding calendar year. Where a member's activity is below the proposed criteria during the preceding calendar year, such member would not be required to report transactions in U.S. Treasury Securities in the finest increment captured by the execution system and would be permitted to continue to

[11] The Treasury Department, the Board of Governors of the Federal Reserve System (the ''Federal Reserve''), the Federal Reserve Bank of New York, the SEC and the U.S. Commodity Futures Trading Commission comprise the Inter-Agency Working Group for Treasury Market Surveillance (IAWG or ''official sector'').

[12] On March 10, 2020, FINRA began posting on its website weekly, aggregate data on the trading volume of U.S. Treasury Securities reported to TRACE. *See* FINRA Press Release, FINRA Launches New Data on Treasury Securities Trading Volume, *https://www.finra.org/media-center/newsreleases/2020/finra-launches-new-data-treasury-securities-trading-volume; see also* Securities Exchange Act Release No. 87837 (December 20, 2019), 84 FR 71986 (December 30, 2019) (Order Approving File No. SR–FINRA–2019–028). Information on individual transactions in U.S. Treasury Securities is not published or disseminated.

[13] Under Rule 6710(d), the ''Time of Execution'' generally means the time when the parties to a transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade.

[14] Existing Supplementary Material .04 provides that a member must report ''at a minimum, in increment of seconds.'' As discussed below, FINRA states that, to avoid confusion, the proposed amendments update this language to clarify that members must report trades in an increment of ''no longer than a second'' and no shorter than a microsecond. TRACE currently cannot accept a Time of Execution in an increment that is finer than a microsecond. The proposed rule change would also make a non-substantive edit to Supplementary Material .04 to capitalize the defined term ''Time of Execution.'' *See* Notice, *supra* note 3, at 33845 n. 10.

[15] Specifically, TRACE Treasury FAQ #3.5.8 provides as follows: Question: Our firm will use two separate systems to facilitate trade reporting of U.S. Treasury Securities for different business lines. One system (''System A'') has the capability to capture the time of execution to the millisecond; however, the second system (''System B'') will only capture the time of execution to the second. Will our firm be required to update System B to capture the time of execution to the millisecond? Answer: No. The rule requires members to report the time of electronic executions to the finest increment of time captured in the member's system (*e.g.,* millisecond, microsecond), but at a minimum, in increments of seconds. Since the firm would be reporting the time of execution to the finest increment captured by each system, the firm would not need to make any updates to System B to comply with a finer time increment.

[16] For purposes of Supplementary Material .04, FINRA would consider the relevant execution system to be the system used to execute the particular U.S. Treasury Security transaction being reported to TRACE, regardless of whether the member is using its own internal systems for execution or if the transaction is executed through an external system. For example, if a member executes a transaction in a U.S. Treasury Security through an alternative trading system (''ATS'') or other electronic trading platform, the member would be required to report in the finest increment of time captured by such ATS or electronic trading platform (but no finer than a microsecond, in line with TRACE system parameters). *See* Notice, *supra* note 3, at 33845 n. 12.

[17] The TRACE system does not accept trade reports in increments finer than a microsecond. Where a firm captures time in a finer increment, the firm must truncate the time when reporting the transaction to TRACE. Specifically, TRACE FAQ #3.5.37 provides as follows: Question: Is rounding permitted when reporting the Time of Execution of a U.S. Treasury Security transaction to TRACE? Answer: No. Members must accurately report a transaction's Time of Execution and are not permitted to round when reporting to TRACE. The TRACE system can accommodate reporting up to the microsecond and, where the firm captures time in an increment finer than microseconds, the firm must truncate when reporting to TRACE. *See* Notice, *supra* note 3, at 33845 n. 13.

[18] *See* Notice, *supra* note 3, at 33845. In connection with the proposed rule change, FINRA also proposes to amend its existing TRACE FAQs to clarify that a member must report using the finest increment of time captured by the execution system, and therefore may need to update other systems to enable trade reporting using the execution system's level of timestamp granularity. *See* Notice, *supra* note 3, at 33845 n. 14.

[19] The proposed rule change would also make non-substantive, conforming edits to the Supplementary Material to Rule 6730. Specifically, existing Supplementary Material .06 to Rule 6730 provided a temporary exception for aggregate transaction reporting of U.S. Treasury Securities executed in ATS trading sessions. By its terms, that temporary exception expired on April 12, 2019. Therefore, FINRA is proposing to delete the temporary exception under existing Supplementary Material .06, renumber existing Supplementary Material .07 (ATS Identification of Non-FINRA Member Counterparties for Transactions in U.S. Treasury Securities) as Supplementary Material .06 and add the new exception for members with limited trading volume in U.S. Treasury Securities as new Supplementary Material .07. *See* Notice, *supra* note 3, at 33846 n. 15.

report the Time of Execution for transactions in U.S. Treasury Securities executed electronically as it does today for the duration of the following calendar year.

Under the proposed rule change, a FINRA member that relies on the exception for limited trading volume would be required to confirm on an annual basis that it continues to meet the criteria for the exception based on its trading activity during the preceding calendar year. Where a member no longer meets the criteria for the exception based on its trading activity during a given preceding calendar year, the member may no longer rely on the exception beginning 90 days after the end of such calendar year, which FINRA believes would provide such members with a sufficient amount of time to make any systems changes that may be needed to comply with the amended timestamp requirement.[20]

Reporting Timeframe Reduction

Under existing Rule 6730(a)(4)(A), transactions in U.S. Treasury Securities executed on a business day at or after 12:00:00 a.m. Eastern Time through 5:00:00 p.m. Eastern Time must be reported the same day during TRACE System Hours, *i.e.,* 8:00:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time.[21] A transaction executed on a business day after 5:00:00 p.m. Eastern Time but before the TRACE system closes can be reported the same day before the TRACE system closes, but must be reported no later than the next business day (T+1) during TRACE System Hours, *i.e.,* 8:00:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time, and, if reported on T+1, designated ''as/of'' and include the date of execution. Finally, a transaction executed on a business day at or after 6:30:00 p.m. Eastern Time through 11:59:59 p.m. Eastern Time (or a Saturday, a Sunday, a federal or religious holiday or other day on which the TRACE system is not open at any time during that day) must be reported the next business day (T+1) during TRACE System Hours, *i.e.,* 8:00:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time, designated ''as/of,'' and include the date of execution.

To provide more timely information about transactions in U.S. Treasury Securities, FINRA is proposing to amend Rule 6730(a)(4) to reduce the trade reporting timeframe as follows.[22] Amended Rule 6730(a)(4) would provide that transactions in U.S. Treasury Securities must be reported as soon as practicable, but no later than the following time periods.[23] Amended Rule 6730(a)(4)(A) would require that a transaction executed on a business day at or after 12:00:00 a.m. Eastern Time through 7:59:59 a.m. Eastern Time must be reported the same day no later than 60 minutes after the TRACE system opens. A transaction executed on a business day at or after the time the TRACE system opens at 8:00:00 a.m. Eastern Time through when the TRACE system closes at 6:29:59 p.m. Eastern Time (standard TRACE System Hours) must be reported within 60 minutes of the Time of Execution, except that a transaction executed on a business day less than 60 minutes before 6:30:00 p.m. Eastern Time can be reported the same day before the TRACE system closes, but must be reported no later than 60 minutes after the TRACE system opens the next business day (T+1), and if reported on T+1, designated ''as/of'' and include the date of execution. Finally, a transaction executed on a business day at or after 6:30:00 p.m. Eastern Time through 11:59:59 p.m. Eastern Time, or a Saturday, a Sunday, a federal or religious holiday or other day on which the TRACE system is not open at any time during that day (determined using Eastern Time) must be reported the next business day (T+1) no later than 60 minutes after the TRACE system opens, designated ''as/of,'' and include the date of execution.

FINRA represents that it will announce the effective date of the proposed rule change in a *Regulatory Notice.* The effective date will be no later than 365 days following publication of the *Regulatory Notice* announcing Commission approval of the proposed rule change.

III. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[25] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade, and, in general, protect investors and the public interest. In particular, the proposed rule change would enhance the regulatory audit trail for U.S. Treasury Securities available to FINRA and the official sector and assist FINRA in carrying out its statutory duties to surveil and regulate this segment of the market.

Pursuant to Section 19(b)(5) of the Act,[26] the Commission consulted with and considered the views of the Treasury Department in determining to approve the proposed rule change. The Treasury Department indicated its

[20] Under the proposed rule change, once a member's activity falls outside of the scope of the proposed criteria based on its trading activity during a given preceding calendar year, such member generally may no longer rely on the exception beginning 90 days after the end of such calendar year, irrespective of whether it again meets the criteria in a subsequent calendar year. However, a member may consult with FINRA staff regarding the availability of the exception where the member has changed business lines or undergone a corporate restructuring that significantly impacts its level of activity in U.S. Treasury Securities. *See* Notice, *supra* note 3, at 33846 n. 16.

[21] Under Rule 6710(t), ''TRACE System Hours'' means the hours the TRACE system is open, which are 8:00:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time on a business day, unless otherwise announced by FINRA.

[22] FINRA is not proposing to provide an exception for members with limited trading activity in U.S. Treasury Securities from the proposed reduced reporting timeframe requirement. *See* Notice, *supra* note 3, at 33846 n. 18.

[23] In connection with the proposed changes to Rule 6730(a)(4) discussed above, the proposed rule change would also make conforming changes to Supplementary Material .03 to Rule 6730, which sets forth standards for firms reporting transactions ''as soon as practicable'' after the Time of Execution in accordance with Rule 6730(a). Existing Rule 6730.03 provides that ''[e]ach member with a trade reporting obligation pursuant to paragraph (a) above for a TRACE-Eligible Security that is subject to dissemination must adopt policies and procedures reasonably designed to comply with the requirement that transactions in TRACE-Eligible Securities be reported 'as soon as practicable' by implementing systems that commence the trade reporting process at the Time of Execution without delay.'' Under the proposed rule change, the ''as soon as practicable'' standard would also apply to transactions in U.S. Treasury Securities, which are not subject to dissemination. Therefore, FINRA is proposing to update the first sentence of Rule 6730.03 to provide that ''[e]ach member with an obligation to report a transaction in a TRACE-Eligible Security 'as soon as practicable' pursuant to paragraph (a) of this Rule must adopt policies and procedures reasonably designed to comply with this requirement by implementing systems that commence the trade reporting process at the Time of Execution without delay.'' *See* Notice, *supra* note 3, at 33846 n. 19.

[24] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78*o*–3(b)(6).

[26] See 15 U.S.C. 78s(b)(5) (providing that the Commission ''shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor'').

support for the proposal.[27] Furthermore, pursuant to Section 19(b)(6) of the Act,[28] the Commission has considered the sufficiency and appropriateness of existing laws and rules applicable to government securities brokers, government securities dealers, and their associated persons in approving the proposal.

Execution Timestamps

As stated above, FINRA proposes to require members to report electronically executed transactions in U.S. Treasury Securities to TRACE in the finest increment captured by the system that executed the transaction. FINRA also proposes to provide an exception from the amended execution timestamp provision for members with limited trading volume in U.S. Treasury Securities. Two commenters raised operational and technological concerns associated with this proposal [29] and two commenters requested clarification to the definition of an electronically executed transaction.[30]

FINRA states that it acknowledges the operational and technological changes that members may need to undertake in order to comply with the proposed change.[31] FINRA also states its view that the benefits to the regulatory audit trail of aligning the timestamps reported to TRACE with those captured by the relevant execution system are appropriate.[32] In response to comments seeking clarification to the definition of an electronically executed transaction, FINRA notes that the current timestamp granularity provision in TRACE reporting rules already applies to transactions that are ''executed electronically'' and further notes that it encourages members to contact FINRA for guidance on whether a particular transaction would be considered an electronically executed transaction.[33]

The Commission believes that the proposed change to align the level of granularity provided in TRACE reports with the level of granularity in the execution systems will enhance the regulatory audit trail for U.S. Treasury Securities available to FINRA and the official sector by facilitating more efficient matching and sequencing of transactions in the audit trail data.[34] As discussed above, the current rule permits FINRA members to report a trade to TRACE in an increment of time that is less precise than that captured by the execution system, which makes it difficult for FINRA to match and sequence trades. The Commission believes the proposed change is reasonably designed to address this concern as FINRA represents that finer time granularity in the audit trail would allow transactions to be matched more accurately and sequenced with more precision, thus facilitating trade matching and sequencing for U.S. Treasury Securities. This, in turn, facilitates market oversight by providing FINRA and the official sector with more useful information on U.S. Treasury Security transactions. The Commission also believes that providing an exception from the amended execution timestamp requirement for FINRA members with limited trading volume in U.S. Treasury Securities is appropriate, as the proposed exception would reduce burdens for FINRA members with limited activity.

The Commission recognizes that the proposed change may result in costs for FINRA members that trade U.S. Treasury Securities where members must implement changes to their processes and systems for reporting U.S. Treasury Securities transactions to TRACE. As discussed above, however, the Commission believes that the important regulatory purpose served by the proposal justifies the potential burdens. The Commission also recognizes that the proposed change may also affect competition among reporting firms, where firms reporting only a limited number of trades may face the same costs of upgrading their systems and therefore find their limited trading in U.S. Treasury Securities less viable. The Commission nevertheless believes that the impact on such firms is expected to be mitigated by the proposed exception for eligible FINRA members with limited trading volume, as previously described.

Reporting Timeframe Reduction

As stated above, FINRA proposes to shorten the reporting timeframe for transactions in U.S. Treasury Securities. Two commenters support the proposal to require members to report transactions in U.S. Treasury Securities to TRACE in a more timely manner.[35] One commenter suggests that FINRA postpone implementation of a shorter reporting timeframe.[36] This commenter notes several current initiatives related to TRACE, including the Treasury Department's recent publication of a Request for Information [37] (RFI) on additional post-trade transparency of data regarding secondary market transactions of U.S. Treasury Securities, and suggests that implementing technological and operational changes now, followed by the possibility of additional changes at a later date, would be inefficient and could result in work that is unnecessary in the long term.[38]

FINRA acknowledges the fact that there are several current TRACE initiatives [39] but notes that it does not believe that there is any conflict presented by advancing the proposal to shorten the reporting timeframe for transactions in U.S. Treasury Securities and states that it does not believe that the benefits of a shortened reporting timeframe for transactions in U.S. Treasury Securities are reduced in light of these other initiatives.[40] Further, in response to concerns that the Treasury Department's RFI could result in a proposal or recommendation to increase transparency for transactions in U.S. Treasury Securities,[41] FINRA notes that prior increases in transparency provided by TRACE for other fixed income

[27] *See* Email from U.S. Treasury Department staff to Justin Pica, Division of Trading and Markets, Commission (August 25, 2022).

[28] 15 U.S.C. 78s(b)(6).

[29] *See* SIFMA Letter at 3; FIF Letter at 2.

[30] *See* SIFMA Letter at 3; FIF Letter at 2.

[31] *See* FINRA Response Letter at 4–5.

[32] *See* FINRA Response Letter at 5.

[33] *See id.*

[34] FINRA represents that, under the existing rule, members may report a trade to TRACE in an increment of time that is less precise than that captured by the execution system, which makes it difficult for FINRA to match interdealer trades when two sides report at different time granularity because coarse granularity in timestamps makes sequencing trades less precise. To address this concern, the proposal requires that, when reporting transactions in U.S. Treasury Securities executed electronically, members must report the Time of Execution to the finest increment of time captured by the execution system, but must report in an increment of time that is no longer than a second and no shorter than a microsecond. *See* Notice, *supra* note 3, at 33847.

[35] *See* Citadel Letter at 1; FIA Letter at 1–2.

[36] *See* SIFMA Letter at 1–2. This commenter also encouraged FINRA to review the benefits of a shortened reporting timeframe in light of how FINRA and its regulatory partners are using TRACE data, and to consider whether that use is impeded by the current reporting timeframes and whether there are any incremental benefits from a 60-minute timeframe as opposed to an intermediate interval (such as two hours, as originally recommended by SIFMA). *See id.* In response, FINRA states that the proposal strikes an appropriate balance to provide FINRA and the official sector with more timely information about U.S. Treasury Security market activity, noting that members already report over 90 percent of transactions in U.S. Treasury Securities within 60 minutes of the Time of Execution. *See* FINRA Response Letter at 4.

[37] *See* Treasury Department, Notice Seeking Public Comment on Additional Transparency for Secondary Market Transactions of Treasury Securities, 87 FR 38259 (June 27, 2022) (Docket No. TREAS–DO–2022–0012).

[38] *See* SIFMA Letter at 2.

[39] *See, e.g., FINRA Regulatory Notice* 22–17 (August 2, 2022) (FINRA Requests Comment on a Proposal to Shorten the Trade Reporting Timeframe for Transactions in Certain TRACE-Eligible Securities From 15 Minutes to One Minute) available at *https://www.finra.org/rules-guidance/notices/22-17.*

[40] *See* FINRA Response Letter at 3.

[41] *See* SIFMA Letter at 2–3

products have been preceded by a shortened reporting timeframe.[42]

The Commission believes that shortening the timeframe for FINRA members to report transactions in U.S. Treasury Securities to TRACE to as soon as practicable, but no later than within 60 minutes of the Time of Execution (or within 60 minutes after the TRACE system opens for trades executed during specified periods, as described above) will assist FINRA in carrying out its statutory duties to surveil and regulate this segment of the market by providing FINRA with more timely information about activity in the market for U.S. Treasury Securities, including more timely data about intraday pricing and liquidity.

The Commission recognizes that the proposal may result in costs for FINRA members that need to implement changes to their processes and systems. The Commission notes that, according to FINRA, approximately 96 percent of U.S. Treasury Security transaction reports were reported within 60 minutes of the Time of Execution during a sample period of July 2020 to June 2021.[43] In addition, FINRA represents that some FINRA members who trade in U.S. Treasury Securities also trade in other types of TRACE-Eligible Securities that already require reporting within a shorter timeframe.[44] While these transactions may occur on separate trading desks, the Commission agrees with FINRA that, to the extent that members are able to leverage existing technology within the firm, the costs associated with the proposed reporting timeframe changes for U.S. Treasury Securities could potentially be reduced. With respect to comments suggesting that FINRA should review the benefits of a shortened reporting timeframe in light of how FINRA and its regulatory partners are using TRACE data,[45] the Commission agrees with FINRA's assessment that the proposal strikes an appropriate balance to provide FINRA and the official sector with more timely information about U.S. Treasury Security market activity. The Commission notes that FINRA members already report over 90 percent of transactions in U.S. Treasury Securities within 60 minutes of the Time of Execution.[46]

Finally, the Commission believes that it would not be appropriate to delay implementation of the proposal beyond the timeframe set forth in the Notice. The Commission agrees with FINRA in its assessment that the proposal does not conflict with other TRACE-related initiatives and that the benefits of a shortened reporting timeframe for transactions in U.S. Treasury Securities are not reduced in light of these other initiatives. Moreover, the Commission believes that further delaying implementation of the proposal would undermine the regulatory interest that the official sector and FINRA have in obtaining access to more timely information about activity in the market for U.S. Treasury Securities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[47] that the proposed rule change (SR–FINRA–2022–013) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19112 Filed 9–2–22; 8:45 am]

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[42] *See* FINRA Response Letter at 3. With respect to the U.S. Treasury Department's RFI, FINRA further states that, should that initiative result in a proposal or recommendation to increase transparency for transactions in U.S. Treasury Securities, such a result would harmonize with a reduced reporting timeframe for U.S. Treasury Securities. *See id.*

[43] *See* Notice, *supra* note 3, at 33848.

[44] For example, FINRA states that transactions in corporate bonds and Agency Debt Securities generally are required to be reported to FINRA as soon as practicable, but no later than within 15 minutes of the Time of Execution. In the FINRA sample period, of the 750 MPIDs that reported transactions in U.S. Treasury Securities, 691 MPIDs also reported transactions in corporate bonds and Agency Debt Securities. *See* Notice, *supra* note 3, at 33848.

[45] *See supra* note 36 and accompanying text.

[46] *See* FINRA Response Letter at 4.

[47] 15 U.S.C. 78s(b)(2).

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 95637; File No. SR–ISE–2022–17]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt New Conflicts of Interest Rules

August 30, 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 18, 2022, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt two new rules within Sections 26 and 27 of Options 10. Also, the Exchange proposes to make other technical amendments.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt two new rules within Sections 26 and 27 of Options 10. Also, the Exchange proposes to make technical amendments to General 2, Organization and Administration; Options 1, Section 1, Definitions; and Options 4A, Section 12, Terms of Index Options Contracts. Each change is described below.

Proposed Options 10, Section 26

The Exchange proposes to adopt a new Options 10, Section 26, titled ''Transactions Involving ISE Employees'' that is substantively identical to FINRA Rule 2070. This proposed rule is intended to address

conflicts of interest involving ISE and its employees.

The Exchange proposes to adopt rule text within proposed Options 10, Section 26(a) that requires a Member, when it has actual notice that an ISE employee has a financial interest or controls trading in an account, to promptly obtain and implement an instruction from the employee directing that duplicate account statements be provided by the Member to ISE.

The Exchange proposes to adopt rule text within proposed Options 10, Section 26(b) that prohibits a Member from directly or indirectly making any loan of money or securities to an ISE employee. This proposed prohibition would not apply to loans made in the context of disclosed, routine banking and brokerage agreements, or loans that are clearly motivated by a personal or family relationship.

Finally, the Exchange proposes to adopt rule text within proposed Options 10, Section 26(c) that prohibits any Member from directly or indirectly giving, or permitting to be given, anything of more than nominal value to any ISE employee who has responsibility for a regulatory matter involving the Member. This prohibition would apply regardless of the annual dollar limitation set forth in proposed Options 10, Section 27, which is discussed below. The term ''regulatory matter'' is proposed to be defined to include, without limitation, examinations, disciplinary proceedings, membership applications, listing applications, delisting proceedings, and dispute-resolution proceedings that involve the Member.

The Exchange believes that requiring a Member to direct that duplicate account statements be provided by the Member to ISE when it has actual notice that an ISE employee has a financial interest or controls trading in an account, prohibiting Members from making any loan of money or securities to an ISE employee subject to the exceptions set forth herein, and prohibiting Members from directly or indirectly giving, or permitting to be given, anything above nominal value to any ISE employee who has responsibility for a ''regulatory matter'' involving the Member will avoid conflicts of interest for ISE and its employees in the regulation of its Members. With this proposal, ISE Members who are also FINRA members would be subject to this rule which is substantively identical to FINRA Rule 2070. Additionally, ISE Members who are not FINRA members would also be subject to proposed Options 10, Section 26 to the extent that such Members conduct business with the public.

Proposed Options 10, Section 27

The Exchange proposes to adopt a new Options 10, Section 27, titled ''Influencing or Rewarding Employees of Others'' that is substantively identical to FINRA Rule 3220. This proposed rule is intended to provide a limitation on gifts and thereby govern influencing or rewarding the employees of others.

The Exchange proposes to adopt rule text within proposed Options 10, Section 27(a) that prohibits a Member or person associated with a Member from directly or indirectly giving or permitting to be given anything of value, including gratuities, in excess of one hundred dollars per individual per year to any person, principal, proprietor, employee, agent or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. A gift of any kind would be considered a gratuity.

The Exchange proposes to adopt rule text within proposed Options 10, Section 27(b) that provides that Options 10, Section 27 shall not apply to contracts of employment with or to compensation for services rendered by persons enumerated in paragraph (a) provided that there is in existence prior to the time of employment or before the services are rendered, a written agreement between the Member and the person who is to be employed to perform such services. Such agreement would include the nature of the proposed employment, the amount of the proposed compensation, and the written consent of such person's employer or principal. The Exchange notes that this express exclusion for payments made pursuant to a bone fide, prior written agreement in paragraph (b) is excluded from the dollar value consideration in paragraph (a).

The Exchange proposes to adopt rule text within proposed Options 10, Section 27(c) that requires a separate record of all payments or gratuities in any amount known to the Member, the employment agreement referred to in paragraph (b) and further requires the Member to retain any employment compensation paid as a result thereof for the period specified by Rule 17a–4 of the Exchange Act.[5]

Proposed Options 10, Section 27 prevents gifts in excess of a fixed amount, currently $100. The Exchange believes that there is no business need to justify giving gifts in amounts greater than the limit specified in the rule. With this proposal, ISE Members who are also FINRA members would be subject to this rule which is substantively identical to FINRA Rule 3220. Additionally, ISE Members who are not FINRA members would also be subject to proposed Options 10, Section 27 to the extent that such Members conduct business with the public. The Exchange believes this proposed rule appropriately protects against improprieties that might arise when substantial gifts or monetary payments are given to certain persons.

Technical Amendments

The Exchange proposes to reserve rules within General 2, Organization and Administration in addition to currently reserved Sections 13 through 22, to harmonize ISE's rules with those of Nasdaq affiliate exchanges. Specifically, the Exchange proposes to reserve new Sections 23 and 24 within General 2 and add an ''s'' to the word ''Section.''

The Exchange proposes to amend a citation within the definition of ''proprietary trading'' at Options 1, Section 1(a)(41). The citation to ''General 4, Section 1.1210'' is incorrect. The citation should be to ''General 4, Section 1210''. Correcting this citation will avoid confusion.

The Exchange proposes to remove the word ''pilot'' within Supplementary Material to Options 4A, Section 12. Options 4A, Section 12 describes the options listing rules. The Quarterly Options Series pilot program was approved in 2009.[6] The Exchange proposes to remove this updated reference to the pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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. Together, proposed Options 10, Sections 26 and 27 address conflicts of interest by adopting rules that govern influencing or rewarding the employees of others and transactions involving ISE

[5] 17 CFR 240.17a–4.

[6] *See* Securities Exchange Act Release No. 60275 (July 9, 2009), 74 FR 34809 (July 17, 2009) (SR–ISE–2009–50) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permanently Establish the Quarterly Options Series Pilot Program).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

employees. The Exchange believes that adopting rules substantively identical to FINRA will help avoid confusion among Members of the Exchange who conduct business with the public that are also members of FINRA and would harmonize the Exchange's rules with FINRA rules with respect to conflicts of interest, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. 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.

Proposed Options 10, Section 26 is consistent with the Act and protects investors and the general public by requiring a Member to direct that duplicate account statements be provided by the Member to ISE when it has actual notice that an ISE employee has a financial interest or controls trading in an account, prohibiting Members from making any loan of money or securities to an ISE employee subject to the exceptions set forth herein, and prohibiting Members from directly or indirectly giving, or permitting to be given, anything above nominal value to any ISE employee who has responsibility for a ''regulatory matter'' involving the Member. These proposed rules are intended to avoid conflicts of interest for ISE and its employees in the regulation of its Members.

Proposed Options 10, Section 27 is consistent with the Act and protects investors and the general public by preventing gifts in excess of a fixed amount, currently $100, because there is no business need to justify giving gifts in amounts greater than the limit specified in the rule. Options 10, Section 27 in conjunction with Options 10, Section 26, as proposed, protects investors and the general public by addressing conflicts of interest and governs influencing or rewarding the employees of others and transactions involving ISE employees.

Technical Amendments

The Exchange's proposal to reserve new Sections 23 and 24 within General 2, amend a citation within the definition of ''proprietary trading'' within Options 1, Section 1, and remove the word ''pilot'' within Supplementary Material to Options 4A, Section 12 are non-substantive amendments.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Proposed Options 10, Sections 26 and 27

The proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members. The Exchange's proposal to adopt new Options 10, Sections 26 and 27 does not impose an undue burden on competition as all Members that conduct business with the public would be subject to the proposed rules. Further, ISE Members who are also FINRA members would be subject to these rules which are substantively identical to FINRA Rules 2070 and 3220.

Technical Amendments

The Exchange's proposal to reserve new Sections 23 and 24 within General 2, amend a citation within the definition of ''proprietary trading'' within Options 1, Section 1, and remove the word ''pilot'' within Supplementary Material to Options 4A, Section 12 are non-substantive amendments.

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[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2022–17 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2022–17. 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 (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2022–17 and should be submitted on or before September 27, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19114 Filed 9–2–22; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17583 and #17584; INDIANA Disaster Number IN–00078]

Administrative Declaration of a Disaster for the State of Indiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Indiana dated 08/30/2022.

Incident: Severe Storms and Flooding.

Incident Period: 07/23/2022 through 07/25/2022.

DATES: Issued on 08/30/2022.

Physical Loan Application Deadline Date: 10/31/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 05/30/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Daviess.

Contiguous Counties:

Indiana: Dubois, Greene, Knox, Martin, Pike.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17583 6 and for economic injury is 17584 0.

The State which received an EIDL Declaration # is Indiana.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–19145 Filed 9–2–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17585 and #17586; ALASKA Disaster Number AK–00054]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Alaska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alaska (FEMA–4667–DR), dated 08/26/2022.

Incident: Flooding.

Incident Period: 05/08/2022 through 05/11/2022.

DATES: Issued on 08/26/2022.

Physical Loan Application Deadline Date: 10/25/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 05/26/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/26/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Copper River REAA, Iditarod Area REAA, Kuspuk REAA

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17585 6 and for economic injury is 17586 0.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–19144 Filed 9–2–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11850]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Samaritans: A Biblical People'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''The Samaritans: A Biblical People'' at the Museum of the Bible, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public

[11] 17 CFR 200.30–3(a)(12).

Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–19129 Filed 9–2–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11849]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Saints, Sinners, Lovers, and Fools: 300 Years of Flemish Masterworks'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Saints, Sinners, Lovers, and Fools: 300 Years of Flemish Masterworks'' at the Denver Art Museum, Denver, Colorado; the Dallas Museum of Art, Dallas, Texas; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street, NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–19176 Filed 9–2–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11848]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Tales of the City: Drawing in the Netherlands From Bosch to Bruegel'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Tales of the City: Drawing in the Netherlands from Bosch to Bruegel'' at the Cleveland Museum of Art, Cleveland, Ohio, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–19206 Filed 9–2–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11847]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''An Italian Impressionist in Paris: Giuseppe De Nittis'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''An Italian Impressionist in Paris: Giuseppe De Nittis'' at The Phillips Collection, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28,

2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–19130 Filed 9–2–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Colorado Springs Airport, Colorado Springs, Colorado

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release and sale of a 100.74-acre parcel of land at the Colorado Springs Airport.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Mr. Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, *michael.b.matz@faa.gov,* (303) 342–1251.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Stover, Assistant Director of Aviation for Economic Development, Colorado Springs Airport, 7770 Milton E. Proby Parkway Suite 50, Colorado Springs, CO 80916, *Troy.Stover@coloradosprings.gov,* (719) 238–0398; or Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, 26805 E 68th Ave. Suite 224, Denver, CO 80249, *michael.b.matz@faa.gov,* (303) 342–1251. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Colorado Springs Airport under the provisions of 49 U.S.C. 47107(h)(2). The proposal consists of 100.74 acres of land located on the South side of the airport, shown as Parcels 10–A, 10–B, 19A–A, and 19A–B on the Airport Layout Plan. The parcel lies partially inside the Peak Innovation Business Park, North of Milton E. Proby Parkway. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado on August 30, 2022.

Marc Miller,

Acting Manager, Denver Airports District Office.

[FR Doc. 2022–19121 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL HIGHWAY ADMINISTRATION

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice; correction.

SUMMARY: This Notice makes a correction to a prior Notice of Limitation on Claims for Judicial Review on a highway project in the County of San Mateo, State of California, to correct the reference to Action being taken.

FOR FURTHER INFORMATION CONTACT: Yolanda Rivas, Senior Environmental Planner, California Department of Transportation, District 4, 111 Grand Avenue, Oakland, CA 95901. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (510) 506–1461 or email *yolanda.rivas@dot.ca.gov.* For FHWA, contact Shawn Oliver at (916) 498–5048 or email *Shawn.Oliver@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

Background

On May 11, 2022, at 87 FR 28858, FHWA advised the public of final agency actions subject to 23 U.S.C. 139(l)(1). It further advised that a claim seeking judicial review of the Federal agency actions on the highway project would be barred unless the claim is filed on or before October 11, 2022. In that document, the Action in the heading of the Notice incorrectly read ''Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans) and the United States Forest Service (Plumas National Forest) to issue a special use permit to Caltrans.'' The Action heading is corrected to read ''Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans).''

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Antonio Johnson,

Director, Planning, Environment and Right of Way, Federal Highway Administration, California Division.

[FR Doc. 2022–19122 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0139]

Entry-Level Driver Training: United Parcel Service, Inc. (UPS); Petition for Reconsideration of Original Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of petition for reconsideration of original application for exemption.

SUMMARY: FMCSA announces its decision to deny reconsideration of the Agency's initial denial of the application for exemption filed by United Parcel Service, Inc. (UPS). UPS originally sought exemption from a provision in the Entry-Level Driver Training (ELDT) final rule requiring two years of experience for training instructors. FMCSA denied that petition on December 9, 2019. UPS believes that its current process of preparing driver trainers exceeds any skill set gained merely by operating a tractor-trailer for two years. UPS stated that its reconsideration request would ensure that it can continue to exceed the current regulatory requirements and provide proper training of its drivers and improve highway and public safety. FMCSA analyzed the petition for reconsideration and the public comments submitted, and determined that the application lacked evidence that would ensure that an equivalent level of safety or greater would likely be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and

Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366–2722; *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, FMCSA–2019–0139 in the ''Keyword'' box and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The ELDT final rule was adopted pursuant to 49 U.S.C. 31305(c), and is based in part on consensus recommendations from the Agency's ELDT Advisory Committee (ELDTAC), a negotiated rulemaking committee. The rule enhances the safety of commercial motor vehicle (CMV) operations on our Nation's highways by establishing a minimum standard for ELDT and increasing the number of drivers who receive ELDT. The rule revised 49 CFR part 380, Special Training Requirements, to include, among other things, driver training instructor qualifications. Under 49 CFR 380.713 a driver training instructor must have two years' experience and have held a commercial driver's license (CDL) for 2 years, as set forth in the definitions of ''behind-the-wheel (BTW) instructor'' and ''theory instructor'' in 49 CFR 380.605.

On June 19, 2019, FMCSA published a UPS application for exemption from two provisions of the ELDT final rule and requested public comment [84 FR 28623]. UPS specifically requested an exemption from: (1) the requirement in 49 CFR 380.713 that a driver training instructor hold a CDL and have 2 years' experience driving a CMV, as set forth in the definitions of behind-the-wheel (BTW) instructor and theory instructor; and (2) the requirement in 49 CFR 380.703(a)(7) to register each training location in order to obtain a unique Training Provider Registry number applicable to that location.

The Agency received 112 comments, including 58 supporting the requested exemptions and 51opposing them. Three other commenters had no position either for or against the application and provided no substantive comments.

On December 9, 2019, the Agency denied the UPS exemption request because the application did not provide an analysis of the safety impacts the requested exemptions may cause, as required by 49 CFR 381.310(c)(4), and did not explain how the exemptions would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulations, as required by 49 CFR 381.310(c)(5).

IV. Request for Reconsideration of Agency Decision

On July 1, 2020, UPS requested that FMCSA reconsider its original denial. UPS believes that its current process of preparing driver trainers exceeds any skill set gained merely by operating a tractor-trailer for 2 years. The company also believes that a 2-year experience requirement doesn't automatically equate to success as a CMV driver trainer. UPS has provided the Agency with updated information since the original denial, explaining that many of their locations have experienced turnover issues with driver trainers because of the ELDT rule changes in 2018. UPS added that it had to hire 100 candidates to attempt to net the 50 trainer positions it needed across the United States. Of the 100 trainers hired, UPS has been able to retain only 38.

V. Method To Ensure an Equivalent or Greater Level of Safety

To ensure an equivalent level of safety, UPS stated that its driver training program is a train-the-trainer approach that it believes is an industry-leading curriculum that produces excellent trainers and, by extension, excellent CMV operators. When UPS became aware of the ELDT rule changes, it was in the process of making some operational network enhancements that would prompt significant hiring during the following years. To get ahead of the original ELDT rule compliance date of February 7, 2020, UPS attempted to hire trainers from outside of UPS to supplement the certified trainers already in place. UPS encountered challenges throughout the training process regarding these trainer positions, mainly because of the level of comprehensive training that they would need to have and demonstrate as a trainer. UPS claim of high turnover rate in the trainer positions is pertinent to its request for reconsideration of the original denial.

VI. Public Comments

On September 23, 2020, FMCSA published notice of this reconsideration request and sought public comments (85 FR 59850). The Agency received 113 total comments. The Owner-Operator Independent Driver's Association (OOIDA) and the Commercial Vehicle Training Association (CVTA) opposed reconsideration of denial of UPS' original application for exemption. OOIDA opposed the initial exemption request and argued that UPS failed to present any new information that would warrant reconsideration. The minimum experience standards for trainers included in the ELDT rule were built on consensus recommendations of the ELDTAC, a group of 26 industry stakeholders, and are firmly rooted in highway safety. OOIDA further commented that the 2-year delay of the ELDT rule compliance date until February 7, 2022, issued by FMCSA provides sufficient time for all entities,

including UPS, to prepare their respective training programs and comply with the rule's new implementation date.

CVTA reaffirmed its original opposition to UPS' exemption request. CVTA referenced its ''Pre-CDL Instructor Certification Program'' designed to train the trainer, and while it agreed that the skills needed to effectively teach versus the skills of being a driver acquired by holding a CDL for 2 years are different, CVTA believes the uniform application of the ELDT regulation for all training providers should be established and followed by anyone training pre-CDL students. It is CVTA's belief that reconsideration, if granted, would set a bad precedent.

Two other individuals opposed reconsideration. Other reasons presented by commenters included the assertion that the lowering of the requirements specified for driver training instructors would open the door for similar requests or even require a change to the ELDT rule.

Most comments supporting reconsideration were from individuals including UPS drivers and current or former UPS driver trainers. Most of these commenters cited the excellence of the UPS driver training program and the overall company safety record. They argued that the UPS training program is one of the most comprehensive in the industry, that its driver trainers are put through an intense training program and are required to follow strict methods and procedures.

VII. FMCSA Safety Analysis and Decision

FMCSA has evaluated UPS' request for reconsideration and the public comments and has decided to deny the request. The UPS reconsideration request indicated that the company had encountered challenges filling new trainer positions in compliance with the provisions of the ELDT final rule. UPS stated that its internal Driver Trainer School has produced what the company believes to be the best trainers in the industry and that its training provides a consistently high standard through a comprehensive, consistent training format throughout the organization, both for initial training and recurrent annual training.

When the Agency established the rules mandating ELDT, it relied upon research indicating that the rules improve CMV safety. The Moving Ahead for Progress Act of the 21st Century mandated that the FMCSA issue regulations to establish minimum entry-level training requirements for interstate and intrastate applicants obtaining a CDL for the first time, CDL holders seeking license upgrades, and those seeking various CDL endorsements. In response to that statutory mandate, the Agency published a final rule on ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators,'' on December 8, 2016 [81 FR 88732]. The ''framework'' for this rule was based on the ELDTAC's consensus recommendations ''to the maximum extent possible consistent with its legal obligations'' as required under the Negotiated Rulemaking Act (5 U.S.C. 563(a)(7)). These final regulations outlined new eligibility standards that training providers must meet to deliver ELDT, including the qualification and experience requirements for BTW and Theory or Classroom instructors. As OOIDA and CVTA indicated in their opposing comments, the UPS application does not provide an analysis of the safety impacts that reconsideration of the denial may cause. It also does not provide countermeasures to be undertaken to ensure that the request would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the ELDT regulations.

The Agency cannot ensure that the exemption would achieve the requisite level of safety. The ELDT rule, mandated by Congress, is based on the ''framework'' of the ELDTAC's consensus recommendations, including the instructor requirements. The UPS request for reconsideration must be judged based on the exemption standards in 49 CFR part 381. As indicated above, UPS' application fails to meet those standards. The request for reconsideration of the original application for exemption is therefore denied.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–19133 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No: PHMSA–2022–0060]

Pipeline Safety: Information Collection Activities: Voluntary Adoption of API RP 1173 for Gas Distribution Systems

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites public comments on its intent to request Office of Management and Budget (OMB) approval of a new, one-time information collection titled: ''Voluntary Adoption of API RP 1173 for Gas Distribution Systems.'' The proposed information collection would provide data necessary to prepare the report required by Section 205 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020 for gas distribution systems.

DATES: Interested persons are invited to submit comments on or before November 7, 2022.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except federal holidays.

Instructions: Identify the docket number, PHMSA–2022–0060 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except federal holidays. If you wish to receive confirmation of

receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2022–0060.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement: DOT may solicit comments from the public regarding certain general notices. 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.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Angela Hill, DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT: Angela Hill by telephone at 202–366–1246 or by email at *Angela.Hill@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2015, the American Petroleum Institute (API) published Recommended Practice (RP) 1173, Pipeline Safety Management Systems (SMS). The Pipeline SMS recommended practice was the culmination of a two-year effort by pipeline operators, state and federal regulators, and other stakeholders.

On September 13, 2018, a low-pressure gas distribution system owned and operated by Columbia Gas of Massachusetts was over pressured in Lawrence, Andover, and North Andover, MA (Merrimack Valley) resulting in a series of structure fires and explosions causing 1 fatality, 22 persons injured, 131 structures destroyed or damaged, and approximately 11,000 customers without gas service for months. NTSB investigated the incident and determined that the probable cause of the Merrimack Valley incident was Columbia Gas of Massachusetts' weak engineering management that did not adequately plan, review, sequence, and oversee the construction project that led to the abandonment of a cast iron main without first relocating regulator sensing lines to the new polyethylene main.

After the Merrimack Valley incident, Senator Ed Markey (MA) hosted a Senate Commerce Committee field hearing on November 26, 2018, with Senator Elizabeth Warren (MA), Senator Maggie Hassan (N.H.), then-Congresswoman Niki Tsongas (MA–03), Congressman Seth Moulton (MA–06), and Congresswoman Lori Trahan. In April 2019, Senators Markey and Warren and Representative Lori Trahan (MA–03) introduced the ''Leonel Rondon Pipeline Safety Act''. The bill in the Senate was sponsored by Senators Markey, Warren, and Richard Blumenthal (D-Conn.); Congresswoman Trahan introduced companion legislation in the House of Representatives. The bill aimed at establishing regulations that would improve gas pipeline operators' risk management plans, improve emergency response coordination with the public and first responders, institute best industry practices for holistic safety management, and mandate use of accurate and reliable maps and records. The resulting language through Section 205 of the PIPES Act of 2020 directed PHMSA to submit, by December 27, 2023, a report to Congress describing:

- the number of operators of natural gas distribution systems who have implemented a Pipeline SMS in accordance with API RP 1173;
- the progress made by operators of natural gas distribution systems who have implemented, or are in the process of implementing a Pipeline SMS; and
- the feasibility of an operator of a natural gas distribution system implementing a Pipeline SMS based on the size of the operator as measured by the number of customers the operator has and the amount of natural gas the operator transports.

PHMSA needs certain information from natural gas distribution operators to prepare the mandated report. While the PIPES Act mandate pointed specifically to API RP 1173, there are other SMS program variations available to natural gas distribution operators. Some operators may be using API RP 1173 as written to develop their SMS framework. Others may be using a modified version of API RP 1173, adding elements specific to their operations, or using a completely customized SMS program.

PHMSA may also use the information collected to assess the cost impacts of proposed changes in the pipeline safety regulations mandated by the Leonel Rondon Pipeline Safety Act (2137–AF53). For example, implementing an SMS program based on API RP 1173 requires the operator to maintain procedures for Management of Change (MOC) to be applied to significant technology, equipment, procedural, and organizational changes. Section 204 of the PIPES Act directs PHMSA to update regulations to ensure that gas distribution operators include a detailed MOC process in their procedural manual for operations, maintenance, and emergencies. The regulation update will have to also address emergency response plans and record keeping requirements which are two of elements of API RP 1173.

PHMSA has created a form for this information collection. A draft of this form, along with the associated instructions, can be found at *www.regulations.gov* under docket number PHMSA–2022–0060. Upon the collection of this information, PHMSA will analyze the data and prepare a report for Congress.

II. Summary of Impacted Collection

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected entities an opportunity to comment on information collection and recordkeeping requests. This notice identifies a one-time information collection that PHMSA will submit to OMB for approval.

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8)

Frequency of collection. PHMSA requests comments on the following information:

Title: Voluntary Adoption of API RP 1173 for Gas Distribution Systems.

OMB Control Number: Will request from OMB.

Current Expiration Date: TBD.

Type of Request: Approval of an information collection.

Abstract: This information collection request covers the collection of data from operators of natural gas distribution pipeline systems to ascertain how many gas distribution operators are voluntarily implementing API RP 1173, progress being made for those that have implemented or are implementing a Pipeline SMS, and feasibility to implement a Pipeline SMS based on size of the operator.

Affected Public: Natural gas distribution pipeline operators.

Annual Burden:

Estimated number of responses: 1,314.

Estimated annual burden hours: 1,314.

Frequency of Collection: Once.

Comments are invited on:

(a) The need for this information collections for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) The accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques; and

(e) Additional information that would be appropriate to collect to inform the reduction in risk to people, property, and the environment due to excavation damages.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended, and 49 CFR 1.48.

Issued in Washington, DC, on August 26, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–19094 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2021–0041]

Privacy Act of 1974; Systems of Records

AGENCY: Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

ACTION: Notice of a modified system of records and rescindment of a system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation (DOT) intends to modify and re-issue a DOT Federal Aviation Administration (FAA) system of records notice titled, ''DOT/FAA 830—Representatives of the Administrator.'' This system of records notice (hereafter referred to as ''Notice'') covers FAA records collected and maintained in support of FAA's management and oversight of individuals applying to become or are Representatives of the Administrator ''designees.'' Modification of DOT/FAA 830 is necessary due to changes and consolidation of the systems and processes used to manage designee programs.

DATES: Written comments should be submitted on or before 30 days from the date of publication of this notice. The Department may publish an amended Notice to address any comments received. This modified system of records will be effective 30 days after publication of this notice and the DOT/FAA 822 rescinded upon publication of this notice.

ADDRESSES: You may submit comments, identified by docket number DOT–OST–2021–0041 by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE. West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.
- *Instructions:* You must include the agency name and docket number DOT–OST–2021–0041.
- All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act statement in the **Federal Register** published on January 17, 2008 (73 FR 3316–3317), or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For questions, please contact Karyn Gorman, Acting Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; *privacy@dot.gov;* or 202–366–3140.

SUPPLEMENTARY INFORMATION:

Designees

Designees are representatives of the FAA who are authorized to perform certification-related tasks on behalf of the FAA Administrator. In accordance with section 44702 of title 49, United States Code, the FAA may delegate to a qualified private person a matter related to issuing certificates, or related to the examination, testing, and inspection necessary to issue a certificate on behalf of the FAA Administrator as authorized by statute.

Rescindment of DOT/FAA 822, Aviation Medical Examiner System

FAA intends to rescind DOT/FAA 822—Aviation Medical Examiner System, (65 FR 19522, April 11, 2000) and incorporate records covered under that notice within the scope of DOT/FAA 830. The rescindment and incorporation is appropriate because the FAA has integrated the management and oversight of the Aviation Medical Examiner (AME) program with that of other designees. These programs are managed using the same FAA policy and information system, and have common processes. Consolidation of the Notices ensures consistency in the Privacy Act management of all designee records.

Notice Updates

This Notice updates the system location, system manager, categories of individuals, categories of records, the record source categories, the routine uses of records maintained in the system, policies and practices for storage of records, policies and practices

for retrieval of records, policies and practices for retention and disposal of records, administrative, technical and physical safeguards, record access procedures, contesting record procedures, notification procedures, and the history section.

The updates include substantive changes, non-substantive changes, or information that clarifies content in the previously published Notice. Updates include editorial changes to simplify and clarify the language, formatting, and text of the previously published Notice to align with the requirements of Office of Management and Budget Memoranda (OMB) A–108 and to ensure consistency with other Notices issued by the Department of Transportation.

I. Background

In accordance with the Privacy Act of 1974, DOT proposes to modify and re-issue a Department of Transportation system of record notice titled, ''Department of Transportation, Federal Aviation Administration, DOT/FAA—830 Representatives of the Administrator.'' This Notice covers information required in connection with applications for and issuance of authorizations to be Representatives of the Administrator, authorized by section 49 of title 49, United States Code. Additionally, the Department proposes to rescind ''DOT/FAA 822—Aviation Medical Examiner System.'' and incorporate these records into DOT/FAA—830, Representatives of the Administrator. The following substantive changes have been made to the Notice:

1. *Purpose:* The purpose section has been updated to explicitly include making designee information available to the public. The FAA authorizes designees to perform functions on behalf of the Department and requires members of the public to use the services of authorized designees to obtain certain certifications such as aircraft inspections, pilot licenses, etc.

2. *System Location:* To support standardized processing of designee certification tasks and to improve efficiencies in system management and operations, the FAA centralized all designee systems at the Mike Monroney Aeronautical Center. The previously published SORN identified multiple offices for the system location. All records covered the Notice are maintained at the Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

3. *System Manager:* This Notice updates the system manager to reflect the change in the system owner from the Designees Standardization Branch (AFS–640) to the Delegation Program Branch (AFS–620).

4. *Categories of Individuals:* The categories of individuals were updated to reflect designee applicants, current designees, and former designees. The previously published SORN expressly identified several types of designees, and listed them by name. This Notices uses the single term ''designees'' to cover all individuals defined as such under 49 U.S.C. 44702. The categories of individuals include designee applicants, current designees and former designees for all designee types. Aviation Medical Examiners (AME), including private civilian physicians, selected United States military flight surgeons, and selected United States Federal medical officers designated as AMEs under FAA regulations and previously covered under DOT/FAA 822, are included within the definition of ''designee''.

5. *Categories of Records:* The categories of records have been updated to reflect that the system no longer collects or maintains social security numbers (SSNs). SSNs are no longer needed and were deleted from electronic records and redacted from paper records consistent with strong privacy protection practices and statutory and OMB requirements to reduce the unnecessary collection, use, and maintenance of SSNs.

6. *Records Source:* This Notice updates clarifies that information maintained in the system of records is collected directly from individuals identified as designees during the application, designation, and appointment process. Information on civilian AMEs may be validated against information held by the Federation of State Medical Boards of the United States. The FAA retains only the outcome of the check and not the source information held by the Medical Boards. Inclusion of this record source in this Notice is not a material change for AMEs previously covered by DOT/FAA 822.

7. *Routine Uses:* This Notice modifies the exiting routine use permitting sharing of designee information with members of the public to include the designee's authorization. The routine use now permits the FAA to share with ''members of the public, the names, addresses, and authorizations of those designees who provide FAA certification services to solicit and retain designee for such services.'' Its inclusion in this notice does not constitute a substantive change for the AME population as the routine use is consistent with the purposes of collection because the purpose of designee certification is to certify individuals authorized to act on behalf of the FAA.

This Notice also includes the Department of Transportation's general routine uses applicable to this Notice as they were previously only incorporated by reference. OMB Circular A–108 recommends that agencies include all routine uses in one notice rather than incorporating general routine uses by reference; therefore, the Department is replacing the statement in DOT/FAA 830 that referenced the ''Statement of General Routine Uses'' with all of the general routine uses that apply to this system of records. This update does not substantially affect any of the routine uses for records maintained in this system.

8. *Records Storage:* This Notice updates the policies and practices for the storage of records to reflect that records previously stored on microfiche, microfilm, and electronic optical storage have been digitized and are stored along with all new records in an electronic database. Hard copy and electronic records are maintained in a secure facility.

9. *Records Retrieval:* This Notice updates the policies and practices for the retrieval of records to reflect that all current and former designees and designee applicants are searched and located by name, designee number, and/or airman certificate number of the designee. SSN has been removed as a method of retrieval in both hard copy and electronic records. The SSNs are no longer needed and were deleted from electronic records and redacted from paper record.

10. *Retention and Disposal:* This Notice updates the policies and practices for retention and disposal of records section to include a new proposed records retention and disposition schedule for all designee case files (including AMEs). The stated retention period in the previously published stated that designee records are maintained for 5 years after the designation became inactive, or when no longer needed; AME records maintained under DOT/FAA 830 were maintained for 25 years following a designee's inactive status. FAA has submitted a new records retention and disposition schedule to the National Archives and Records Administration (NARA) in which it proposes to retain all designee records for 25 years following the designee's inactive status. The expansion of the retention period for non-AME designees is necessitated by FAA's need to retain records in support of investigations and to limit unnecessary duplication of records

collection activities and ensure comprehensive check of designee history when inactive designees seek reappointment. The inclusion of the 25-year retention period is not a material change for those designees previously covered by DOT/FAA 830.

The following non-substantive changes to the, record access and contesting records, and notifications procedures, have been made to improve the transparency and readability of the Notice:

11. *Records Access:* This Notice updates the record access procedures to reflect that signatures on signed requests for records must either be notarized or accompanied by a statement made under penalty of perjury in compliance with 28 U.S.C. 1746.

12. *Contesting Records:* This Notice updates the procedures for contesting records to refer the reader to the record access procedures section. The purpose of this non-substantive update is to align with the requirements of OMB Memoranda A–108 and for consistency with other DOT/FAA SORNs.

13. *Notifications:* This Notice updates the notification procedures to refer the reader to the record access procedures section. The purpose of this non-substantive update is to align with the requirements of OMB Memoranda A–108 and for consistency with other DOT/FAA SORNs.

II. Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A ''System of Records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Transportation (DOT)/ Federal Aviation Administration (FAA) 830 Representatives of the Administrator.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

SYSTEM MANAGER:

System Stewart, Delegation Program Branch (AFS–620), *https://av-info.faa.gov/Feedback/,* Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40101, 40113, 44701, 44702, and 44703.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to centralize designee information and to facilitate the FAA's standardization of designee qualifications by tracking training, accomplishments and limitations of current designees, and to determine professional qualifications and designation authorization (initial and subsequent) of the same. The system of records collects personal information from applications seeking designation by the FAA Administrator. The information maintained in this system of records is used to identify a list of applicants for future appointment as necessary, to validate records, and to approve new designees. The information is also used to maintain and make available to the public a list of designees who provide services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Designee applicants, current designees, and former designees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in this system include but are not limited to names, dates and places of birth, gender, citizenship, and personal contact information (mailing address, telephone number, and email address); business contact information (mailing address, telephone number, and email address); unique identifier numbers (including designation numbers, certificate numbers, and credential numbers); applications for designee status (including records of qualification and certifications); records that include information regarding appointments, training, renewals, terminations, employment history and monitoring of the designee's performance.

RECORD SOURCE CATEGORIES:

Information is collected directly from the individuals during the application, designation and appointment process. Additional background information on civilian AMEs may be validated by the Federation of State Medical Boards of the United States.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to other disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System Specific Routine Uses

1. To disclose to members of the public the names, official addresses, and authorizations of those designees who provide FAA certification services, in order to solicit and retain designees for such services.

Departmental Routine Uses

2. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

4. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the

issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

5a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding provided, however that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

6. The information contained in this system of records will be disclosed to the Office of Management and Budget, OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

8. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

9. A record from this system of records may be disclosed as a routine use to the Coast Guard and to the Transportation Security Administration (TSA) if information from this system was shared with either agency when that agency was a component of the Department of Transportation before its transfer to the Department of Homeland Security and such disclosure is necessary to accomplish a DOT, TSA, or Coast Guard function related to this system of records.

10. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

11. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute

12a. It shall be a routine use to disclose to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12b. DOT may disclose records from a system or records to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, their recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

13. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

14. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts,

consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

15. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under section (b)(1) of the Privacy Act.

16. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or Law enforcement information (Guideline 2 Report attached to White House Memorandum, ''Information Sharing Environment'', November 22, 2006) to a federal, state, local, tribal, territorial, foreign government and/or multinational agency, either in response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) and Executive Order 13388 (October 25, 2005).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored in hard copy format in a secure facility and in an electronic database system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system are primarily retrieved by name, designee number, and airman certificate number of the individual on whom the records are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The FAA will maintain records for 25 years following the designee's inactive status. The FAA will retain records in this system of records as permanent records until it receives an approval of record disposition authority from NARA, pursuant to 36 CFR 1225.16 and 1225.18.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of whether this system of records contains information about them may contact the System Manager at the address provided in the section ''System Manager''. When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform to the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

A full notice of this system of records, DOT/FAA 830—Representatives of the Administrator was published in the **Federal Register** on April 11, 2000 (65 FR 19525). A full notice of DOT/FAA 822 Aviation Medical Examiner System was published on April 11, 2000 (65 FR 19522).

Issued in Washington, DC.

Karyn Gorman,

Acting Departmental Chief Privacy Officer.

[FR Doc. 2022–19024 Filed 9–2–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8288, 8288–A and 8288–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons and Statement of Withholding on Certain Dispositions by Foreign Persons.

DATES: Written comments should be received on or before November 7, 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 1545–0902–U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons and Statement of Withholding on Certain Dispositions by Foreign Persons'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons and Statement of Withholding on Certain Dispositions by Foreign Persons.

OMB Number: 1545–0902.

Form Numbers: 8288, 8288–A and 8288–C.

Abstract: Internal Revenue Code section 1445 requires transferees to withhold tax on the amount realized from sales or other dispositions by foreign persons. Form 8288 is used to report and transmit the amount withheld to the IRS. Form 8288–A is used by the IRS to validate the withholding, and a copy is returned to the transferor for his or her use in filing a tax return. Form 8288–C is used as

evidence of the amount of your section 1.446(f)(1) liability that you satisfied.

Current Actions: The following changes have been made to the forms.

Changes to Form 8288:

(1) The form title has been changed to ''U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons''.

(2) The ''entity'' information (Withholding Agent Information) was separated into Parts I and II to its own sections, to avoid processing and repetition issues.

(3) New Line 4 (Withholding Agent Information) was added to the entity section.

(4) We added 10(b) to allow the large trust to identify that the withholding being reported is a result of the large trust election previously made.

(5) New Parts II, IV, and V were added for reporting witholding under section 1446(f)(1) and 1446(f)(4), due to the final regulation in TD 9226, which has an effective date of 1/1/23, per Notice 2021–51.

Changes to Form 8288–A:

(1) The form title has been changed to ''Statement of Withholding on Certain Dispositions by Foreign Persons''.

(2) New box 5 was added to (identify the withholding under the specific section).

(3) A new checkbox was added to box 6 for ''Partnerships''.

The burden estimates below do not include estimates for business or individual filers. These estimates are for all other filers only as business estimates are reported under 1545–0123 and individual estimates are reported under 1545–0074.

Type of Review: Revisions of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Form 8288:

Estimated Number of Respondents: 80,000.

Estimated Time per Respondent: 17 hr., 24 min.

Estimated Total Annual Burden Hours: 1,399,200.

Form 8288–A:

Estimated Number of Respondents: 87,500.

Estimated Time per Respondent: 3 hr., 59 min.

Estimated Total Annual Burden Hours: 343,875.

Form 8288–C:

Estimated Number of Respondents: 70,000.

Estimated Time per Respondent: 25 min.

Estimated Total Annual Burden Hours: 17,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 30, 2022.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–19128 Filed 9–2–22; 8:45 am]

BILLING CODE 4830–01–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act; Meeting

TIME AND DATE: September 13, 2022, 12:00 p.m. to 2:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 987 2483 0316, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJwqde2grTspG9LUvr49_ACw9PebLM18Twrw.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Finance Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Finance Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed and the UCR Finance Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on the agenda.

IV. Review and Approval of Minutes From the July 19, 2022 Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the July 19, 2022 UCR Finance Subcommittee meeting conducted in San Diego, CA will be reviewed. The UCR Finance Subcommittee will consider action to approve.

V. Review 2024 and 2025 Fee Recommendation Approved by the UCR Board of Directors—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will update the UCR Finance Subcommittee regarding the 2024 and 2025 fee change recommendation that was authorized on August 11, 2022 by the UCR Board of Directors.

VI. Development of Active Cash Management System—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will lead a discussion on developing a policy that will result in an enhanced cash management and investment strategy designed to increase the interest income that is earned on both administrative reserve funds and excess fees held in the UCR Depository.

VII. Maturing Certificate of Deposit on November 12, 2022—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and the UCR Depository Manager will discuss the status of a certificate of deposit held at the Bank of North Dakota in the amount of $2,650,000.00 that will mature on November 12, 2022. The UCR Finance Subcommittee may take action to recommend to the UCR Board of Directors an appropriate re-investment of such funds.

VIII. Investment of Excess Fees Held by the Depository—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and the UCR Depository Manager will discuss the status of excess fees held by the UCR Depository and potential investment opportunities for the Finance Subcommittee's consideration. The UCR Finance Subcommittee may take action to recommend to the UCR Board of Directors an appropriate investment of the excess fees.

IX. Transactional Authorizations at the Bank of North Dakota—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The Bank of North Dakota, a long-time partner with UCR, is requiring renewed authorizations to transact banking matters. A discussion will be led by the UCR Finance Subcommittee Chair to direct appropriate authority for transacting business. The Finance Subcommittee may take action to recommend to the UCR Board of Directors appropriate signatories (Board Members, Subcommittee Members and/or the UCR Executive Director) to authorize banking transactions.

X. Review of 2022 Administrative Expenses—UCR Depository Manager

The UCR Depository Manager will review the expenditures of the UCR Plan for the first 8 months ended August 31, 2022 with the Finance Subcommittee. A forecast for the remainder of 2022 and consequently the full-year will also be presented.

XI. Preview of the 2023 Administrative Expense Budget—UCR Depository Manager

The UCR Depository Manager will provide a preview of the 2023 administrative expense budget to the Finance Subcommittee.

XII. Finance Subcommittee Meetings in 2023—UCR Finance Subcommittee Chair and UCR Executive Director

The UCR Finance Subcommittee Chair and UCR Executive Director will discuss tentative plans for Finance Subcommittee meetings virtually and in-person during calendar year 2023.

XIII. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Finance Subcommittee members would like to discuss.

XIV. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, September 2, 2022 at: *https://plan.ucr.gov*.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov*.

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–19249 Filed 9–1–22; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0086]

Agency Information Collection Activity: Request for a Certificate of Eligibility for VA Home Loan Benefit

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0086.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0086'' in any correspondence.

SUPPLEMENTARY INFORMATION: *Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Request for a Certificate of Eligibility for VA Home Loan Benefit, VA Form 26–1880.

OMB Control Number: 2900–0086.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1880 is used by VA to determine an applicant's eligibility for Loan Guaranty benefits, and the amount of entitlement available. Each completed form is normally accompanied by proof of military service and is submitted by the applicant to the appropriate VA office. If eligible, VA will issue the applicant a Certificate of Eligibility (COE) to be used in applying for Loan Guaranty benefits.

This form is also used in restoration of entitlement cases. Generally, if an applicant has used all or part of his or her entitlement, it may be restored if (1) the property has been sold and the loan has been paid in full or (2) a qualified veteran-transferee agrees to assume the balance on the loan and agrees to substitute his or her entitlement for the same amount of entitlement originally used by the applicant to get the loan. The buyer must also meet the occupancy and income and credit requirements of the law. Restoration is not automatic; an applicant must apply for it by completing VA Form 26–1880.

The Secretary is required by 38 U.S.C. 3702 (a), (b), and (c) to determine the applicant's eligibility for Loan Guaranty benefits, compute the amount of entitlement, and document the certificate with the amount and type of guaranty used and the amount, if any, remaining.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 119 on June 22, 2022, page 37376.

Affected Public: Individuals and households.

Estimated Annual Burden: 142,917 hours.

Estimated Average Burden per Respondent: Weighted average 4.75 minutes.

- By completing VA Form 26–1880 or Electronic Application by Lender or Veteran: 15 minutes.
- By requesting Automated Certificate of Eligibility by Lender or Veteran and Automatically Issued: 30 seconds.

Frequency of Response: One-time.

Estimated Number of Respondents: Total 1,925,000.

- By completing VA Form 26–1880 or Electronic Application by Lender or Veteran: 1,400,000.
- By requesting Automated Certificate of Eligibility by Lender or Veteran and Automatically Issued: 525,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–19090 Filed 9–2–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0249]

Agency Information Collection Activity: Loan Service Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0249.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0249'' in any correspondence.

SUPPLEMENTARY INFORMATION: *Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Loan Service Report, VA Form 26–6808.

OMB Control Number: 2900–0249.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–6808 (fillable printable) is used when servicing delinquent guaranteed and insured loans and loans sold under 38 CFR 36.4600. With respect to the servicing of guaranteed and insured home loans and loans sold under 38 CFR 36.4600, the holder has the primary servicing responsibility.

VA Form 26–6808 is completed by Loan Technicians (LSs) during the course of personal contacts with delinquent obligors. The information documented on the form is necessary for VA to determine whether a loan default is insoluble or whether the obligor has reasonable prospects for curing the default and maintaining the mortgage obligation in the future.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 122 on June 27, 2022, page 38264.

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,083 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

By direction of the Secretary:

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–19100 Filed 9–2–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Tuesday,

No. 171 September 6, 2022

Part II

The President

Federal Register
Vol. 87, No. 171
Tuesday, September 6, 2022

Presidential Documents

Title 3—

The President

Presidential Determination No. 2022–21 of August 25, 2022

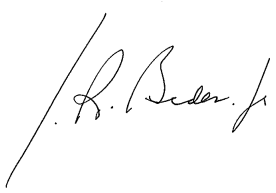
Presidential Determination on the Proposed Agreement To Extend the Agreement for Cooperation Between the United States of America and the Republic of South Africa Concerning Peaceful Uses of Nuclear Energy

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered the proposed Agreement to Extend the Agreement for Cooperation between the United States of America and the Republic of South Africa Concerning Peaceful Uses of Nuclear Energy (the ''proposed Agreement''), along with the views, recommendations, and statements of the interested departments and agencies.

I have determined that the performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed Agreement and authorize the Secretary of State to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 25, 2022

[FR Doc. 2022–19366
Filed 9–2–22; 11:15 am]
Billing code 4710–10–P

Presidential Documents

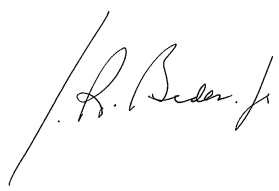
Memorandum of August 26, 2022

Delegation of Authority Under Section 614(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), in order to provide assistance to advance food security and energy resilience and to counter the People's Republic of China's efforts, I hereby delegate to the Secretary of State the authority under section 614 (a) (1) of the FAA to determine whether it is important to the security interests of the United States to furnish up to $205 million from the Economic Support Fund under Title IX of the Department of State, Foreign operations, and Related Programs Appropriations Act, 2021 (Division K of Public Law 116–260), without regard to any provision of law within the purview of section 614 (a) (1) of the FAA.

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



THE WHITE HOUSE,
Washington, August 26, 2022

[FR Doc. 2022–19370
Filed 9–2–22; 11:15 am]
Billing code 4710–10–P

Presidential Documents

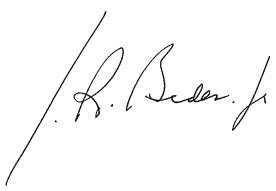
Memorandum of August 26, 2022

Delegation of Authority Under Section 614(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), in order to provide assistance in response to the global COVID–19 pandemic, I hereby delegate to the Secretary of State the authority under section 614 (a) (1) of the FAA to determine whether it is important to the security interests of the United States to furnish up to $215 million from the Economic Support Fund under Title IX of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 (Division K of Public Law 116–260), without regard to any provision of law within the purview of section 614 (a) (1) of the FAA.

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



THE WHITE HOUSE,
Washington, August 26, 2022

[FR Doc. 2022–19372
Filed 9–2–22; 11:15 am]
Billing code 4710–10–P

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Federal Register

Vol. 87, No. 171

Tuesday, September 6, 2022

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 29, 2022

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