FEDERAL REGISTER

Vol. 87 Monday

No. 185 September 26, 2022

Pages 58255–58438

OFFICE OF THE FEDERAL REGISTER

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Rules and Regulations

Federal Register
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Monday, September 26, 2022

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1153; Project Identifier AD–2022–00259–T; Amendment 39–22173; AD 2022–19–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767–2C series airplanes. This AD was prompted by a report that insufficient clearance was found between the right stabilizer trim shut-off control wire (bundle W0589) and an elevator control cable. This AD requires a one-time inspection for insufficient clearance between the elevator control cable and wire bundle W0589 on the airplane's left crown, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2022.

The FAA must receive comments on this AD by November 10, 2022.

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

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

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1153; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hoang Yen Dang, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3610; email: *hoang.yen.t.dang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA has received a report indicating that insufficient clearance was found between wire bundle W0589 and the elevator control cable. Wire bundle W0589 includes wiring between the aisle stand stabilizer trim cutout switches and the hydraulic shutoff valves. The insufficient clearance was discovered during production quality assurance inspections, and affects thirteen model 767–2C airplanes. This condition, if not addressed, could result in abrasion of the wire bundle due to movement of the elevator control cable during normal airplane operation. This damage could lead to an open-circuit condition, which could inhibit the ability to shut off hydraulic supply to the ''C'' stab trim control module and motor. This condition, in conjunction with a runaway horizontal stabilizer condition, may lead to loss of continued safe flight and landing.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires measuring for insufficient clearance between the elevator control cable and the right stabilizer trim shut off control wire (bundle W0589) on the airplane's left crown, and applicable on-condition actions. On-condition actions include moving D2219T backshell to a 45-degree position and adjusting the right stabilizer trim shut off control wire (bundle W0589) to achieve clearance of at least 2 inches from the elevator control cable.

Justification for Immediate Adoption and Determination of the Effective Date

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

There are currently no U.S.-registered airplanes affected by this AD. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA–2022–1153 and Project Identifier AD–2022–00259–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Hoang Yen Dang, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3610; email: *hoang.yen.t.dang@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. For any affected airplane that is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS

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

The FAA estimates the following costs to do any necessary adjustments that would be required based on the results of the measurement. The agency has no way of determining the number of aircraft that might need these adjustments:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Moving and adjusting wire	1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–19–04 The Boeing Company: Amendment 39–22173; Docket No. FAA–2022–1153; Project Identifier AD–2022–00259–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–2C series airplanes, certificated in any category, having line numbers 1102, 1107, 1114, 1116, 1117, 1119, 1120, 1126, 1128, 1131, 1132, 1134, and 1135.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by a report that insufficient clearance was found between the right stabilizer trim shut-off control wire (bundle W0589) and an elevator control cable. The FAA is issuing this AD to address

possible abrasion of the wire bundle due to movement of the elevator control cable during normal airplane operation. This damage could lead to an open-circuit condition, which could inhibit the ability to shut off hydraulic supply to the ''C'' stab trim control module and motor. This condition, in conjunction with a runaway horizontal stabilizer condition, may lead to loss of continued safe flight and landing.

(f) Compliance

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

(g) Required Actions

Within 24 months after the effective date of this AD: Measure for insufficient clearance between the elevator control cable and the right stabilizer trim shut off control wire (bundle W0589) on the airplane's left crown, and do applicable on-condition actions in accordance with a method approved by the Manager, Seattle ACO Branch, FAA.

(h) Alternative Methods of Compliance (AMOCs)

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

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

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

(i) Related Information

For more information about this AD, contact Hoang Yen Dang, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3610; email: *hoang.yen.t.dang@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued on September 1, 2022.

Christina Underwood,

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

[FR Doc. 2022–20707 Filed 9–23–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0093; Project Identifier AD–2021–00987–T; Amendment 39–22164; AD 2022–18–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain web lap splices in the center dome apex of the aft pressure bulkhead are subject to widespread fatigue damage (WFD). This AD requires a general visual inspection for existing repairs at the aft pressure bulkhead; repetitive detailed, high frequency eddy current (HFEC), and low frequency eddy current (LFEC) inspections; and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0093; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.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–2022–0093.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@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 The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. The NPRM published in the **Federal Register** on February 25, 2022 (87 FR 10755). The NPRM was prompted by an evaluation by the DAH indicating that certain web lap splices in the center dome apex of the aft pressure bulkhead are subject to WFD. In the NPRM, the FAA proposed to require a general visual inspection for existing repairs at the aft pressure bulkhead; repetitive detailed, HFEC, and LFEC inspections; and repair if necessary. The FAA is issuing this AD to address fatigue cracks in the webs of the aft pressure bulkhead, which could result in reduced structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from United Airlines and two individuals, who supported the NPRM without change.

The FAA received additional comments from Southwest Airlines (SWA), Boeing, and Aviation Partners Boeing. The following presents the comments received on the NPRM and the FAA's response to each comment.

Effects of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST00830SE does not affect the actions specified in the proposed AD.

The FAA concurs with the commenter. The FAA has redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE

is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request To Revise Cause of Unsafe Condition

Boeing requested that the FAA revise the SUMMARY of the NPRM and paragraph (e) of the proposed AD. Boeing noted that the SUMMARY of the NPRM and paragraph (e) of the proposed AD refer to WFD, but Boeing contends that the unsafe condition was caused by pull up on the first two fasteners at the web lap splices in the center dome apex. Boeing explained that these fasteners, which are located adjacent to the area where the aft web transitions over the forward web in the lap splice, are subject to clamp-up stresses (which are pre-stresses during the assembly). These stresses, combined with pressurization, will reduce the fatigue life of the web at the center dome apex and potentially cause early cracking in this location.

The FAA partially agrees. The FAA agrees with Boeing that the unsafe condition was discovered through clamp-up stresses, as well as other non-WFD events. The WFD evaluation revealed that the area is susceptible to WFD; as a result, this unsafe condition is related to WFD. Therefore, the FAA maintains that the SUMMARY of this final rule and paragraph (e) of this AD are correct in stating that the affected areas are subject to WFD. The FAA has not changed this AD in this regard.

Request for Clarification for Repairs Found in the Aft Pressure Bulkhead

SWA requested clarification regarding paragraph (h)(2) of the proposed AD. SWA noted that in Table 1 of paragraph 3., Compliance, of Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021, CONDITION 1 (ACTION 1) specifies to contact Boeing for any repair found during the general visual inspection of the aft pressure bulkhead. CONDITION 1 (ACTION 1) also references flag note (a), which states:

> CONDITION 1 (ACTION 1) is not required for any repair found during the General Visual Inspection of the APB [aft pressure bulkhead] aft side in areas where a repair covers the affected inspection zones provided that the installed repair was approved by The Boeing Company Organization Designation Authorization (ODA) via a FAA Form 8100–9 and inspections are accomplished in accordance with the scheduled repair approval listed on the FAA Form 8100–9.

SWA stated that its interpretation is that paragraph (h)(2) of the proposed AD applies to all repairs found where the operator must contact Boeing due to the repair not meeting the criteria listed in flag note (a). SWA went on to observe that if the repairs found during CONDITION 1 (ACTION 1) meet the requirements of flag note (a), then the operator is not required to contact Boeing.

The FAA provides the following clarification. SWA is correct in its interpretation that paragraph (h)(2) of this AD applies to all instances where the operator must contact Boeing for repair instructions or for alternative inspections. If the repairs found during the general visual inspection of the aft pressure bulkhead aft side meet the requirements of flag note (a) of Table 1 of paragraph 3., Compliance, of Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021, then contacting Boeing is not required. The FAA has not changed this AD in this regard.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021. This service information specifies procedures for a general visual inspection for existing repairs at the aft pressure bulkhead; repetitive detailed, HFEC, and LFEC inspections for any crack; and repair of cracks if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 1,187 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 product	Cost on U.S. operators
Inspection for repairs	1 work-hour × $85 per hour = $85.	$0	$85	$100,895.
Repetitive detailed, HFEC, and LFEC inspections.	Up to 9 work-hours × $85 per hour = Up to $765 per inspection cycle.	0	Up to $765 per inspection cycle.	Up to $908,055 per inspection cycle.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs 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:

2022–18–13 The Boeing Company: Amendment 39–22164; Docket No. FAA–2022–0093; Project Identifier AD–2021–00987–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 31, 2022.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain web lap splices in the center dome apex of the aft pressure bulkhead are subject to widespread fatigue damage (WFD). The FAA is issuing this AD to address fatigue cracks in the webs of the aft pressure bulkhead, 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) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1403, dated August 26, 2021, which is referred to in Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time column of the table in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021, uses the phrase ''the original issue date of the Requirements Bulletin 737–53A1403 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–53A1403 RB, dated August 26, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.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, *fr.inspection@nara.gov,* or go to: *archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 24, 2022.

Christina Underwood,

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

[FR Doc. 2022–20736 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0154; Project Identifier AD–2021–01153–T; Amendment 39–22162; AD 2022–18–11]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The

Boeing Company Model 777 airplanes. This AD was prompted by a report of a crack found in a front spar lower chord undergoing an underwing longeron replacement. This AD requires repetitive inspections for cracking of the left and right side ring chords, repair angles, front spar lower chords, and front spar webs (depending on configuration) common to the underwing longeron located at station (STA) 1035; modification of the front spar lower chord for some airplanes; repetitive post-modification inspections; and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 31, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2022.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.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* by searching for and locating Docket No. FAA–2022–0154.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0154; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3958; email: *luis.a.cortez-muniz@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 all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F airplanes. The NPRM published in the **Federal Register** on March 25, 2022 (87 FR 17032). The NPRM was prompted by a report of a crack found in a front spar lower chord undergoing an underwing longeron replacement. In the NPRM, the FAA proposed to require repetitive inspections for cracking of the left and right side ring chords, repair angles, front spar lower chords, and front spar webs (depending on configuration) common to the underwing longeron located at STA 1035; modification of the front spar lower chord for some airplanes; repetitive post-modification inspections; and applicable on-condition actions. The FAA is issuing this AD to address, detect, and correct such cracking, which in combination with cracking in the front spar web, could result in a fuel leak and fire hazard, or in the case of more severe cracking, could also affect the structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received additional comments from four commenters, including American Airlines, Delta Air Lines, FedEx Express (FedEx), and United Airlines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Clarify Whether Certain Modifications Terminate Certain Actions

American Airlines (AAL) requested clarification on whether accomplishing certain modifications terminates certain inspections required by AD 2019–11–02, Amendment 39–19648 (84 FR 28722, June 20, 2019) (AD 2019–11–02). AAL noted that tables 27 and 28 in paragraph 1.E., ''Compliance,'' of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, specify modifying the left-hand and right-hand front spar lower chord (FSLC), after which, the repeat inspections specified in tables 9 and 10 are terminated and new repeat inspections are specified. AAL noted that a related situation arises in Boeing Alert Service Bulletins 777–53A0081, Revision 2, dated March 29, 2019 (required by AD 2019–11–02), in which a repeat inspection is specified for the underwing longerons (UWL) and then if a crack is found in that longeron, it is replaced and new repetitive inspections are specified. AAL added that Boeing confirmed that when the left-hand or right-hand FSLC is modified, then inspections specified in Boeing Alert Service Bulletins 777–53A0081, Revision 2, dated March 29, 2019; and Boeing Service Bulletin 777–53–0084, Revision 2, dated December 9, 2020 (which specifies modifying UWLs); would be satisfied for the modified side. AAL requested clarification on whether the proposed AD would be revised to state that the post-FSLC modification inspections in tables 27 and 28 of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, would replace or supersede the post-modification inspections in tables 6, 7, and 8, as applicable, of Boeing Alert Service Bulletin 777–53A0081, Revision 2, dated March 29, 2019, which is required by AD 2019–11–02.

The FAA agrees to clarify. Paragraph 4, ''Approval,'' of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, states that the Manager of the FAA Seattle ACO Branch approves accomplishing UWL inspections, repairs, and modifications in accordance with Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, as an alternative method of compliance (AMOC) to the inspection and corrective action requirements of paragraph (g) of AD 2019–11–02, for the modified longeron on that side only. AD 2019–11–02 would remain fully applicable to any unmodified side. The post-modification actions required by paragraph (g) of this AD would remain applicable to any modified side. The FAA has not revised this AD in this regard.

Request To Correct the Number of Required Tables

Delta Air Lines (Delta) requested adding a new exceptions paragraph to paragraph (h) of the proposed AD to correct the number of applicable tables specified in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. Delta stated that in paragraph 1.E., ''Compliance,'' of the RB, it states to accomplish the actions in ''Tables 1 through 50,'' however, there are 54 tables that describe the necessary actions, not 50.

The FAA agrees with the request. The FAA has added paragraph (h)(3) to this AD to specify ''Tables 1 through 54.''

Request To Address Formatting Issue With a Figure in Boeing Alert Requirements Bulletin 777–57A0122 RB, Dated October 8, 2021

Delta requested that an exception be added to paragraph (h) of the proposed AD to address a formatting issue with Figure 20 in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. Delta stated that in Figure 20, Sheet 1 of 4, the text cuts off and there is no image, but the text and image continue on the next sheet.

The FAA agrees that there appears to be a formatting issue with the text and image in Figure 20, Sheet 1 of 4, in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. However, the figure does include all of the text and image, and contains all the required information. The FAA has not revised this AD in this regard.

Request To Allow a Certain Modification

FedEx requested a revision to paragraph (h) of the proposed AD to allow a modification of the front spar using Section 57–10–10–2R in the Boeing 767 structural repair manual (SRM) as an alternate method of compliance for Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. FedEx explained that its review of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, did not show any difference in the post-modification inspection intervals for airplanes modified per the SRM section. FedEx added that the SRM repair has not been shown to be unsafe or unreliable, and operators and vendors may already have parts in stock to do the repair.

The FAA disagrees with the commenter's request. The SRM referenced by FedEx is for Model 767 airplanes and would not apply to the Model 777 airplanes referenced in this AD. The FAA infers that FedEx intended to refer to the Boeing 777 SRM, which has a similar repair. The FAA notes that Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, has configurations based in part on whether or not the FSLCs have been repaired using section 57–10–10 of the Boeing 777 SRM or similar Boeing ODA-approved repair, and that while the post-modification intervals may be the same, certain configurations have an additional ultrasonic inspection. The FAA has determined that some of the materials specified in the SRM's repair instructions do not provide equivalent fatigue properties as the modification specified in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. However, under the provisions of paragraph (i) of this AD, the FAA will consider requests for alternative repairs or modification if sufficient data are submitted to substantiate that the alternative would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Revise AMOC Statement

FedEx requested a revision to the applicable longerons identified in the AMOC statement in paragraph 4, ''Approval,'' in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. FedEx stated that the wording, ''only applies to modified longerons,'' is potentially misleading and should be revised to state ''only applies to underwing longerons modified by SB 777–57A0122 RB.'' FedEx noted that tables 39 and 40 of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, include actions to inspect the modifications to the front spar, but omit any repetitive inspections of the UWL modification. Thus, FedEx reasoned, an operator could incorrectly interpret the AMOC statement as applying to airplanes previously modified by Boeing Service Bulletin 777–53–0084, Revision 1, dated March 4, 2020, and stop accomplishing the repetitive UWL inspections required by AD 2019–11–02.

The FAA agrees to clarify the AMOC statement in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. The AMOC statement does not extend to airplanes previously modified by Boeing Service Bulletin 777–53–0087 or 777–53–0084. The AMOC statement's applicability is limited to UWL inspections, repairs, and modifications accomplished in accordance with Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. The AMOC does not extend to modifications done in accordance with any other service information. Further, the AMOC applies only to the actions required by paragraph (g) of AD 2019–11–02, which requires only Boeing Alert Service Bulletin 777–53A0081, Revision 2, dated March 29, 2019. The FAA has not changed this AD in this regard.

Request To Reference Service Bulletin Instead of Requirements Bulletin

FedEx requested revising the proposed AD to reference Boeing Alert Service Bulletin 777–57A0122, dated October 8, 2021, instead of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. FedEx noted that Boeing Alert Service Bulletin 777–57A0122, dated October 8, 2021, is written in a manner consistent with FAA Advisory Circular 20–176, and that Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, duplicates the figures and tables from the service bulletin version to a point where it is cumbersome. FedEx also stated that the duplication could lead to discrepancies between the duplicated data. FedEx added that the RB document is only available as part of Boeing Alert Service Bulletin 777–57A0122, dated October 8, 2021, so the proposed AD would not be referencing an independent document.

The FAA disagrees with the commenter's request. As noted in Note 1 to paragraph (g) of this AD, the service bulletin may be used for guidance. Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, and the required for compliance (''RC'') steps included in Boeing Alert Service Bulletin 777–57A0122, dated October 8, 2021, include identical information. Therefore, complying with the ''RC'' steps in Boeing Alert Service Bulletin 777–57A0122, dated October 8, 2021, would also satisfy the requirements of this AD. The FAA notes that the requirements bulletin contains only the steps that are required for compliance with this AD and is posted to Docket No. FAA–2022–0154. The related service bulletin contains additional information that may be helpful when complying with the AD, but is not needed for compliance. Therefore, this AD specifies the requirements bulletin, not the service bulletin. The FAA has not changed this AD in this regard.

Request To Reduce Number of Groups and Configurations

United Airlines (United) requested a revision to Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, to reduce the large number of airplane groups and configurations identified in the service information. United stated that the large number of groups and configurations creates a planning challenge, and could increase the potential for errors and non-compliance.

The FAA acknowledges the commenter's concerns about the relatively large number of airplane groups and configurations identified. However, the large number of airplane groups and configurations are necessary to address the unsafe condition in a fleet with differences in existing repairs and modifications in the inspected area. The FAA has not changed this AD in this regard.

Request To Extend Compliance Time

United requested an extension to the compliance time(s) for accomplishing the initial inspection. United explained that the initial inspection involves entering the center tank, and that the current compliance time would require accomplishing the inspection at maintenance intervals that usually do not involve entering the center tank. United explained that adding the task of entering the center tank to those visits would extend the out-of-service time during those visits and would result in increased costs to operators.

The FAA disagrees with the request to revise the compliance time. In developing an appropriate compliance time, the FAA considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. The FAA has determined that the compliance time provides an acceptable level of safety. However, under the provisions of paragraph (i) of this AD, the FAA will consider requests for an extension of the compliance time if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. This service information specifies procedures for repetitive high frequency eddy current (HFEC), detailed, and ultrasonic inspections (depending on configuration) for cracking of the left and right side ring chords, repair angles, front spar lower chords, and front spar webs (depending on configuration) common to the underwing longeron located at STA 1035; modification of the front spar lower chord for some airplanes; repetitive post-modification inspections; and applicable on-condition actions. On-condition actions include 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 **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 261 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 product	Cost on U.S. operators
Inspection(s)	44 work-hours × $85 per hour = $3,750 per inspection cycle.	$0	$3,750 per inspection cycle	$976,140 per inspection cycle.
Modification *	137 work-hours × $85 per hour = $11,645.	$47,964	$59,609	Up to $15,557,949.
Post-modification inspection(s) *.	46 work-hours × $85 per hour = $3,910 per inspection cycle.	$0	$3,910 per inspection cycle	Up to $1,020,510 per inspection cycle.

* Number of affected airplanes that will be required to do this action is unknown

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–18–11 The Boeing Company: Amendment 39–22162; Docket No. FAA–2022–0154; Project Identifier AD–2021–01153–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 31, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a crack found in a front spar lower chord undergoing an underwing longeron replacement. The FAA is issuing this AD to detect and correct such cracking, which in combination with cracking in the front spar web, could result in a fuel leak and fire hazard, or in the case of more severe cracking, could also affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021. Actions identified as terminating action in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, terminate the applicable required actions of this AD, provided the terminating action is done in accordance with the Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 777–5A0122, dated October 8, 2021, which is referred to in Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, use the phrase ''the original issue date of Requirements Bulletin 777–57A0122 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Where the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021, uses the phrase ''Tables 1 through 50,'' this AD requires using ''Tables 1 through 54.''

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact Luis Cortez-Muniz, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3958; email: *luis.a.cortez-muniz@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 777–57A0122 RB, dated October 8, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *myboeingfleet.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, *fr.inspection@nara.gov,* or go to: *archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 23, 2022.

Christina Underwood,

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

[FR Doc. 2022–20773 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31447; Amdt. No. 4025]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 26, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 2022.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for Part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on September 2, 2022.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service Manager, Standards Section, Flight Procedures & Airspace Group Flight Technologies & Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 6 October 2022

Pella, IA, KPEA, NDB RWY 34, Amdt 7D
Greensboro, NC, KGSO, ILS OR LOC RWY 5L, ILS RWY 5L (CAT II), ILS RWY 5L (CAT III), Orig-D
Greensboro, NC, KGSO, ILS OR LOC RWY 23R, Orig-E
Greensboro, NC, KGSO, ILS Y OR LOC/DME Y RWY 32, Orig-A
Greensboro, NC, KGSO, ILS Z OR LOC/DME Z RWY 32, Orig-A
Greensboro, NC, KGSO, RNAV (GPS) RWY 23L, Amdt 2E
Greensboro, NC, KGSO, VOR/DME RWY 23L, Amdt 10C

Raleigh/Durham, NC, KRDU, Takeoff Minimums and Obstacle DP, Amdt 6B
East Hampton, NY, KJPX, RNAV (GPS) Z RWY 10, Orig-A
Williamson/Sodus, NY, KSDC, RNAV (GPS) RWY 10, Amdt 1C
Williamson/Sodus, NY, KSDC, RNAV (GPS) RWY 28, Amdt 2B
Williamson/Sodus, NY, KSDC, Takeoff Minimums and Obstacle DP, Amdt 1A
Reedsville, PA, KRVL, RNAV (GPS) RWY 6, Amdt 1
Reedsville, PA, KRVL, RNAV (GPS) RWY 24, Amdt 1
Copperhill, TN, 1A3, RNAV (GPS) RWY 2, Amdt 1
Copperhill, TN, 1A3, RNAV (GPS) RWY 20, Amdt 1
Copperhill, TN, 1A3, Takeoff Minimums and Obstacle DP, Amdt 1
Wink, TX, KINK, VOR RWY 13, Amdt 10A

Effective 3 November 2022

Tuscaloosa, AL, KTCL, TACAN RWY 22, Orig-A
Santa Ana, CA, KSNA, ILS OR LOC RWY 20R, ILS RWY 20R (SA CAT I), Amdt 14A
Santa Ana, CA, KSNA, LDA RWY 20R, Amdt 2A
Santa Ana, CA, KSNA, LOC BC RWY 2L, Amdt 13A
Santa Ana, CA, KSNA, RNAV (GPS) Y RWY 2L, Amdt 2A
Santa Ana, CA, KSNA, RNAV (GPS) Y RWY 20R, Amdt 3B
Miami, FL, KOPF, RNAV (GPS) RWY 30, Orig
St Petersburg, FL, KSPG, RNAV (GPS) RWY 7, Amdt 3F
Centerville, IA, KTVK, RNAV (GPS) RWY 16, Amdt 1A
Centerville, IA, KTVK, RNAV (GPS) RWY 34, Orig-C
Garden City, KS, KGCK, ILS OR LOC RWY 35, Amdt 3
Garden City, KS, KGCK, RNAV (GPS) RWY 12, Amdt 1
Garden City, KS, KGCK, RNAV (GPS) RWY 17, Amdt 1
Garden City, KS, KGCK, RNAV (GPS) RWY 30, Amdt 1
Garden City, KS, KGCK, RNAV (GPS) RWY 35, Amdt 1
Boston, MA, KBOS, RNAV (GPS) Z RWY 33L, Amdt 2E
Jackman, ME, 59B, RNAV (GPS) RWY 13, Amdt 1
Escanaba, MI, KESC, RNAV (GPS) RWY 1, Orig-D
Escanaba, MI, KESC, RNAV (GPS) RWY 10, Orig-C
Escanaba, MI, KESC, RNAV (GPS) RWY 28, Amdt 1C
Duluth, MN, Sky Harbor, Takeoff Minimums and Obstacle DP, Orig
Rochester, MN, KRST, RNAV (GPS) RWY 31, Amdt 2C
Monett, MO, KHFJ, RNAV (GPS) RWY 18, Orig
Monett, MO, KHFJ, RNAV (GPS) RWY 18, Amdt 3, CANCELLED
Monett, MO, KHFJ, RNAV (GPS) RWY 36, Orig
Monett, MO, KHFJ, RNAV (GPS) RWY 36, Amdt 3, CANCELLED
Monett, MO, KHFJ, Takeoff Minimums and Obstacle DP, Amdt 3
Columbus/W Point/Starkville, MS, KGTR, RNAV (GPS) RWY 18, Amdt 2A
Mohall, ND, KHBC, RNAV (GPS) RWY 13, Orig
Mohall, ND, KHBC, Takeoff Minimums and Obstacle DP, Amdt 1
Nebraska City, NE, KAFK, NDB RWY 15, Amdt 2
Nebraska City, NE, KAFK, NDB RWY 33, Amdt 3
Nebraska City, NE, KAFK, RNAV (GPS) RWY 15, Amdt 1
Nebraska City, NE, KAFK, RNAV (GPS) RWY 33, Amdt 1
Reno, NV, KRNO, RNAV (GPS) X RWY 17L, Amdt 3
Reno, NV, KRNO, RNAV (GPS) X RWY 35R, Amdt 3
Reno, NV, KRNO, RNAV (GPS) Y RWY 35R, Amdt 1
Reno, NV, KRNO, RNAV (RNP) Y RWY 17L. Amdt 2
Reno, NV, KRNO, RNAV (RNP) Y RWY 17R, Amdt 2
Reno, NV, KRNO, RNAV (RNP) Z RWY 17L, Amdt 2
Reno, NV, KRNO, RNAV (RNP) Z RWY 17R, Amdt 2
Reno, NV, KRNO, TACAN–F, Amdt 1
Reno, NV, KRNO, VOR–D, Amdt 8
Harrisburg, PA, KMDT, VOR RWY 31, Amdt 2C
Rapid City, SD, KRAP, RNAV (GPS) RWY 14, Amdt 3
Mc Minnville, TN, KRNC, RNAV (GPS) RWY 5, Orig
Mc Minnville, TN, KRNC, RNAV (GPS) RWY 23, Amdt 1
Granbury, TX, KGDJ, RNAV (GPS) RWY 1, Orig
Granbury, TX, KGDJ, RNAV (GPS) RWY 14, Amdt 1, CANCELLED
Granbury, TX, KGDJ, RNAV (GPS) RWY 19, Orig
Granbury, TX, KGDJ, Takeoff Minimums and Obstacle DP, Amdt 2, CANCELLED
Granbury, TX, KGDJ, Takeoff Minimums and Obstacle DP, Orig
Granbury, TX, KGDJ, VOR/DME RWY 14, Amdt 1B, CANCELLED
Olney, TX, KONY, RNAV (GPS) RWY 17, Amdt 1A
Olney, TX, KONY, RNAV (GPS) RWY 35, Amdt 1A
Spanish Fork, UT, KSPK, RNAV (GPS)-A, Amdt 1
Spanish Fork, UT, KSPK, RNAV (GPS) Y RWY 12, Amdt 1
Spanish Fork, UT, KSPK, RNAV (GPS) Z RWY 12, Amdt 1
Auburn, WA, S50, RNAV (GPS)-A, Amdt 1A
Mosinee, WI, KCWA, Takeoff Minimums and Obstacle DP, Amdt 2
Dixon, WY, KDWX, RNAV (GPS) RWY 24, Orig-A

[FR Doc. 2022–20760 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31448; Amdt. No. 4026]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 26, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 2022.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for Part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on September 2, 2022.

Thomas J Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

BY AMENDING: § 97.23 VOR, VOR/DME, VOR OR TACAN, AND VOR/DME OR TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPS; § 97.33 RNAV SIAPS; AND § 97.35 COPTER SIAPS, IDENTIFIED AS FOLLOWS: .....EFFECTIVE UPON PUBLICATION

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
6-Oct-22	AL	Eufaula	Weedon Fld	2/3014	8/5/22	This NOTAM, published in Docket No. 31446, Amdt No. 4024, TL 22–21, (87 FR 56266, September 14, 2022) is hereby rescinded in its entirety.
6-Oct-22	AL	Eufaula	Weedon Fld	2/3017	8/5/22	This NOTAM, published in Docket No. 31446, Amdt No. 4024, TL 22–21, (87 FR 56266, September 14, 2022) is hereby rescinded in its entirety.
6-Oct-22	WI	Kenosha	Kenosha Rgnl	2/0448	8/16/22	RNAV (GPS) RWY 7L, Amdt 1A.
6-Oct-22	OH	Marysville	Union County	2/0537	8/23/22	RNAV (GPS) RWY 9, Orig-A.

BY AMENDING: § 97.23 VOR, VOR/DME, VOR OR TACAN, AND VOR/DME OR TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPS; § 97.33 RNAV SIAPS; AND § 97.35 COPTER SIAPS, IDENTIFIED AS FOLLOWS: .....EFFECTIVE UPON PUBLICATION—Continued

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
6-Oct-22	NC	Oak Island	Cape Fear Rgnl Jetport/ Howie Franklin Fld.	2/0539	8/23/22	RNAV (GPS) RWY 23, Orig-C.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0545	8/23/22	ILS OR LOC RWY 8, Amdt 16.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0546	8/23/22	ILS OR LOC RWY 10, Amdt 6A.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0547	8/23/22	NDB RWY 8, Amdt 8.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0548	8/23/22	VOR OR TACAN RWY 8, Amdt 1.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0549	8/23/22	VOR OR TACAN RWY 10, Amdt 2A.
6-Oct-22	PR	San Juan	Luis Munoz Marin Intl.	2/0550	8/23/22	VOR OR TACAN RWY 26, Amdt 20.
6-Oct-22	GA	Savannah	Savannah/Hilton Head Intl.	2/0591	8/23/22	ILS OR LOC RWY 1, Amdt 8B.
6-Oct-22	VA	Galax Hillsville	Twin County	2/0711	8/19/22	RNAV (GPS) RWY 1, Amdt 1B.
6-Oct-22	VA	Galax Hillsville	Twin County	2/0714	8/19/22	RNAV (GPS) RWY 19, Amdt 1A.
6-Oct-22	CA	San Diego/El Cajon.	Gillespie Fld	2/0733	8/22/22	RNAV (GPS) RWY 17, Amdt 2F.
6-Oct-22	TN	Selmer	Robert Sibley	2/1879	8/23/22	RNAV (GPS) RWY 17, Orig-A.
6-Oct-22	TN	Selmer	Robert Sibley	2/1883	8/23/22	RNAV (GPS) RWY 35, Orig-A.
6-Oct-22	TN	Savannah	Savannah-Hardin County.	2/1890	8/23/22	RNAV (GPS) RWY 1, Orig.
6-Oct-22	TN	Savannah	Savannah-Hardin County.	2/2412	8/23/22	RNAV (GPS) RWY 19, Orig.
6-Oct-22	UT	Richfield	Richfield Muni	2/2468	8/4/22	RNAV (GPS) RWY 19, Amdt 1C.
6-Oct-22	CO	La Junta	La Junta Muni	2/2821	8/22/22	RNAV (GPS) RWY 8, Amdt 1A.
6-Oct-22	CO	La Junta	La Junta Muni	2/2822	8/22/22	RNAV (GPS) RWY 26, Amdt 1A.
6-Oct-22	MS	Kosciusko	Kosciusko-Attala County.	2/2830	8/23/22	RNAV (GPS) RWY 32, Orig-B.
6-Oct-22	MS	Kosciusko	Kosciusko-Attala County.	2/2831	8/23/22	RNAV (GPS) RWY 14, Orig-C.
6-Oct-22	WY	Douglas	Converse County.	2/2896	8/22/22	RNAV (GPS) RWY 29, Amdt 1A.
6-Oct-22	WY	Douglas	Converse County.	2/2897	8/22/22	VOR RWY 29, Amdt 1B.
6-Oct-22	NY	Albany	Albany Intl	2/3098	8/15/22	ILS OR LOC RWY 19, Amdt 24.
6-Oct-22	NY	Albany	Albany Intl	2/3099	8/15/22	RNAV (GPS) RWY 10, Orig-C.
6-Oct-22	NY	Albany	Albany Intl	2/3100	8/15/22	RNAV (GPS) RWY 28, Orig-D.
6-Oct-22	NY	Albany	Albany Intl	2/3101	8/15/22	RNAV (GPS) Y RWY 1, Amdt 1C.
6-Oct-22	NY	Albany	Albany Intl	2/3102	8/15/22	VOR RWY 28, Orig-E.
6-Oct-22	NY	Albany	Albany Intl	2/3103	8/15/22	RNAV (GPS) Y RWY 19, Amdt 2A.
6-Oct-22	NE	Rushville	Modisett	2/3443	8/22/22	RNAV (GPS) RWY 32, Orig.
6-Oct-22	NE	Rushville	Modisett	2/3444	8/22/22	RNAV (GPS) RWY 14, Orig.
6-Oct-22	OH	Upper Sandusky.	Wyandot County.	2/3462	8/23/22	VOR–A, Amdt 3D.
6-Oct-22	NE	Kimball	Kimball Muni/ Robert E Arraj Fld.	2/3491	8/22/22	RNAV (GPS) RWY 10, Amdt 1B.
6-Oct-22	NE	Kimball	Kimball Muni/ Robert E Arraj Fld.	2/3492	8/22/22	RNAV (GPS) RWY 28, Amdt 1C.
6-Oct-22	NC	Oak Island	Cape Fear Rgnl Jetport/ Howie Franklin Fld.	2/3515	8/23/22	RNAV (GPS) RWY 5, Amdt 1D.
6-Oct-22	MI	Charlevoix	Charlevoix Muni.	2/3561	8/23/22	RNAV (GPS) RWY 27, Orig-B.
6-Oct-22	MI	Charlevoix	Charlevoix Muni.	2/3563	8/23/22	RNAV (GPS) RWY 9, Amdt 1A.
6-Oct-22	MI	Monroe	Custer	2/3573	8/23/22	RNAV (GPS) RWY 21, Orig-A.
6-Oct-22	MI	Monroe	Custer	2/3574	8/23/22	RNAV (GPS) RWY 3, Orig-A.
6-Oct-22	OH	Marysville	Union County	2/3576	8/23/22	RNAV (GPS) RWY 27, Orig-C.
6-Oct-22	OH	Kenton	Hardin County	2/3596	8/23/22	RNAV (GPS) RWY 22, Orig-A.
6-Oct-22	OH	Kenton	Hardin County	2/3597	8/23/22	RNAV (GPS) RWY 4, Orig-A.
6-Oct-22	AL	Centreville	Bibb County	2/3602	8/23/22	RNAV (GPS) RWY 28, Orig.
6-Oct-22	NY	Albany	Albany Intl	2/3845	8/15/22	ILS OR LOC RWY 1, Amdt 11C.
6-Oct-22	GA	Waynesboro	Burke County	2/4377	8/23/22	RNAV (GPS) RWY 26, Orig-B.
6-Oct-22	GA	Waynesboro	Burke County	2/4378	8/23/22	RNAV (GPS) RWY 8, Orig-B.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4379	8/23/22	LOC BC RWY 3, Amdt 9D.

BY AMENDING: § 97.23 VOR, VOR/DME, VOR OR TACAN, AND VOR/DME OR TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPS; § 97.33 RNAV SIAPS; AND § 97.35 COPTER SIAPS, IDENTIFIED AS FOLLOWS: .....EFFECTIVE UPON PUBLICATION—Continued

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4380	8/23/22	VOR–B, Amdt 1A.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4381	8/23/22	RNAV (GPS) RWY 35, Orig-A.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4382	8/23/22	RNAV (GPS) RWY 21, Orig-B.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4383	8/23/22	RNAV (GPS) RWY 17, Orig-A.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4384	8/23/22	RNAV (GPS) RWY 3, Orig-A.
6-Oct-22	NM	Roswell	Roswell Air Center.	2/4385	8/23/22	RADAR 1, Orig-C.
6-Oct-22	WV	Williamson	Appalachian Rgnl.	2/4392	8/23/22	RNAV (GPS) RWY 26, Orig-C.
6-Oct-22	WV	Williamson	Appalachian Rgnl.	2/4393	8/23/22	RNAV (GPS) RWY 8, Orig-C.
6-Oct-22	VA	Leesburg	Leesburg Exec	2/4450	8/23/22	ILS OR LOC RWY 17, Amdt 1A.
6-Oct-22	VA	Leesburg	Leesburg Exec	2/4451	8/23/22	RNAV (GPS) RWY 17, Amdt 3B.
6-Oct-22	ME	Brunswick	Brunswick Exec.	2/4465	8/23/22	RNAV (GPS) RWY 19L, Amdt 1B.
6-Oct-22	OK	Ardmore	Ardmore Downtown Exec.	2/4467	8/23/22	RNAV (GPS) RWY 17, Orig-C.
6-Oct-22	OK	Ardmore	Ardmore Downtown Exec.	2/4468	8/23/22	RNAV (GPS) RWY 35, Orig-C.
6-Oct-22	NY	Hornell	Hornell Muni	2/4473	8/23/22	RNAV (GPS) RWY 18, Orig-B.
6-Oct-22	NY	Hornell	Hornell Muni	2/4474	8/23/22	RNAV (GPS) RWY 36, Orig-A.
6-Oct-22	ND	Wahpeton	Harry Stern	2/4490	8/23/22	RNAV (GPS) RWY 15, Orig-A.
6-Oct-22	ND	Wahpeton	Harry Stern	2/4491	8/23/22	RNAV (GPS) RWY 33, Amdt 1A.
6-Oct-22	MO	St Louis	Spirit Of St Louis.	2/4537	8/23/22	RNAV (GPS) RWY 8L, Orig-A.
6-Oct-22	MO	St Louis	Spirit Of St Louis.	2/4538	8/23/22	RNAV (GPS) RWY 8R, Orig-C.
6-Oct-22	MO	St Louis	Spirit Of St Louis.	2/4539	8/23/22	RNAV (GPS) RWY 26R, Amdt 1.
6-Oct-22	CO	Grand Junction	Grand Junction Rgnl.	2/4549	8/23/22	ILS OR LOC RWY 11, Amdt 16D.
6-Oct-22	CO	Grand Junction	Grand Junction Rgnl.	2/4550	8/23/22	LDA/DME RWY 29, Orig-E.
6-Oct-22	CO	Grand Junction	Grand Junction Rgnl.	2/4552	8/23/22	RNAV (GPS) RWY 29, Amdt 1C.
6-Oct-22	CO	Grand Junction	Grand Junction Rgnl.	2/4553	8/23/22	RNAV (GPS) Y RWY 11, Amdt 1D.
6-Oct-22	TN	Madisonville	Monroe County	2/4606	8/23/22	RNAV (GPS) RWY 23, Amdt 2A.
6-Oct-22	TN	Paris	Henry County	2/4607	8/23/22	RNAV (GPS) RWY 2, Orig-B.
6-Oct-22	TN	Paris	Henry County	2/4608	8/23/22	RNAV (GPS) RWY 20, Amdt 1A.
6-Oct-22	IL	Kewanee	Kewanee Muni	2/5187	8/11/22	RNAV (GPS) RWY 19, Amdt 1A.
6-Oct-22	PA	Philadelphia	Northeast Philadelphia.	2/5663	8/15/22	RNAV (GPS) RWY 15, Amdt 1B.
6-Oct-22	PA	Philadelphia	Northeast Philadelphia.	2/5664	8/15/22	RNAV (GPS) RWY 33, Amdt 1B.
6-Oct-22	ID	Weiser	Weiser Muni	2/6376	8/22/22	RNAV (GPS)-A, Orig.
6-Oct-22	MO	St Louis	Spirit Of St Louis.	2/6463	8/23/22	ILS OR LOC RWY 8R, Amdt 14B.
6-Oct-22	MS	Starkville	George M Bryan.	2/6467	8/15/22	RNAV (GPS) RWY 18, Amdt 2B.
6-Oct-22	MS	Starkville	George M Bryan.	2/6468	8/15/22	RNAV (GPS) RWY 36, Amdt 3A.
6-Oct-22	AL	Eufaula	Weedon Fld	2/7595	8/26/22	VOR RWY 18, Amdt 8B.
6-Oct-22	AL	Eufaula	Weedon Fld	2/7596	8/26/22	VOR/DME RWY 36, Amdt 3B.
6-Oct-22	VA	Stafford	Stafford Rgnl	2/9277	8/18/22	RNAV (GPS) RWY 33, Amdt 1A.
6-Oct-22	KY	Mayfield	Mayfield Graves County.	2/9707	8/19/22	VOR/DME–A, Amdt 8A.

[FR Doc. 2022–20761 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

29 CFR Part 29

[Docket No. ETA–2021–0007]

RIN 1205–AC06

Apprenticeship Programs, Labor Standards for Registration

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor (DOL or the Department) is issuing this final rule to rescind its 2020 regulation that established a process under which the Department's Office of Apprenticeship (OA) Administrator (Administrator) was authorized to grant recognition to qualified third-party entities, known as Standards Recognition Entities (SREs), which in turn were authorized to evaluate and extend recognition to Industry-Recognized Apprenticeship Programs (IRAPs). This final rule also makes necessary conforming changes to the regulations governing the registration of apprenticeship programs by the Department.

DATES: This final rule is effective November 25, 2022.

FOR FURTHER INFORMATION CONTACT: John V. Ladd, Administrator, Office of Apprenticeship, U.S. Department of Labor, 200 Constitution Avenue NW, Room C–5311, Washington, DC 20210; telephone (202) 693–2796 (this is not a toll-free number).

Individuals with hearing or speech impairments, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

List of Abbreviations

Abbreviation	Definition
AAI	American Apprenticeship Initiative.
Administrator	Administrator of the U.S. Department of Labor's Office of Apprenticeship.
BLS	U.S. Bureau of Labor and Statistics.
CFR	Code of Federal Regulations.
COVID–19	Coronavirus Disease 2019.
DOL or the Department	U.S. Department of Labor.
ECEC	Employer Costs for Employee Compensation.
EEO	equal employment opportunity.
E.O.	Executive Order.
ERISA	Employee Retirement Income Security Act of 1974.
ETA	Employment and Training Administration.
FR	Federal Register.
FY	Fiscal Year.
GS	General Schedule.
HHS	U.S. Department of Health and Human Services.
IC	information collection.
IRAP	Industry-Recognized Apprenticeship Program.
IT	information technology.
NAA	National Apprenticeship Act of 1937.
NPRM	Notice of Proposed Rulemaking.
OA	Office of Apprenticeship.
OJL	on-the-job learning.
OMB	Office of Management and Budget.
RAP	Registered Apprenticeship program.
RAPIDS	Registered Apprenticeship Partners Information Database System.
RI	Related instruction.
SAA	State Apprenticeship Agency.
Secretary	U.S. Secretary of Labor.
SOC	Standard Occupational Classification.
SRE	Standards Recognition Entity.
Task Force	Task Force on Apprenticeship Expansion.
UMRA	Unfunded Mandates Reform Act of 1995.
U.S.C.	U.S. Code.

Preamble Table of Contents

I. Background

The National Apprenticeship Act of 1937 (NAA), 29 U.S.C. 50, authorizes the Secretary of Labor (Secretary) to: (1) formulate and promote the use of labor standards necessary to safeguard the welfare of apprentices and to encourage their inclusion in apprenticeship contracts; (2) bring together employers and labor for the formulation of programs of apprenticeship; and (3) cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship. 29 U.S.C. 50. The Department promulgated

regulations to implement the NAA at 29 CFR part 30 (equal employment opportunity (EEO) in apprenticeship) in 1963 and at 29 CFR part 29 (labor standards for the registration of apprenticeship programs) in 1977. The part 30 regulations prohibit discrimination in Registered Apprenticeship based on race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, age (40 or older), genetic information, and disability, and they require sponsors of Registered Apprenticeship programs (RAPs) to promote equal opportunity in such programs. The part 29 regulations set forth labor standards designed to safeguard the welfare of apprentices in RAPs, including: prescribing policies and procedures concerning the registration, cancellation, and deregistration of apprenticeship programs; recognizing State Apprenticeship Agencies (SAAs) as Registration Agencies; and matters relating thereto. The Department significantly updated 29 CFR part 29 in 2008 to ''increase flexibility, enhance program quality and accountability, and promote apprenticeship opportunity in the 21st century, while continuing to safeguard the welfare of apprentices'' (73 FR 64402, Oct. 29, 2008, hereinafter ''the 2008 final rule''), and updated 29 CFR part 30 in 2016 ''to modernize the equal employment opportunity regulations'' (81 FR 92026, Dec. 19, 2016). These regulations provide the framework for the Registered Apprenticeship system.

On June 15, 2017, President Trump issued Executive Order (E.O.) 13801, ''Expanding Apprenticeships in America'' (82 FR 28229), which directed the Secretary of Labor to consider issuing regulations that promote the development of IRAPs by third parties. Section 8(b)(iii) of E.O. 13801 also established a Task Force on Apprenticeship Expansion (Task Force) to identify strategies and proposals to promote apprenticeships, to include ''the most effective strategies for creating industry-recognized apprenticeships.'' Based on E.O. 13801 and the Task Force's recommendations, the Department issued a Notice of Proposed Rulemaking (NPRM) on June 25, 2019 (84 FR 29970, hereinafter ''the 2019 IRAP NPRM''), which proposed amending 29 CFR part 29 by adding a subpart (subpart B) containing a new regulatory framework governing both the recognition and oversight of SREs by the Department, and the recognition and oversight of IRAPs by Department-recognized SREs. After considering approximately 326,000 written comments on the 2019 IRAP NPRM, the Department published a final rule in the **Federal Register** on March 11, 2020 (85 FR 14294), entitled ''Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations'' (hereinafter ''the 2020 IRAP final rule''), which established a new 29 CFR part 29, subpart B governing the recognition and oversight of SREs and IRAPs, designated the Registered Apprenticeship regulations at 29 CFR 29.1 through 29.14 as subpart A under the heading ''Subpart A—Registered Apprenticeship Programs,'' and made conforming edits to subpart A to account for the addition of subpart B.

The 2020 IRAP final rule established a set of standards and procedures under which the Administrator would evaluate and extend recognition to SREs; these recognized SREs, in turn, were authorized under the rule to evaluate and recognize IRAPs. The 2020 IRAP final rule set forth in detail the requirements for third-party entities applying for Departmental recognition as SREs. It also identified certain requirements apprenticeship programs must meet to obtain recognition from SREs as IRAPs. The 2020 IRAP final rule became effective on May 11, 2020.

On February 17, 2021, President Biden issued E.O. 14016, ''Revocation of Executive Order 13801'' (86 FR 11089); section 2 of this E.O. directed Federal agencies to ''promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies'' implementing E.O. 13801. Pursuant to E.O. 14016, on February 17, 2021, the Department announced that it would initiate a review of the IRAP system. The Department also suspended the acceptance and review of new and pending SRE recognition applications.[1] The Department advised that all SREs recognized by the Department prior to the February 17, 2021 suspension, as well as all IRAPs recognized by an SRE prior to that date, could continue to operate in accordance with the requirements outlined in 29 CFR part 29, subpart B. At the time the Department began the SRE pause and IRAP system review, there were 27 organizations recognized by the Department as SREs.

Consistent with E.O. 14016, the Department considered whether to retain the 2020 IRAP regulation. After review, the Department concluded that retaining the IRAP regulatory framework was not in the best interest of apprentices or the Department. Accordingly, on November 15, 2021, the Department published an NPRM in the **Federal Register** (86 FR 62966, hereinafter ''the 2021 IRAP Rescission NPRM''), proposing to rescind the 2020 IRAP final rule and to make necessary conforming changes to the Department's Registered Apprenticeship regulations in 29 CFR part 29, subpart A (Registered Apprenticeship Programs).

In the 2021 IRAP Rescission NPRM, the Department explained the rationale for adopting the 2020 IRAP final rule, acknowledged that the proposed rescission represented a change in its position with respect to the need for and the benefits of IRAPs, and explained why it proposed to rescind the 2020 final rule. Commenters on the proposed rescission largely supported the Department's proposal for the reasons discussed at length in the proposal, as discussed in more detail in the ''Public Comments'' section below. Accordingly, the Department, for the reasons discussed in the 2021 IRAP Rescission NPRM and the preamble to this final rule, is finalizing the rule as proposed.

The Department is rescinding the 2020 IRAP final rule because it has determined that the Department's efforts and resources should be focused on Registered Apprenticeship, which has proven to be highly successful for both industry and workers and incorporates valuable quality standards and worker protections. This is consistent with the Administration's priority to expand Registered Apprenticeship because of its success as a pathway to the middle class and ability to connect a diverse workforce to family-supporting jobs.[2] Further, it aligns with the Department's priority to use ''Registered Apprenticeship [to] provide pathways to strengthen our workforce and our economy.'' [3]

In contrast, and as explained in detail in the 2021 IRAP Rescission NPRM, the Department now believes the 2020 IRAP final rule does not align with the Department's priorities of providing high-quality training with an emphasis on apprentice safety and welfare. 86 FR 62968–71. This is due to the 2020 IRAP final rule's fewer quality training and worker protection standards as compared to Registered Apprenticeship's on-the-job learning and related instruction requirements and apprentice protections, such as

[1] DOL, ''U.S. Department of Labor Undertakes Several Actions to Strengthen Registered Apprenticeship Program, Eliminate Duplication,'' Feb. 17, 2021, *https://www.dol.gov/newsroom/releases/eta/eta20210217.*

[2] *https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/17/fact-sheet-biden-administration-to-take-steps-to-bolster-registered-apprenticeships/.*

[3] *https://www.dol.gov/newsroom/releases/eta/eta20210217.*

enhanced safety standards, a progressive wage requirement, and EEO regulations. Within the Registered Apprenticeship regulations, there is also greater accountability because the Department can exercise direct oversight to ensure employers provide industry-established prevailing wages, ensure stringent safety standards are in place, and monitor program quality to protect workers. By contrast, the Department's limited, indirect oversight role of IRAPs under the 2020 IRAP final rule constrains its ability to ensure that IRAPs are providing quality training and worker protection, leading to potentially inequitable access to higher quality training and worker protections among program participants. Accordingly, the Department no longer believes the IRAP model is a reasonable or effective alternative to the training standards, worker protection, and oversight that are the cornerstones of Registered Apprenticeship. 86 FR 62968–71.

The Department also determined that two of the key justifications for issuing the 2020 IRAP final rule—the purported inflexibility in the Registered Apprenticeship system and the administrative burdens hindering Registered Apprenticeship's ability to meet the needs of different industries—are fundamentally flawed. As discussed at length in the 2021 IRAP Rescission NPRM, the assertion that the Registered Apprenticeship system is inflexible and administratively burdensome is belied by the demonstrated success of Registered Apprenticeship for industry and workers alike, and by Registered Apprenticeship's continued growth and expansion into new industries and occupations. Indeed, Registered Apprenticeship has continued to show strong growth since its establishment, including the latest data reflecting strong growth in 2020 and 2021, during the height of the COVID–19 pandemic.[4] [5] RAPs are a flexible training strategy, with vital quality controls, that can be customized to meet the business needs for a skilled workforce. As the Department discussed in the 2021 IRAP Rescission NPRM, the most recent data reflects that Registered Apprenticeship has not only continued to grow but has also expanded into ''non-traditional'' industry sectors, such as healthcare, cybersecurity, transportation, and advanced manufacturing, through a variety of initiatives (*e.g.,* Department's 2015 American Apprenticeship Initiative (AAI)) and has demonstrated success in those sectors. 86 FR 62971–72.

The Department also determined that the 2020 IRAP final rule's justification that IRAPs were necessary to address a purported ''skills gap'' was based on faulty reasoning. As discussed in the 2021 IRAP Rescission NPRM, the Department no longer believes the purported ''skills gap,'' as referenced in the 2020 IRAP final rule, to be the major challenge facing the labor market. 86 FR 62971. Rather, the Department now believes that there are additional factors that have a bearing on industry labor needs, such as employer investments in workforce development, competitive and rising wages to attract and retain workers, commitments to opportunity and diversity, and worker empowerment.[6] [7] These are factors that the RAP framework supports and is well-positioned to address, thereby providing a more promising and effective framework for addressing and closing persistent inefficiencies in the labor market. In contrast, the 2020 IRAP final rule is deficient in incorporating these factors, and its deficiencies in job quality and worker protection requirements (particularly with respect to EEO and progressive wages for apprentices) reduce the ability of IRAPs to address any current or future labor shortages. Further, the IRAP final rule's deficiencies in ensuring quality standards for workers undermine both the RAP framework and the Administration's commitment to promoting good quality, family-sustaining jobs for all workers, including apprentices.

Finally, through the experience of administering the IRAP system, the Department has determined that the IRAP system is redundant of Registered Apprenticeship and that such redundancy creates confusion and reduces resources that would be better used to support the continued success and growth of Registered Apprenticeship across industries and occupations. As discussed in the 2021 IRAP Rescission NPRM, the Department observed significant duplication of occupations covered by RAPs and IRAPs. 86 FR 62972. The Department notes that the flexible RAP model has continued to expand into emerging occupations and sectors; accordingly, as discussed above and in the 2021 IRAP Rescission NPRM, there is a significant overlap in the industry sectors served by RAPs and IRAPs. Further, the administration of the IRAP system has generated duplicative work and costs for the Department, created inconsistent standards for quality training, reduced worker protections such as EEO, and committed limited resources that could have been better utilized by the Department to partner with industry to expand the existing Registered Apprenticeship system. 86 FR 62971–72.

Public Comments

The 2021 IRAP Rescission NPRM invited written comments from the public concerning the proposed rulemaking; the comment period closed on January 14, 2022. During the 60-day public comment period, the Department received a total of 20 public comment submissions (including 18 unique submissions, one duplicate submission, and one submission that was outside the scope of the rulemaking). The comments received on the 2021 IRAP Rescission NPRM may be viewed at *https://www.regulations.gov* by entering docket number ETA–2021–0007.

The commenters represented a range of stakeholders from the public, private, and not-for-profit sectors, including: six labor organizations; three trade associations; two advocacy organizations; two SAAs; one organization that represents SAAs; one SRE; and one IRAP. The Department also received comments from two individuals. After careful consideration of the comments received and for the reasons explained below, the Department is adopting this final rule, which rescinds the regulatory framework for SREs and IRAPs codified at 29 CFR part 29, subpart B, and makes necessary conforming changes to the Department's Registered Apprenticeship regulations in 29 CFR part 29, subpart A, as proposed (including removing the subpart A designation).

General Support for and Opposition to the 2021 Proposal To Rescind the 2020 IRAP Final Rule

Several commenters discussed their general support for the proposal to rescind the 2020 IRAP final rule and thereby remove the regulatory framework for SREs and IRAPs under 29 CFR part 29, subpart B. Some commenters expressed agreement with the proposal and further supported the proposal's focus on strengthening and modernizing the current Registered

[4] OA 2020 Data and Statistics, available at *https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2020.*

[5] OA 2021 Data and Statistics, available at *https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021.*

[6] Annelies Goger and Luther Jackson, ''The labor market doesn't have a 'skills gap'—it has an opportunity gap,'' Sept. 9, 2020, *https://www.brookings.edu/blog/the-avenue/2020/09/09/the-labor-market-doesnt-have-a-skills-gap-it-has-an-opportunity-gap/.*

[7] Kate Bahn, '' 'Skills gap' arguments overlook collective bargaining and low minimum wages,'' May 9, 2019, *https://equitablegrowth.org/skills-gap-arguments-overlook-collective-bargaining-and-low-minimum-wages/.*

Apprenticeship system, ensuring that apprentices are protected from abuse and properly trained by their chosen apprenticeship program, and safeguarding the welfare of apprentices. Other commenters expressed support for the proposal and argued that the Registered Apprenticeship system should be supported and expanded to new industries and that, ''if allowed to remain in place, the 2020 IRAP final rule would threaten to undo more than eight decades of highly effective apprenticeship programs validated by public entities.'' A commenter conveyed its support for the removal of subpart B because doing so would ensure that construction industry apprenticeships continue as the ''gold standard'' for apprenticeship programs throughout the United States and to serve as an example to other industries to emulate. Another commenter urged the Department to ensure that the proposal only strengthen RAPs and maintain the high quality of the Registered Apprenticeship system.

The Department appreciates the commenters' support of the proposal and agrees that the RAP model is effective and has proven successful for both industry and workers for more than 80 years. The Department shares the view of the commenters who believe that the Department should focus its efforts on bolstering and modernizing the Registered Apprenticeship system and facilitating the expansion of RAPs into new and emerging industries and sectors. The Department appreciates the commenter's assertion that the rescission of 29 CFR part 29, subpart B would ensure that construction industry apprenticeships continue as the ''gold standard'' for apprenticeship programs, however, the Department also notes that the rescission of this subpart would ensure that all apprenticeship programs, including construction industry apprenticeships, maintain high-quality labor standards in connection with the Registered Apprenticeship framework. The Department recognizes the value of the Registered Apprenticeship system and has prioritized investing in the RAP model to rebuild the economy, expand economic opportunities and workforce access for underrepresented populations and communities, and advance racial and gender equity. By adopting this proposal, the Department preserves high-level requirements for apprentice training and safety. These requirements are vital to establishing quality RAP opportunities that lead to good-quality jobs, and careers for workers, while also helping fulfill labor market demands and support economic growth.

The Department received comments expressing general support for the IRAP model, based on commenters' use of the model, and discussing some of the benefits of their use of the IRAP model. One commenter described the process by which it developed an SRE and its process to create criteria to evaluate IRAPs. The commenter described its process as fair, valid, impartial and well-received by the IRAP that it recognized. Another commenter asserted that IRAPs can help close the growing skills gap, creating a bridge between business leaders and career seekers. The commenter further argued that IRAPs help rebuild the workforce by shortening the amount of time required to enter or upskill in a given industry. The commenter also highlighted the internal and external program evaluation elements in their IRAP that cover validation of need, validation of competencies, qualifications of personnel, apprentice selection, and program effectiveness.

The Department acknowledges these comments in general support of IRAPs and appreciates that there can be instances of success in IRAPs. Nevertheless, as stated in the 2021 IRAP Rescission NPRM, the Department views the 2020 IRAP final rule as inconsistent with the Department's goal of expanding quality apprenticeships in a manner that both ensures a high level of quality for apprentices and industry while also retaining the necessary flexibility to adapt apprenticeships to different industries and occupations. Further, the Department views the IRAP system as duplicative of the Registered Apprenticeship system, though with fewer quality standards and less oversight, and the IRAP system is not a prudent use of Government resources and would diminish the quality and coherence of the Department's apprenticeship efforts.

In response to the commenter who asserted that IRAPs can help address the skills gap in the American workforce, the Department disagrees with this view. In the 2021 IRAP Rescission NPRM, the Department explained why the IRAP model is not poised to address the existing challenges and inefficiencies in the labor market. Specifically, while providing training to job seekers is a key component to addressing any ''skills gaps'' or ''skills mismatches,'' evidence suggests that training alone is not the answer. Employer investments in workforce development, competitive and rising wages to attract and retain workers, commitments to opportunity and diversity, and worker empowerment are key factors to addressing industry labor needs.[8] [9] The well-established RAP model provides a more promising and effective framework for addressing and closing persistent inefficiencies in the labor market.

The Department's Role in Administering the National Apprenticeship Act and Implementing Its Regulations

The Department received several comments that questioned whether the 2020 IRAP final rule's issuance was consistent with the NAA, referring to the legislative history and purpose of the NAA. One commenter, in describing the NAA's legislative history, highlighted congressional comments about Federal intervention to halt the exploitation of apprentices. Several commenters remarked that the 2020 IRAP final rule constituted an improper delegation of the Department's authority under the NAA. One commenter stated that Congress did not enable the Secretary to delegate the authority to approve apprenticeships or apprenticeship standards to an outside party. Similarly, another commenter stated that the 2020 IRAP final rule shifts the authority from the Department to third-party SREs in contravention of the Department's responsibility under the NAA to determine whether statutory requirements have been met. Another commenter stated that IRAPs created under the 2020 IRAP final rule do not feature the level of standardization demanded by the NAA. A commenter asserted that the 2020 IRAP final rule unlawfully delegated EEO oversight to SREs, contrary to the Department's goals in the 29 CFR part 30 regulations to address discrimination and inequitable participation of women and minorities in apprenticeships. Another commenter asserted that the 2020 IRAP final rule eliminated protections for apprentices established by the 2008 final rule, including: (1) the requirement that a State Apprenticeship Agency serving as a Registration Agency recognized by the Department under 29 CFR part 29 must be a Government entity; (2) the provisional registration of new apprenticeship programs; (3) minimum standards for instructor qualifications; and (4) a cap on the length of an apprentice's probationary period. The commenter argued that rescinding the

[8] Annelies Goger and Luther Jackson, ''The labor market doesn't have a 'skills gap'—it has an opportunity gap,'' Sept. 9, 2020, *https://www.brookings.edu/blog/the-avenue/2020/09/09/the-labor-market-doesnt-have-a-skills-gap-it-has-anopportunity-gap/*.

[9] Kate Bahn, '' 'Skills gap' arguments overlook collective bargaining and low minimum wages,'' May 9, 2019, *https://equitablegrowth.org/skills-gap-arguments-overlook-collective-bargaining-and-low-minimum-wages/*.

IRAP regulations would restore these important protections as well as other safeguards that preceded the 2008 final rule, such as the minimum number of hours of related instruction (RI), for all apprentices.

The Department acknowledges these comments and appreciates their support for the 2021 IRAP Rescission NPRM. As the Department explained in the 2020 IRAP final rule (85 FR 14295–14296, Mar. 11, 2020), the NAA provides a general authorization and direction for the Secretary to create and promote standards of apprenticeship, including through contracts, and to interface with employers, labor, and States to create apprenticeships and apprenticeship standards. See 29 U.S.C. 50. The 2020 IRAP final rule does not exceed or conflict with the broad authority granted by Congress to the Secretary in the NAA. However, the Department agrees that IRAPs created under the 2020 IRAP final rule do not provide adequate standards for high-quality training or safety and welfare protections, including sufficient EEO protections. As stated in the 2021 IRAP Rescission NPRM, the 2020 IRAP final rule ''does not provide adequate focus on worker needs and protections, does not ensure adequate program quality standards, does not provide sufficient [EEO] protections for apprentices, and does not provide a proven pathway to family-sustaining jobs'' (86 FR 62967, Nov. 15, 2021).

With regard to the comment that the 2020 IRAP final rule eliminated protections for apprentices established by the 2008 final rule, the Department clarifies that the 2020 IRAP final rule did not propose any revisions to the 29 CFR part 29 requirements that a State Apprenticeship Agency serving as a Registration Agency must be a Government entity, the provisional registration of new apprenticeship programs, the minimum standards for instructor qualifications, and a cap on the length of an apprentice's probationary period. Rather, the 2020 IRAP final rule made technical amendments to subpart A to account for subpart B. The 2021 IRAP Rescission NPRM proposed to remove subpart B, to make conforming technical edits to what had been subpart A, and to remove the distinctions of subparts because they would no longer be necessary with the removal of subpart B. Therefore, no changes are required in response to these comments.

II. The Registered Apprenticeship System Is Highly Successful for Industry

A skilled workforce is foundational to a strong economy, and RAPs provide a proven avenue by which to deliver much needed talent development to various industry sectors. For over 80 years, the Registered Apprenticeship system has been successful in providing industry with high-quality work-based learning. RAPs combine paid on-the-job learning (OJL) with RI to progressively increase workers' skill levels and wages. With this ''earn and learn'' model, apprentices are employed and earn wages from the first day on the job. Additionally, employers have continued to turn to Registered Apprenticeship to hire and train new employees, with over 241,000 new apprentices in RAPs in Fiscal Year (FY) 2021 across several industries, including cybersecurity, healthcare, advanced manufacturing, transportation, energy, and information technology (IT).[10] Industries that have adopted RAPs as part of their work-based learning models have cited the standards, skillsets, and retention offered by skilled workers associated with RAPs as advantageous to their bottom line. In one survey, nearly three-fourths of surveyed employers stated that RAPs drove increased worker productivity.[11] RAPs are a flexible training strategy, with vital quality controls, that can be customized to meet the business needs for a skilled workforce. These strategies include allowing employers to partner with workforce partners and educators to develop and apply industry standards to training programs, thereby increasing the quality and productivity of the workforce.

Most commenters agreed with the Department's position in the NPRM that RAPs are highly successful for industry. One commenter noted the eight successful decades of the Registered Apprenticeship system and credited RAPs with continued success in expanding their presence in high-growth sectors (*e.g.,* advanced manufacturing, healthcare, transportation, and IT) and ''in industries not traditionally associated with apprenticeship.'' Another commenter encouraged the Department to ''embrace and bolster'' the RAP model. Several commenters referred to RAPs as the ''gold standard'' for apprenticeship that creates a highly trained workforce. The Department appreciates these commenters' support for RAPs and agrees that the Registered Apprenticeship system has had a robust and successful history.

Notably, these same commenters who lauded RAP as beneficial to industry also expressed their views that IRAPs are harmful to industry. One commenter expressed concern that the 2020 IRAP final rule's lack of uniform standards disincentivizes the creation of apprenticeship programs because apprentices are easily ''poached'' due to minimal standards and less program transparency. The commenter also stated that the Department's decision to create IRAPs was counter to the Task Force's recommendation to start with a pilot program to determine industry interest, leading to a hastily created apprenticeship model without evidence that it would be embraced by industry or successful as a viable alternative to RAPs.

Commenters also expressed the view that the 2020 IRAP final rule was detrimental to the construction industry, despite the exclusion of construction activities from the 2020 IRAP final rule. A commenter also noted that future administrations could remove the construction exclusion from the 2020 IRAP final rule, thereby undermining RAPs in the construction industry, and jeopardizing RAPs as the ''premier method for preparing its future workforce.''

The Department appreciates the support received to rescind the 2020 IRAP final rule. The Department acknowledges the commenters' assertions that IRAPs would create disincentives to setting up apprenticeship programs or an overall negative impact on industry, including the construction industry. The Department's rationale for rescinding the 2020 IRAP final rule does not rely upon general concerns about the potential detrimental effect to industry generally and the construction industry particularly, but the Department appreciates these concerns and notes that the rescission of the 2020 IRAP final rule in its entirety obviates such concerns.

Conversely, a commenter in support of the IRAP system noted their

[10] The 25 federally administered States and 18 federally recognized SAAs use the Employment and Training Administration's Registered Apprenticeship Partners Information Database System (RAPIDS) to provide individual apprentice and sponsor data. These data represent Registered Apprenticeship national results for FY 2021 (Oct. 1, 2020–Sept. 30, 2021), as reported by these entities, and are available at *https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021* (last visited May 19, 2022).

[11] Urban Institute Research Report, ''The Benefits and Challenges of Registered Apprenticeship: The Sponsors' Perspective,'' June 12, 2009, *https://www.urban.org/research/publication/benefits-and-challenges-registered-apprenticeship-sponsors-perspective.*

opposition to the Department's exclusion of the construction industry from recognition under the IRAP regulatory framework.[12] This commenter argued that the construction industry was ripe for an expansion of apprenticeship opportunities. While the commenter applauded efforts to recruit, retrain, and upskill workers in the Registered Apprenticeship system, the commenter asserted that ''new and innovative apprenticeships'' are necessary in the construction sector as it recovers from the negative economic impacts of the Coronavirus Disease 2019 (COVID–19) pandemic. The commenter specifically highlighted the residential construction industry as one that could benefit from these new approaches to apprenticeship. The commenter urged the Department, when designing and implementing apprenticeship and job training opportunities, to target those industries with the highest number of job openings and conduct greater outreach efforts to identify the individual sectors that are underrepresented. The commenter also encouraged the Department to take steps to distinguish between types of construction activities (such as residential construction) and collaborate with the different segments of the construction industry ''to develop and expand [RAPs] through companies, educational organizations, and other nonunion groups that better represent the demographics of the workforce.''

In response to the comment reiterating opposition to the construction industry's exclusion in the 2020 IRAP final rule, the Department has concluded that the rescission of the 2020 IRAP final rule should have a beneficial impact across all industries by restoring a unitary regulatory framework for quality apprenticeship programs, both in sectors where such programs are widespread (such as construction) and in a wide range of high-growth and emerging occupations (such as healthcare, IT, cybersecurity, advanced manufacturing). While the Department notes the commenter's concerns about a current shortage of workers in the residential construction sector, it does not believe that preserving a parallel system of apprenticeship that lacks quality control and oversight is the appropriate solution for addressing such a worker shortage. Moreover, the Department notes that it has registered nonunion programs in the construction sector, which demonstrates the RAP model can be successfully utilized across all parts of an industry. The Department notes further that the IRAP system is not necessary to expand the reach of apprenticeship to new and different industries as RAPs have proven to be successful across a wide range of industry sectors. The Department continues to be interested in expanding and strengthening the RAP model in all industry sectors, including residential construction and other construction-related activities.

III. The Registered Apprenticeship System Is Highly Successful for Workers

A. Registered Apprenticeships Uniformly Provide More Rigorous, Higher Quality Training

In addition to the demonstrated success of the Registered Apprenticeship system as a workforce training model for industry, it has proven to be highly successful and beneficial to workers because of its emphasis on both high-quality training and apprentice safety and welfare. RAPs are designed to ensure high-quality training through structured OJL, mentorship, and RI, while also prioritizing safety, wage progression, and EEO for apprentices. RAPs implement federally approved industry standards for training apprentices for skilled occupations in the workplace; specifically, these programs must abide by regulatory provisions for supervision and training of apprentices to further enhance safety in the workplace. During training, apprentices are guaranteed progressive wage increases, and research shows that RAP completers earn over $300,000 (including benefits) more over their lifetimes as compared with individuals who do not complete a RAP.[13] Further, the Department has taken significant steps to increase the participation of women and individuals from underrepresented groups through the robust requirements in 29 CFR part 30. With Registered Apprenticeship, there is also an added level of accountability because the Department can intervene and ensure employers provide progressive wages established in their approved Registered Apprenticeship standards, ensure stringent safety standards are in place, address discrimination and issues of equal opportunity, and monitor program quality to protect workers.

Commenters agreed with the Department that the RAP model is highly successful because of its emphasis on both high-quality training and apprentice safety and welfare and agreed with the Department's position that IRAPs are not designed to uniformly promote these core elements of quality apprenticeship programs. For example, several commenters, in expressing support for the Department's 2021 IRAP Rescission NPRM, remarked that RAPs offer protection and standards to ensure quality among the hallmarks of apprenticeship—high-quality training, including OJL and RI, safety and welfare, progressive wages, EEO protections, and worker empowerment. One commenter argued that Registered Apprenticeship is a proven model that consistently provides quality training and employment opportunities, and another commenter stated that the RAP model's balance of regulatory oversight and standardized training requirements produces workers with skillsets that lead to family-sustaining careers. In addition, in noting their support for the Department's 2021 IRAP Rescission NPRM, several commenters compared the RAP model with that of IRAPs, agreeing with the Department's determination that the IRAP model neither adequately ensures high-quality training nor apprentice safety and welfare.

Commenters also provided suggestions on how to improve Registered Apprenticeship. One commenter suggested that the Department use lessons learned from the IRAP model to strengthen Registered Apprenticeship, specifically recommending that the RAP model should emphasize the assessment of competencies, use third-party capstone industry-recognized certifications, and require a program evaluation component with an emphasis on outcomes. Another commenter, in expressing support for the 2021 IRAP Rescission NPRM, suggested that resources be refocused on aggressive oversight of RAPs to ensure the protection of apprentices, including investigation into the amount and source of funding for the operation of a RAP; the adequacy of the facilities and equipment used for training; adequacy of plans for retraining graduates to upgrade skillsets; the track record of the RAP sponsor; and whether the sponsor has the ability to provide broad-based training that will prepare apprentices to

[12] The 2020 IRAP final rule at § 29.30 excluded SREs from not recognizing as IRAPs programs that seek to train apprentices to perform construction activities as defined in § 29.30.

[13] See, *e.g.,* Mathematica Policy Research, ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States: Final Report,'' July 25, 2012, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf.* The study cautions against interpreting its results, which do not control for unobservable skill or motivation, as having conclusively identified the effects of Registered Apprenticeship on earnings. Moreover, the estimates do not represent increments between RAPs and IRAPs (the latter not having been implemented at the time the study was conducted).

be marketable in an industry-recognized occupation.

The Department appreciates these comments that support its 2021 IRAP Rescission NPRM. The Department also appreciates and agrees with the comments characterizing the RAP model as highly successful because of its emphasis on protections and standards that ensure high-quality training and apprentice safety and welfare. The Department agrees with the comments that assert that the IRAP model does not adequately ensure high-quality training or apprentice safety and welfare. With respect to the suggestions on how to improve Registered Apprenticeship, the Department acknowledges these comments and continues to be interested in ideas to expand Registered Apprenticeship while elevating important quality standards and promoting advancement opportunities for workers. The Department notes that the 2020 IRAP final rule does not mandate industry capstone certifications and that such mechanisms are not prohibited under the Registered Apprenticeship regulations. The Department continues to be interested in exploring ideas for strengthening the Registered Apprenticeship system and training model, and the Department appreciates these suggestions on how to make Registered Apprenticeship more successful for all workers and industries.

A structured OJL model is a hallmark of a high-quality apprenticeship program, as this framework provides standardized evaluation of apprentice proficiency using a time-based model, competency-based model, or a hybrid of both, with benchmarks that ensure mastery in the apprentice's respective occupation and flexibility in the approach used that ensures apprenticeships can be developed and customized to a variety of occupations.[14] OJL is a critical component for the apprentice's learning experience, and the Department considers a structured mentorship requirement as a strength for high-quality apprenticeship programs. RAPs pair apprentices with experienced employees (also referred to as journeyworkers) who have already mastered the skills and competencies associated with the occupation such that these individuals can mentor apprentices with on-the-job guidance and direction that ensures safety and quality training. In contrast, the IRAP regulations lack a structured, standardized framework for OJL, resulting in inconsistent training across all SREs and IRAPs.

Another critical component of a RAP is RI.[15] This RI provision is designed to ensure that apprentices uniformly receive meaningful and substantive knowledge in their respective occupations, creating a well-rounded training experience that provides the educational foundation necessary for success in practical settings, while also retaining flexibility based on different industries and occupations that may require varying amounts of RI. In contrast, the IRAP regulations lack standards on minimum RI hours, and do not articulate how SREs monitor or evaluate RI.

The Department received several comments concerning OJL and RI. Several commenters, in expressing their support for the Department's 2021 IRAP Rescission NPRM, agreed with the Department's assertion that the IRAP model lacks OJL and RI standards that are necessary to ensure high-quality training. One commenter argued that the 2020 IRAP final rule's lack of robust OJL requirements means that many IRAPs would not include this essential aspect of quality apprenticeship programs. Another commenter lauded the current OJL and RI requirements in the Registered Apprenticeship regulations[16] and agreed with the Department's assertion that the 2020 IRAP final rule's requirement of only a written training plan[17] means that IRAPs cannot create a standardized framework for quality training since quality of training can vary across SREs. Another commenter suggested that the RAP model benefits apprentices through robust requirements for OJL, which provides a holistic understanding of their specific field; the commenter also asserted that the RAP model is generally supported by a recommended minimum requirement for RI, which provides theoretical and technical education associated with an apprentice's profession. The same commenter argued that the absence of minimum standards and an articulated approach to evaluation for RI in the 2020 IRAP final rule results in subpar IRAP training relative to RAPs and a lower quality experience for employers and apprentices. Another commenter agreed with the Department and stated that the 2020 IRAP final rule's approach to OJL and RI is amorphous and inadequate. The commenter also referred to the Department's recent updates to its RAP guidance[18] around flexibilities available in the delivery of OJL and RI to demonstrate that the RAP model can be flexible while still adhering to quality standards.

Another commenter, in expressing support for the proposed rescission, argued that the IRAP model also failed to incorporate apprenticeability standards, which appear at 29 CFR 29.4.[19] The commenter argued that rescission of the 2020 IRAP final rule is important to ensure that apprentices receive broad-based training for in-demand skills because the 2020 IRAP final rule fails to account for apprentices' need to affordably retrain and update their skillsets. The commenter referred to three States—Delaware, New York, and Pennsylvania—that have included language in their apprenticeability standards that ensures skill development is not restricted to a single organization. Further, the commenter referred to Washington State's apprenticeability standard as one of the most stringent.

While not expressly opposing the Department's 2021 IRAP Rescission NPRM, two commenters, nevertheless, expressed their support of the general IRAP approach to OJL and RI, and suggested improvements to the RAP model based on the 2020 IRAP final rule. One of these commenters developed an IRAP-recognition procedure that the commenter described as ''based on national and international standards [. . .] that, in turn, incorporate adult learning principles, validate content in alignment with industry, and produce rigorous and

[14] RAP regulations at 29 CFR 29.5(b)(2) set forth the requirements for the term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for OJL (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).

[15] RI is an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Registration Agency. 29 CFR 29.2. Under 29 CFR 29.5(b)(4), a minimum of 144 hours of RI is recommended for Registered Apprenticeship; many RAPs exceed this 144-hour recommendation.

[16] See 29 CFR 29.5(b)(1) through (3) for OJL and 29.5b(4) for RI.

[17] See 29 CFR 29.22(a)(4)(ii).

[18] OA issued Circular 2021–01, Flexibilities Available for the Delivery of On-the-Job Learning (OJL) and Related Instruction (RI) by Registered Apprenticeship Programs (RAPs), on December 16, 2020. It is available at *https://www.apprenticeship.gov/about-us/legislation-regulations-guidance/circulars*.

[19] Registered Apprenticeship regulations at 29 CFR 29.4 set forth criteria for determining when an occupation qualifies as apprenticeable.

validated assessment tools and personnel who are qualified to facilitate learning in the work environment.'' This commenter expressed the view that incorporating such a competency-based approach could strengthen outcomes for RAP apprentices by assuring industry and employers that competencies have been attained. The commenters recommended that all apprenticeships be based on competency and performance criteria rather than having the option of a time-based approach, and they stated that the Department should incorporate positive features of the 2020 IRAP final rule into a new, modified Registered Apprenticeship system. To this end, one of the commenters recommended that RAPs emphasize the assessment of competencies by using a third-party capstone industry-recognized certification and by requiring a program evaluation component with an emphasis on outcomes. The other commenter opined that the IRAP model's competency-based approach to learning is more cost effective than apprenticeship programs that are time-based. The commenter further asserted that IRAPs provide credit for prior knowledge for all workers, allowing individuals to complete apprenticeships more quickly. The same commenter stated that its IRAP ensures quality of OJL and apprentices' instruction by specifically using an assessment model tiered with several levels of quality assurance.

The Department appreciates and agrees with the comments asserting that, when compared to Registered Apprenticeship, the IRAP model lacks OJL and RI requirements that are necessary to ensure high-quality training. The Department agrees with the comments that laud the RAP model's approach to OJL and RI, which provide a holistic understanding of a specific field and are generally supported by a recommended minimum requirement for RI that provides theoretical and technical education associated with an apprentice's profession. The Department also agrees that the standards and approach to evaluation for RI in the 2020 IRAP final rule results in subpar training relative to RAPs and a lower quality experience for employers and apprentices. The Department concurs that the existing approach to OJL and RI in RAPs has proven effective in striking an appropriate balance between the structure necessary to ensure high-quality training and the flexibility necessary to adapt the apprenticeship model to different industries and occupations.

In response to the comment that notes the 2020 IRAP final rule failed to incorporate apprenticeability standards, the Department concurs that the omission of the apprenticeability requirements from the 2020 IRAP final rule was problematic. The Department agrees that this omission is further support for the proposed rescission, as apprenticeability standards are a key component in determining whether an occupation's training is responsive to the needs of industry. The RAP model's incorporation of apprenticeability standards to determine whether proposed training is suitable for an occupation and responsive to industry needs underscores the quality of the existing RAP model.

In response to the comments that expressed support of the IRAP model's approach to OJL and RI, the Department maintains that IRAPs do not have the same rigorous training standards for minimum skill level or competency baselines in their respective occupations when compared to RAPs. Regarding the commenter that stated that the IRAP model's competency-based approach to learning is more cost effective than apprenticeship programs that are time-based, the Department notes that the RAP model allows for a competency-based approach to OJL (see 29 CFR 29.5(b)(2)(ii)) and permits RAP sponsors the ability to choose the approach—time-based, competency-based, or hybrid—that is best suited for their industry, programs, and apprentices. Regarding the same commenter's further assertion that IRAPs provide credit for prior knowledge for all workers, allowing individuals to complete apprenticeships more quickly, the Department notes that the RAP model also permits sponsors to grant advanced standing or credit for demonstrated competency (see 29 CFR 29.5(b)(12)). Finally, in response to the same commenter that stated its IRAP ensures quality of OJL and apprentices' instruction by specifically using an assessment model tiered with several levels of quality assurance, the Department acknowledges that while the commenter's specific IRAP may implement several levels of quality assurance for its OJL and RI, the 2020 IRAP final rule fails to ensure that all IRAPs include such quality standards for OJL and RI.

In response to the comments that suggest improvements to the RAP model's approaches to OJL and RI, the Department appreciates the commenters' recommendation concerning the assessment of competencies as a key measure for evaluating the successful completion of a RAP by an apprentice but notes that adoption of these suggestions are outside the scope of this rulemaking. The Department also notes that the RAP regulations at 29 CFR 29.2 define ''competency'' as ''the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.'' Accordingly, competency attainment is the basis for advancement through and successful completion of both the competency-based and hybrid approaches in RAPs. The Department is committed to expanding competency attainment models as a feature of RAPs while also ensuring the acquisition of critical structured OJL necessary to acquire these competencies. Such models should include sufficient mentoring opportunities for apprentices to obtain proficiency in the skilled occupation.

The Department acknowledges this comment regarding the utility of third-party evaluation of an apprentice's competencies in apprenticeship program design and is committed to continuing to study effective RAP models, identify research and evidence-based practices, and evaluate their outcomes.

B. Registered Apprenticeships Provide Better Safety and Welfare Protections

The importance of apprentice safety and welfare cannot be overstated. As discussed in the 2021 IRAP Rescission NPRM and reiterated below, the Registered Apprenticeship system includes enhanced requirements related to safety, EEO, progressive wages, and other worker protections that provide apprentices with meaningful employment opportunities while also guaranteeing rights and protections on the job. In contrast, the requirements of the 2020 IRAP final rule fall short in these areas. That final rule's requirements include basic compliance with existing laws but do not create additional obligations that focus on safeguarding the welfare of apprentices, especially with respect to progressively increasing wages, safety requirements, and EEO protections and requirements. The 2021 IRAP Rescission NPRM also noted that the 2020 IRAP final rule dilutes the Department's role in overseeing apprenticeships, tasking SREs with this oversight role instead, and retaining only a minimal role in overseeing the SREs. The Department received several comments regarding these issues, which are discussed below.

1. Workplace Safety

RAPs require several safety protections designed to both teach apprentices how to work safely within their occupation and create safe workplaces for apprentices.[20] These safety requirements focus on both physical workplace safety and safety through training and mentorship. Further, they are meant to protect the safety of apprentices in each RAP by being tailored to the specific conditions in which those apprentices will be working and learning. In contrast, IRAPs are not covered by enhanced safety standards beyond generally applicable Federal, State, and local safety laws and regulations and any additional safety requirements of the SRE.

Several comments in support of the 2021 IRAP Rescission NPRM discussed the strength of Registered Apprenticeship's worker safety protections. For example, one commenter noted that the Registered Apprenticeship safety framework has proven effective in striking the right balance between safety, quality, and flexibility across industries. Further, the commenter highlighted the strength of Registered Apprenticeship's safety parameters, to include ratios, supervision, and training requirements. Another commenter highlighted the importance of a safe training environment for apprentices in RAPs, with an emphasis on data from the construction industry about the inherent dangers to younger, less experienced workers. The commenter described how RAPs include extensive safety training as well as supervision and on-the-job training to ensure the work environment is safe. These commenters also contrasted the Registered Apprenticeship safety protections with the 2020 IRAP final rule. One commenter highlighted the lack of required safety training in the 2020 IRAP final rule and offered that a mere pledge to comply with workplace safety laws was insufficient to adequately protect apprentices. Another commenter acknowledged the construction industry exclusion from the 2020 IRAP final rule but expressed concern that some industry programs could still be recognized as IRAPs, which in the commenter's view would create parallel systems that would dilute safety requirements and affect overall industry safety for apprentices, journeyworkers, and the public. A commenter faulted the 2020 IRAP final rule for merely requiring IRAPs to abide by Federal, State, and local safety laws and for providing SREs with too much discretion to establish their own safety standards, leading to less rigorous safety requirements that could result in unsafe training programs and high-risk workplaces. Finally, a commenter contrasted the safety requirements for RAPs in the Registered Apprenticeship regulations at 29 CFR 29.5 with the lack of an apprentice-to-journeyworker ratio in the 2020 IRAP final rule at 29 CFR 29.22 to ensure a level of supervision necessary for apprentice safety.

The Department appreciates these comments and agrees that Registered Apprenticeship's worker safety provisions are designed to provide stronger protections than provided in the 2020 IRAP final rule. The Department views the enhanced safety requirements in Registered Apprenticeship regulations as an essential element of a successful apprenticeship program, given the nature of apprenticeship as OJL and training. The focus in the Registered Apprenticeship regulations on both workplace safety standards and safety through training and mentorship provides a multi-pronged approach to worker safety. 29 CFR 29.5(b)(7) and (9). The Department agrees with the commenters' assessments that the safety requirements in Registered Apprenticeship are rigorous enough to provide essential protection and training for apprentices as well as flexible and adaptable enough to each workplace and industry needs. The Department also agrees with commenters' assessments of the 2020 IRAP final rule requirements at § 29.22(a)(4) as being insufficient to provide a safe training environment for apprentices. Likewise, the Department agrees that the 2020 IRAP final rule instead inadvisably gives discretion to the SRE on the important matter of apprentice safety, potentially leading to both inconsistencies and deficient safety requirements across IRAPs even within the same industry. With respect to the construction industry exclusion from the 2020 IRAP final rule in § 29.30, the Department acknowledges concerns that IRAPs could have been recognized in the construction industry despite the exclusion in the 2020 IRAP final rule. Although the Department views the explicit construction industry exclusion from the 2020 IRAP final rule as an appropriate safeguard against such potential outcomes, the Department's decision to rescind the 2020 IRAP final rule resolves concerns about potential weaknesses in the 2020 IRAP final rule's construction industry exclusion.

2. Progressive Wages

It is a priority of the Department to grow opportunities to help workers access family-sustaining jobs. The RAP earn-as-you-learn model accomplishes this priority by providing for progressively increasing wages for apprentices as they progress in their apprenticeship experience, learning, and skills. In Registered Apprenticeship, the graduated scale of wages and any compensation for RI is set forth in the apprenticeship agreement required for each apprentice. Not only is this type of wage progression guaranteed per the terms of the apprenticeship agreement, but it also serves as an important incentive to attract apprentices and sets them on a path to family-sustaining careers. In contrast, there is no such guaranteed wage progression for apprentices of IRAPs—an apprentice could be earning the same wages over the course of the apprenticeship, and any wage progression is solely at the discretion of the IRAP.

Several commenters in support of the 2021 IRAP Rescission NPRM discussed the importance of Registered Apprenticeship's progressive wage requirements. A couple of commenters cited research showing that apprentices who successfully complete RAPs accrue, over the course of their careers, approximately $300,000 more in salary and benefits than similarly situated workers who have not completed a RAP.[21] Another commenter described RAPs as providing ''a pathway to the middle class'' because apprentices are guaranteed to receive higher wages as they advance and complete training requirements.

These commenters also faulted the IRAP model for failing to require progressive wage increases for participants. One commenter expressed concern that failing to require progressive wages would decrease the attractiveness of IRAPs, lead to lower completion rates, and worsen employee loyalty. One commenter expressed that the 2020 IRAP final rule's lack of progressive wage requirement undermined the pathway to the middle class because IRAPs are permitted to

[20] See 29 CFR 29.5(b)(7) and (9).

[21] See, *e.g.,* Mathematica Policy Research, ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States: Final Report,'' July 25, 2012, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf.* The study cautions against interpreting its results, which do not control for unobservable skill or motivation, as having conclusively identified the effects of Registered Apprenticeship on earnings. Moreover, the estimates do not represent increments between RAPs and IRAPs (the latter not having been implemented at the time the study was conducted).

offer a single wage rate that never increases, even after apprentices' complete months or years of training.

A commenter expressed concern that IRAPs could subvert Davis-Bacon Act provisions that provide exemptions for apprentices in RAPs to be paid at an amount commensurate with their skill level for Federal construction contract positions. The commenter noted that this exemption allows an apprentice to gain firsthand experience through a robust training program with mentorship. Citing research, a commenter remarked that ''robust'' prevailing wage laws help States attract more apprentices and lead to improved safety on construction work sites.

The Department agrees with the commenters that progressive wages are a critical element in successful apprenticeship programs both because they guarantee increases commensurate with the apprentice's experience and proficiency and because they lead apprentices on a path to higher lifetime earnings. The Department also agrees with these commenters that the absence of a requirement for a progressively increasing schedule of apprentice wages in the 2020 IRAP final rule is a fundamental shortcoming and is inconsistent with the Department's role in promoting the highest quality apprenticeship programs. The Department acknowledges one commenter's concern regarding Davis-Bacon wages and related concern that IRAPs could subvert these wage provisions to create instability in the construction apprenticeship program. The Department does not share this view, however, because the construction industry exclusion in the 2020 IRAP final rule was specifically designed to address this concern. Moreover, the Department's decision to rescind the 2020 IRAP final rule in its entirety will obviate any concerns about its potential negative impact on construction industry wages.

One commenter in support of the 2020 IRAP final rule stated that IRAPs provide opportunities for job seekers to obtain profitable employment while earning a credential and developing ''specific industry-related skill sets.'' The commenter remarked that its practice was to create apprenticeship programs that pay a living wage, as determined by local workforce development boards.

The Department acknowledges and appreciates that IRAPs may structure their programs to provide a path to family-sustaining employment, and that the commenter's particular IRAP may be one that is beneficial to its apprentices. The issue with the 2020 IRAP final rule, however, is that it does not set requirements in this regard—other than adherence to applicable laws—and therefore, IRAPs' wage structures may vary widely. IRAPs have broad discretion to structure their wages as they please and to include stagnant wages that do not provide a viable path to family-sustaining employment. For this reason, the Department does not view IRAPs' wage requirements as sufficiently meeting the Department's goal of ensuring high-quality apprenticeship programs.

3. Equal Employment Opportunity

The Department views equity and equal opportunity as essential to the success of an apprenticeship program, and it notes its responsibility under E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' 86 FR 7009 (Jan. 20, 2021), to advance equity, civil rights, racial justice, and equal opportunity. Accordingly, the Registered Apprenticeship system has structured and specific requirements regarding equal opportunity, anti-harassment, affirmative action, utilization analyses and goals, targeted recruitment, outreach and retention, compliance, and enforcement. In contrast, the 2020 IRAP final rule only requires IRAPs to affirm their adherence to applicable Federal, State, and local laws and regulations pertaining to EEO.

Commenters in support of the Department's 2021 IRAP Rescission NPRM highlighted the strength of the Registered Apprenticeship system's EEO requirements. One commenter remarked that the Registered Apprenticeship system's EEO requirements are especially important for women, people of color, and veterans.[22] Another lauded the Registered Apprenticeship system's requirements to take affirmative steps to ensure EEO in apprenticeship. One commenter specifically noted the Registered Apprenticeship system's requirements to develop and maintain an extensive affirmative action plan, comprehensive recordkeeping, and complaint and enforcement provisions.

Commenters were also critical of the 2020 IRAP final rule's lack of enhanced EEO provisions. One commenter faulted the 2020 IRAP final rule for failing to ensure EEO in its apprenticeship programs for underrepresented groups, including women, minorities, and individuals with disabilities. The commenter stated that merely requiring SREs to develop outreach strategies was insufficient because there was no requirement to implement such strategies. Another commenter similarly faulted the 2020 IRAP final rule for failing to require programs to comply with Registered Apprenticeship's EEO regulations at 29 CFR part 30 and instead only requiring IRAPs to practice ''passive nondiscrimination'' and comply with a ''patchwork'' of Federal, State, and local antidiscrimination laws. Because of this, the commenter asserted that IRAPs do not comply with the Biden Administration's E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.'' The commenter argued that the 2020 IRAP final rule undermined diversity efforts in its industry and fails to protect minorities and other disadvantaged populations that would otherwise benefit from apprenticeship programs in its industry. By rescinding the 2020 IRAP final rule and redirecting resources to expansion of the Registered Apprenticeship system, the commenter said the Department would promote equity and equal opportunities to participate in training programs with a ''proven record of leading to middle-class jobs for all Americans.'' Similarly, another commenter agreed that IRAPs would not successfully expand opportunities to participate in apprenticeship programs to underserved populations because programs under the IRAP model are only required to affirm they will adhere to Federal, State, and local EEO laws and regulations. A commenter also noted the benefits of building upon and strengthening the successful Registered Apprenticeship program rather than allowing a parallel model ''to evolve through the shedding of strong EEO commitments, obligations, [and] accountability.''

The Department appreciates and agrees with the comments in support of the Registered Apprenticeship system's part 30 regulations. The Department also agrees with the comments faulting the 2020 IRAP final rule for falling short by only requiring the bare minimum under applicable laws and minimal additional outreach responsibilities by the SREs that do not include a mechanism for accountability. The Department also agrees with the commenter who stated that the Department's focus on building and strengthening Registered

[22] Pursuant to 29 CFR 30.3, all apprentices and applicants for Registered Apprenticeship are protected against discrimination on the bases of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability. While the EEO in apprenticeship regulations do not specify veterans as a protected group, sponsors may specifically seek out veterans or give them preference in hiring as long as doing so does not discriminate on the basis of any of the protected characteristics covered by 29 CFR 30.3.

Apprenticeship would be the most effective path in ensuring successful apprenticeship programming for all U.S. workers.

Conversely, a commenter opposed to the proposed rescission asserted that both IRAPs and RAPs are required to take affirmative steps to ensure EEO, and that IRAPs promote increased apprenticeship opportunities while continuing to safeguard the welfare of apprentices.

The Department disagrees with this assertion. As noted in the 2021 IRAP Rescission NPRM, the current regulations governing EEO in Registered Apprenticeship under 29 CFR part 30 require program sponsors to take affirmative steps to promote diversity and equity in apprenticeship and provide sponsors with the tools needed to reduce barriers to equal opportunity within their programs. The structured and specific EEO requirements in Registered Apprenticeship regarding equal opportunity, anti-harassment, affirmative action, utilization analyses and goals, targeted recruitment, outreach and retention, compliance, and enforcement are absent from the IRAP model. The IRAP model simply requires programs to affirm their adherence to applicable Federal, State, and local laws and regulations pertaining to EEO, but provides no specific mechanisms by which to measure effort and outcomes.

4. Worker Empowerment

As mentioned in the 2021 IRAP Rescission NPRM, the Department generally believes the relationship between workers and employers must be balanced so workers have a voice in ensuring fair and safe work conditions. The requirement that Registered Apprenticeship agreements include specific terms ensures the apprentices have knowledge of their rights and responsibilities and empowers them to be informed participants in the program and employment relationship. Although the IRAP regulation at 29 CFR 29.22(a)(4)(x) also contains a written apprenticeship agreement requirement, each IRAP may determine which terms and conditions to include as long as the agreement is consistent with the SRE's requirements. Without parameters, this requirement contains little more than an honor system to ensure apprentices have meaningful information about the terms and conditions of their apprenticeship and how they can voice their concerns.

Commenters in support of the Department's 2021 IRAP Rescission NPRM praised the Department's attention to worker empowerment. One commenter proposed that RAPs be further strengthened to empower workers in industries that lack union representation and achieve the Biden Administration goal of creating jobs ''to be filled by diverse, local, well-trained workers who have a choice to join a union.'' The commenter also agreed with the Department's reasoning that the apprenticeship agreement is crucial to ''articulating the standards of apprenticeship and the terms and conditions of employment'' given the required elements of the apprenticeship agreement. The commenter additionally praised RAPs for protecting apprentices by requiring periodic performance evaluations and only canceling an apprenticeship for ''good cause'' after a reasonable and time-limited probationary period that counts toward completion of the program. Other commenters similarly praised the RAP apprenticeship agreement requirements as a crucial tool for worker empowerment and success.

Commenters highlighted the 2020 IRAP final rule's lack of worker empowerment provisions. One commenter faulted the 2020 IRAP final rule for failing to comply with the NAA's directive to safeguard apprentices' welfare by leaving undue discretion to SREs, failing to ''establish the minimum standards necessary'' to ensure industries do not exploit new entrants to an industry, and failing to clarify the process for employee grievances or complaints. A commenter similarly stated that the 2020 IRAP final rule fails to appropriately empower workers through the lack of clarity on grievance procedures. A commenter also agreed with the Department's reasoning that the IRAP model's ''hands-off approach'' enables employers to ignore apprentice needs and asserted that apprentices participating in IRAPs would be at risk of sudden, arbitrary cancellation of their participation in a program. Commenters noted that there were no uniform requirements for IRAP apprenticeship agreements to include apprentice work plans and number of classroom hours needed for program completion.

The Department views an apprenticeship agreement as a foundational requirement for worker empowerment and agrees that the RAP requirements for apprenticeship agreements provide apprentices with knowledge and awareness of the terms of their employment and training during the apprenticeship. As commenters noted, unlike in the 2020 IRAP final rule, the apprenticeship agreement for RAPs must contain specific terms, including a statement of the occupation for which the apprentice is training, the duration of the apprenticeship, the number of hours in the program (to include RI hours), the schedule of work processes, the graduated scale of wages to be paid, the standards of the apprenticeship program, dispute resolution, and an EEO statement. See 29 CFR 29.7. Registered Apprenticeship agreements must also set forth the requirement that the apprenticeship agreement be canceled for ''good cause,'' which provides additional protection for apprentices, as does the requirement to include information on grievance procedures. These elements of an apprenticeship agreement are not required in the 2020 IRAP final rule, and the Department views their absence as a detriment to apprentices.

The Department further agrees with commenters that the 2020 IRAP final rule's requirement for an IRAP apprenticeship agreement is insufficient to guarantee that apprentices are fully informed of the terms and conditions of their apprenticeship because the IRAP can determine which terms to include as long as the IRAP is consistent with its SRE's requirements. Because there are two levels of discretion for IRAP apprenticeship agreements—the SRE decides its required parameters and the IRAP determines which terms and conditions to include—apprenticeship agreements can vary widely among IRAPs and may not include all provisions the Department thinks are necessary to protect the interests of apprentices.

A commenter who supported IRAPs stated that the IRAP model does meet workers' needs by providing them with a clear sense of career trajectory and increased job satisfaction while also increasing loyalty and reducing turnover for employers. The Department acknowledges that an individual IRAP may structure its program to lead to such results. However, the Department does not view the requirements in the 2020 IRAP final rule as sufficient to provide apprentices with the information needed to make informed decisions or be knowledgeable about their rights and responsibilities during their apprenticeship.

5. Departmental Oversight

In support of its proposal, the Department noted its concern with the oversight structure set forth in the 2020 IRAP final rule because the required safety and welfare provisions of the 2020 IRAP final rule are primarily overseen and enforced by SREs. The Department also described its limited ability to intervene in any disparities in worker protections or outcomes among IRAPs.

Commenters agreed with these concerns, faulting the 2020 IRAP final rule for failing to ensure adequate Departmental oversight. For example, a commenter noted that the 2020 IRAP final rule provided the Department with almost no basis for evaluating SRE standards or IRAP recognition. Another commenter stated that the requirement for ''reasonable'' and ''effective'' quality control between the SREs and IRAPs was not sufficient to ensure IRAP compliance with the minimal requirements of the 2020 IRAP final rule. This commenter also noted that SREs and IRAPs would have no reason to comply with the higher fiduciary standards under the Employee Retirement Income Security Act of 1974 (ERISA), in contrast to the majority of apprentices in RAPs being protected by ERISA. A commenter also expressed concern that the 2020 IRAP final rule lacked an adequate quality assurance framework and that vesting oversight responsibilities with SREs would lead to disparities in the quality of IRAPs available, noting that there were few, if any, consequences for low-performing IRAPs. One commenter referenced the 2008 final rule, in which the Department concluded that delegation of oversight responsibilities to State Apprenticeship Councils failed to meet its obligation under the NAA, to argue that the Department similarly should conclude that delegation of oversight to SREs is prohibited under the NAA.

The Department generally agrees that tasking SREs with oversight in the manner set forth in the 2020 IRAP final rule dilutes the Department's role in overseeing apprenticeship and concurs with the notion that the 2020 IRAP final rule's oversight provisions are less rigorous than those in the Registered Apprenticeship framework due to the Department's more limited role. The Department agrees that the lack of uniformity in the 2020 IRAP final rule could lead to disparities in IRAP quality that may go unchecked. The Department also acknowledges that the Department's reduced role in the 2020 IRAP final rule could present compliance challenges and, in combination with the insufficient apprentice safety and welfare provisions, could lead to less protection for apprentices—a fundamental reason for the Department's proposed rescission. The Department disagrees, however, that it inappropriately delegated its oversight responsibilities to SREs and that it did so in a manner inconsistent with the NAA. The Department considered this issue in developing the 2019 IRAP NPRM and the 2020 IRAP final rule and views the oversight provisions in the 2020 IRAP final rule, which include SRE reporting requirements and the Department's oversight of SREs, to be consistent with the NAA. That said, in rescinding the 2020 IRAP final rule, the Department has determined that, for the reasons discussed in the NPRM and provided by the commenters, the better approach is for the Department to have a more direct oversight role than provided for in the 2020 IRAP final rule.

6. Other Worker Protection Concerns

The Department received comments in support of the proposed IRAP rescission offering additional criticisms that the 2020 IRAP final rule fails to protect apprentices and proposing additional bases for the rescission of the 2020 IRAP final rule. Commenters raised several concerns, in addition to the reasons set forth by the Department in the 2021 IRAP Rescission NPRM, related to IRAPs' impact on apprentice safety and welfare. One commenter expressed the view that the SRE recognition process was flawed because it did not provide for adequate input from industry experts, stakeholders, or members of the public in reviewing SRE applications and did not provide for their subsequent involvement in SRE recognition of IRAPs. The commenter noted that the 2020 IRAP final rule's processes for suspension or derecognition of an SRE are an ''inadequate remedy'' to protect apprentices who have spent their time and money on a poor-quality program. This commenter also expressed the view that allowing IRAPs to maintain their status for 1 year despite their SRE's derecognition further deprives apprentices of protection without recourse with the IRAP regardless of the quality of the program that the derecognized SRE recognized.

The Department generally agrees with the comment about the lack of effective industry and public involvement in the IRAP framework; such engagement can be instrumental to ensuring a high-quality apprenticeship system that is responsive to industry, employer, and worker needs. For example, as noted above, the apprenticeability process for RAPs under 29 CFR 29.4 is one instance in which interested stakeholders and industry are invited to share their expertise about the suitability of certain occupations for apprenticeship training. The Department also agrees that the 2020 IRAP final rule lacked protections for apprentices if SREs were suspended or derecognized, particularly by allowing IRAPs to maintain their status for 1 year after SRE derecognition without any additional protections for their apprentices.

Some commenters noted that the design of SRE–IRAP recognition in the 2020 IRAP final rule led to inherent conflicts of interest that would leave apprentices vulnerable. One commenter argued that SREs and IRAPs were incentivized to do only the bare minimum necessary to comply rather than seeking to satisfy higher standards and requirements. This commenter also expressed the view that there were inadequate safeguards against self-dealing between SREs and their affiliates and that SREs were responsible for policing their own conflicts of interest. This commenter expressed the belief that IRAPs' on-the-job training could lead to an apprentice being treated as an independent contractor and that the IRAP model fails to ensure participants are protected by ERISA. A commenter also asserted that SREs could not be impartial in their recognition of IRAPs because of the industry-driven nature of the 2020 IRAP final rule and wide flexibility in recognition of SREs and IRAPs.

The Department appreciates the commenters' concerns about these perceived deficiencies in the 2020 IRAP final rule. The Department generally agrees with the commenters that IRAPs provide insufficient protection for apprentices, as discussed in the NPRM and above. The Department also generally agrees that the 2020 IRAP final rule does not eliminate risks of conflicts of interest or apprentice misclassification. Nonetheless, the Department does not view the concerns raised about conflicts of interest or apprentice misclassification as additional bases for rescission of the 2020 IRAP final rule. With respect to conflicts of interest, the Department notes that it discussed conflicts of interest at length in the 2020 IRAP final rule and added specific provisions to increase transparency and mitigate against conflicts of interest during the SRE recognition process. See 85 FR 14309–14312, 14336–14339 (Mar. 11, 2020). Additionally, the apprenticeship agreement requirement in the 2020 IRAP final rule provides some protection against apprentice misclassification, though the Department acknowledges that it does not eliminate the risk of such misclassification. As discussed above, the Department does not view the apprenticeship agreement requirement in the 2020 IRAP final rule as sufficient to inform apprentices of the terms and conditions of their apprenticeship. Finally, ERISA requirements are binding on all employee benefit plans, and the

2020 IRAP final rule does not allow SREs or IRAPs that constitute such plans to circumvent ERISA's obligations. While the Department does not agree with these commenters' specific concerns as the bases for IRAP rescission, these features of the 2020 IRAP final rule do not overcome the deficiencies that have led the Department to rescind the 2020 IRAP final rule.

IV. The IRAP System Is Redundant of the Registered Apprenticeship System

In the 2021 IRAP Rescission NPRM, the Department asserted that a key premise justifying the establishment of the IRAP alternative framework—that the Registered Apprenticeship system is too inflexible and administratively burdensome to sufficiently accommodate the needs of both industry and workers—is contradicted by the notable gains made in the RAP model through such strategies as the Industry Intermediaries concept [23] and the AAI grants.[24]

Commenters in support of the Department's 2021 IRAP Rescission NPRM expressed concerns that the 2020 IRAP final rule would, over time, undermine the integrity of Registered Apprenticeship, create confusion, and generate unnecessary duplication. One commenter remarked that creating two distinct apprenticeship systems with different policies and regulations could lead to inconsistent training for apprentices, which would negatively impact their skills and marketability. The commenter also viewed the IRAP framework as devaluing apprenticeship. Another commenter echoed these concerns and asserted the establishment of a duplicative, parallel system, which is not responsive to employers or workers, would lead to confusion and disparate outcomes for apprentices. A number of commenters expressed concern that the IRAP model undermines investments in the proven RAP model and could disincentivize the creation of new apprenticeship programs.

The Department agrees with the concerns expressed by these commenters. The inherent confusion and redundancy created by parallel systems was a significant factor in the Department's proposal to rescind the 2020 IRAP final rule, as was the Department's concern about disparate outcomes resulting from a lack of uniformity across programs.

V. The Effect of the Department's Rescission of the 2020 IRAP Final Rule

For the reasons discussed above, the Department has determined that the IRAP model established in the 2020 IRAP final rule does not ensure access to high-quality job skills and training to American workers, nor does it adequately safeguard the welfare of apprentices. The Department has further concluded that because the IRAP system duplicates the Registered Apprenticeship system, though with less quality standards and oversight, continuing to operate the IRAP system is not a prudent use of Government resources and would diminish the quality and coherence of the Department's apprenticeship efforts.

In considering alternatives, the Department also has determined that amending, rather than rescinding, the 2020 IRAP final rule would not address these issues. As discussed in detail above, Registered Apprenticeship provides for apprentice safety and welfare and continues to nurture apprenticeship opportunities without sacrificing crucial requirements for quality or worker protections. Amending the 2020 IRAP final rule to align with the Department's goals and priorities so that the IRAP model possesses more of the qualities of Registered Apprenticeship, however, would simply recreate the RAP model with less oversight by the Department. Rather than administer two parallel programs, the Department can better utilize its resources and provide better service to the public by supporting and strengthening one robust apprenticeship system that has been designed to incorporate the needs of both industry and the workforce. The Department therefore has decided to adopt the NPRM as proposed.

As stated in the 2021 IRAP Rescission NPRM, the Department acknowledges this final rule does immediately affect current SREs, IRAPs, and the apprentices participating in IRAPs. The Department understands SREs devoted resources to developing their applications and the infrastructure necessary to operate effectively for a period of 5 years, and IRAPs and their apprentices may have been drawn to the program given the indication of approval from the Department. However, the impact of this rescission will be limited. Over the 9-month period between May 2020, when the 2020 IRAP final rule became effective, and February 2021, when the Department paused the consideration of SRE applications, the Department received a total of 45 SRE applications, including from two organizations that resubmitted applications. Of these applications, the Department ultimately recognized 27 SREs.[25] For FY 2021, covering the period of October 1, 2020, through September 30, 2021, 6 of the 27 recognized SREs recognized 178 IRAPs, which served 23,975 apprentices. A single SRE recognized the majority of the IRAPs (167).[26] The rescission of the 2020 IRAP final rule does not require that the SREs and the IRAPs they have recognized cease their operations; rather, this action only requires that these entities cease indicating that they are recognized by or associated with OA. The apprentices enrolled in the existing IRAPs can continue to receive training from the program uninterrupted. Alternatively, those apprenticeship programs can seek registration with a Registration Agency (either OA or a recognized SAA). Even if the IRAP does not seek such registration, those apprentices currently enrolled in an IRAP can seek to transfer into a RAP. In addition, IRAP apprentices moving into a RAP, either on their own or because their IRAP has been registered as a RAP with a Registration Agency, may qualify for

[23] Since 2016, the Department has launched funding opportunities for Industry Intermediaries to develop, promote, and expand the availability of and access to Registered Apprenticeships across the United States. See *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support* (last visited May 19, 2022). Through these investments, Industry Intermediaries have expanded Registered Apprenticeship into new industry sectors and occupations, worked with sponsors to ensure that diverse and underrepresented populations are connected to Registered Apprenticeship opportunities, and promoted Registered Apprenticeship as a workforce solution. An OA fact sheet highlighting the accomplishments these entities have made to accommodate the needs of workers and industry is available at *https://www.apprenticeship.gov/sites/default/files/Industry-and-Equity-Intermediary-Accomplishment-Fact-Sheet.pdf* (last visited May 19, 2022).

[24] In 2015, the Department launched the AAI to expand Registered Apprenticeship in the United States, particularly in high-growth and high-tech industries, such as healthcare, IT, and advanced manufacturing, as well as to populations traditionally underrepresented in apprenticeship, including women, people of color, and individuals with disabilities. Through AAI, AAI grantees have successfully expanded the RAP model into new industries and extended it to more diverse populations. For more information, see National Governors' Association Report, ''Registered Apprenticeship Reimagined: Lessons Learned from the American Apprenticeship Initiative,'' Nov. 9, 2020, available at *https://www.nga.org/center/publications/registered-apprenticeship-reimagined.*

[25] Applications received by the Department for SREs. Approved SREs published at *https://www.apprenticeship.gov/employers/industry-recognized-apprenticeship-program/approved-standards-recognition-entities* (last visited May 19, 2022).

[26] According to the IRAP Program and Performance Reporting System, as of September 30, 2021, of the 175 IRAPs approved, 167 were recognized by the same SRE. See *https://www.apprenticeship.gov/sites/default/files/SRE-FY21-performance-data.pdf* (last visited September 6, 2022).

advanced standing or credit in those RAPs. Moreover, as the 2020 IRAP final rule requires only basic compliance with existing federal, state, and local laws governing employees, and does not provide any further protections that would enhance the safety and welfare of apprentices, the Department believes that the issuance of this final rule will not adversely affect the existing rights and protections of IRAP apprentices impacted by this rescission.

Several commenters referred to the Department's acknowledgement that rescinding the 2020 IRAP final rule would affect current SREs, IRAPs, and any apprentices participating in IRAPs. Two commenters agreed with the Department's position that the overall impact of the rescission to SREs, IRAPs, and apprentices in IRAPs would be minimal based on the reported data. Of these comments, one commenter said the data suggest that IRAPs have not been widely adopted and therefore will not likely be effective or successful. One commenter presented an alternative view, suggesting that the number of recognized SREs and IRAPs since the issuance of the 2020 IRAP final rule is significant relative to the amount of time for which the rule has been effective. Another commenter remarked that the number of recognized SREs and IRAPs since the issuance of the 2020 IRAP final rule should not be understood as a lack of interest from the business community but rather as a reflection of the broader impact of the COVID–19 pandemic on industry.

The Department appreciates the comments supporting its analysis in the 2021 IRAP Rescission NPRM of the potential impact of the rescission of the 2020 IRAP final rule for SREs, IRAPs, and any apprentices participating in IRAPs. The Department acknowledges the comment suggesting the number of recognized SREs and IRAPs since the issuance of the 2020 IRAP final rule is significant relative to the amount of time for which the rule has been effective. As discussed below in Section VI.A.2, Economic Analysis of Executive Orders 12866 (Regulatory Planning and Review and 13563 (Improving Regulation and Regulatory Review), the Department notes that the actual number of recognized SREs and IRAPs is lower than anticipated in Economic Analysis of the 2020 IRAP final rule (85 FR 14357–14358, Mar. 11, 2020). However, regardless of the number of current SREs and IRAPs, the Department, for the reasons discussed above, has concluded that rescission of the IRAP regulation is appropriate. The rescission of the 2020 IRAP final rule does not require that the SREs and the IRAPs they have recognized cease their operations. This rescission only requires that these entities cease indicating that they are recognized by or associated with OA. Further, as stated above, there are multiple avenues for IRAPs to continue operation, either as independent apprenticeship programs or by seeking registration with OA, and for apprentices to receive training, either in their current program or in a RAP. Thus, the Department maintains that the impact of the rescission will be limited and outweighed by the benefits of rescission discussed above.

The Department also acknowledges that the COVID–19 pandemic had broad societal impacts, including on the business community, which may have had an impact on both RAPs and IRAPs. While the COVID–19 pandemic may have had a negative impact on IRAPs, as the commenter asserted, in contrast, despite the COVID–19 pandemic, FY 2021 represented the fourth-highest year of new RAP development over the past decade, with over 2,800 new RAPs developed.[27]

In the 2021 IRAP Rescission NPRM, the Department considered other options with respect to the currently recognized SREs or IRAPs, including a proposed ''sunset'' period during which SREs and IRAPs would operate for a set number of years before the Department ceased its recognition, and recasting IRAPs as Certified Work-Based Learning. The Department did not receive any specific comments on these two options. One commenter stated that returning to a single RAP model and ''[i]mmediate rescission of the [2020 IRAP final rule] is superior to any other alternative course of action.'' The commenter noted that, based on the reported data at the time of the NPRM, it was evident that private industry has rejected IRAPs as a vehicle for training workers. As such, the commenter asserted there are no disadvantages to rescinding the 2020 IRAP final rule now. The Department agrees that rescinding the 2020 IRAP final rule and immediate cessation of recognition for currently recognized SREs or IRAPs is appropriate in light of the concerns discussed above.

Transition to and Implementation of the Final Rule

In the 2021 IRAP Rescission NPRM, the Department sought comments on how to address the effects of the proposed immediate cessation of recognition on SREs, IRAPs, and apprentices in IRAPs, including comments on the alternatives considered, but ultimately not adopted, by the Department. One commenter suggested the Department continue to explore efforts to develop industry-driven apprenticeship programs and continue to establish and strengthen workforce development initiatives that partner with business. Another commenter recommended that the Department provide technical assistance to build the capacity of SREs and IRAPs to offer high-quality apprenticeships, even if they operate outside of the Registered Apprenticeship system.

The Department, as noted, is rescinding its recognition of SREs under this final rule; however, it continues to expand and further develop the Registered Apprenticeship system as a premier workforce development strategy. The Department appreciates the suggestions that it continue to develop workforce development initiatives that partner with business and industry, and it notes their integral role in the Registered Apprenticeship system. This final rule does not prevent IRAPs from continuing to offer a range of training options to job seekers. The Department is interested in continuing to promote more work-based learning strategies in its employment and training programs, with an increased emphasis on RAP models as a proven solution for both career seekers and business.

Additionally, the Department has provided and will continue to provide technical assistance and support to SREs or IRAPs that are interested in becoming program sponsors or intermediaries under the Registered Apprenticeship system. Similarly, as a component of the Department's technical assistance to SREs, the Department will provide SREs and IRAPs with information and resources the SREs can share with any apprentices in IRAPs who may seek placement in a RAP.

VI. Regulatory Analysis and Review

A. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) and Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996

Under E.O. 12866, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. See 58 FR 51735

[27] These figures reflect Registered Apprenticeship national results and are available at *https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021* (last visited September 6, 2022).

(Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal Governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* OIRA has determined that this final rule is an economically significant regulatory action under section 3(f) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA designated this rule as a ''major rule,'' as defined by 5 U.S.C. 804(2).

1. Public Comments

In the preliminary economic analysis in the 2021 IRAP Rescission NPRM, the Department invited written comments from the public concerning the potential number of SREs and IRAPs in the absence of the proposed rule and the removal of the February 17, 2021, suspension, as well as on possible alternatives to the proposed rule. Only one commenter submitted comments pertaining to the preliminary economic analysis. The commenter stated that the rescission of the 2020 IRAP final rule will result in cost savings in excess of those set forth in the proposed rule; in particular, savings will be realized when Government grant money that would otherwise go to ''ineffective IRAPs and SREs'' is better used by RAPs. The commenter stated that, if resources are used for RAPs instead of ''wasted on IRAPs,'' workers will be safer, better protected, and more justly compensated, plus society will benefit from a greater diversity of apprentices, a larger tax base, increased employee loyalty, higher productivity, and additional skilled labor that will help address labor market demands. The commenter suggested that the monetary value of those additional benefits should be factored into the cost analysis.

The Department appreciates the commenter's recognition of the benefits of RAPs to the U.S. economy and workforce. The Department agrees that supporting RAPs is a better use of grant funds than supporting IRAPs; accordingly, the Department has not issued grant funding specifically for IRAPs and does not plan to do so. The Department agrees that RAPs provide numerous benefits to apprentices, employers, taxpayers, and society, and that a quantification of these benefits would be ideal to include in the economic analysis. Due to data limitations, however, the Department cannot quantify the benefits listed by the commenter and has maintained a qualitative discussion in this final rule.

The same commenter stated that returning to a single RAP model is the best course of action and rescinding the 2020 IRAP final rule is superior to any alternative. The commenter anticipates that the cost of transferring current IRAP participants to RAPs will be minimal and will be offset by the increased benefits that will accrue to IRAP trainees when they become RAP apprentices. The Department agrees that rescinding the 2020 IRAP final rule is the best course of action.

2. Economic Analysis

E.O. 14016, ''Revocation of Executive Order 13801,'' instructed the Director of OMB and the heads of executive departments and agencies to ''promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing'' E.O. 13801. Accordingly, the Department identified for review the 2020 IRAP final rule. The Department is issuing this final rule because the Department has determined that a single apprenticeship system, namely, the Registered Apprenticeship system, will provide clearer messaging and more consistent outcomes than two parallel apprenticeship systems that likely would lead to disparate outcomes and incur duplicative costs.

In accordance with the regulatory analysis guidance articulated in OMB Circular A–4 and consistent with the Department's practices in previous rulemakings, this regulatory analysis focuses on the likely consequences of this final rule. The Department anticipates that this final rule will result in cost savings for SREs and IRAPs since they will no longer need to comply with the provisions of the 2020 IRAP final rule.

The Department has estimated the cost savings of this final rule relative to the existing baseline (*i.e.,* 27 SREs and 178 IRAPs). The analysis covers 10 years to ensure it captures the major cost savings that are likely to accrue over time. The Department expresses the quantifiable impacts in 2021 dollars and uses discount rates of 3 and 7 percent, pursuant to OMB Circular A–4. The Department also considered an alternative baseline in which the Department's February 17, 2021, suspension of consideration of SRE applications was temporary and would be removed. That analysis is discussed qualitatively in the Total Cost Savings section below.

a. Number of SREs, IRAPs, and Apprentices

To calculate the annual cost savings, the Department first needed to estimate the number of SREs, IRAPs, and apprentices over the 10-year analysis period. The Department used the number of SREs (27), the number of IRAPs (178), and the number of apprentices in IRAPs (23,975) as of September 30, 2021, for this analysis.

b. Compensation Rates

The compensation rates used to quantify the cost savings of this final rule are based on the compensation rates in the 2020 IRAP final rule. The Department updated the compensation rates with 2021 data. The Department anticipates that the bulk of the workload for private sector workers would have been performed by employees in occupations similar to those associated with the following Standard Occupational Classification (SOC) codes: SOC 11–3131 (Training and Development Managers) and SOC 43–0000 (Office and Administrative Support Occupations).

According to the U.S. Bureau of Labor Statistics (BLS), the mean hourly wage rate for Training and Development Managers in May 2021 was $61.92.[28] For this analysis, the Department used

[28] BLS, ''Occupational Employment and Wages, May 2021,'' *https://www.bls.gov/oes/current/oes113131.htm* (last updated March 31, 2022).

a fringe benefits rate of 45 percent [29] and an overhead rate of 54 percent,[30] resulting in a fully loaded hourly compensation rate for Training and Development Managers of $123.22 [= $61.92 + ($61.92 × 0.45) + ($61.92 × 0.54)].

According to BLS, the mean hourly wage rate for Office and Administrative Support Occupations in May 2021 was $20.88.[31] The Department used a fringe benefits rate of 45 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Office and Administrative Support Occupations of $41.55 [= $20.88 + ($20.88 × 0.45) + ($20.88 × 0.54)].

The Department estimated the compensation rate for a Program Analyst in OA using the midpoint (Step 5) for Grade 13 of the General Schedule (GS), which is $56.31 in the Washington, DC, locality area.[32] The Department used a fringe benefits rate of 69 percent [33] and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Program Analysts of $125.57 [= $56.31 + ($56.31 × 0.69) + ($56.31 × 0.54)].

c. Time Estimates

The hourly time burdens used to quantify the cost savings of this final rule are based on the Department's time estimates in the 2020 IRAP final rule. The following time burdens are annual estimates.

Cost Savings Components for SREs

- Notifying the Administrator of any major change to processes or programs: 10 hours (50 percent of SREs)
- Informing the Administrator of IRAP recognition, suspension, or derecognition: 30 minutes
- Provision of data or information to the Administrator: 2 hours (10 percent of SREs)
- Provision of written attestation to the Administrator: 10 minutes per IRAP
- Disclosure of the credentials that apprentices will earn: 30 minutes
- Quality control of IRAPs: 4 hours per IRAP
- Submission of performance data to the Administrator: 4 hours per IRAP
- Making publicly available IRAP performance data: 2 hours per IRAP
- Recordkeeping: 20 hours per IRAP

Cost Savings Components for IRAPs

- Submission of performance data to the SRE: 25 hours
- Preparation of written apprenticeship agreement: 10 minutes per apprentice

Cost Savings Components for the Federal Government

- Compliance assistance reviews of SREs: 10 hours per SRE (5 percent of SREs)
- Maintenance of online application form and internal review system: $125,000
- Maintenance of online resource for performance measures: $245,909
- Maintenance of online resource for list of SREs and IRAPs: $18,000

d. Total Cost Savings

Exhibit 1 shows the total estimated cost savings of the final rule over 10 years (2022–2031) at discount rates of 3 and 7 percent. The final rule is expected to have first-year cost savings of $1.8 million in 2021 dollars. Over the 10-year analysis period, the annualized cost savings are estimated at $1.8 million at a discount rate of 7 percent in 2021 dollars. In total, over the first 10 years, the final rule is estimated to result in cost savings of $12.9 million at a discount rate of 7 percent in 2021 dollars.

Exhibit 1: Estimated Cost Savings (2021 dollars)

	Cost Savings
First Year Total	$1,832,752
Annualized, 3% discount rate, 10 years	$1,832,752
Annualized, 7% discount rate, 10 years	$1,832,752
Total, 3% discount rate, 10 years	$15,633,750
Total, 7% discount rate, 10 years	$12,872,486

The Department also contemplated including an alternative baseline that assumed the Department's February 17, 2021, suspension of consideration of SRE applications would be removed. If the suspension were to be removed, there could be additional SREs and IRAPs in future years. OMB Circular A–4 defines a no action baseline as ''what the world will be like'' if the rule is not adopted. If the world did not include this rule, but included the removal of

[29] BLS, ''Employer Costs for Employee Compensation'' (ECEC), *https://www.bls.gov/ncs/data.htm* (last visited May 19, 2022). Wages and salaries averaged $27.22 per hour worked in 2021, while benefit costs averaged $12.24, which is a benefits rate of 45 percent.

[30] U.S. Department of Health and Human Services (HHS), ''Guidelines for Regulatory Impact Analysis,'' 2016, *https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf*. In its guidelines, HHS states, as ''an interim default, while HHS conducts more research, analysts should assume overhead costs (including benefits) are equal to 100 percent of pre-tax wages.'' HHS explains that 100 percent is roughly the midpoint between 46 and 150 percent, with 46 percent based on ECEC data that suggest benefits average 46 percent of wages and salaries, and 150 percent based on the private sector ''rule of thumb'' that fringe benefits plus overhead equal 150 percent of wages. To isolate the overhead costs from HHS's 100-percent assumption, the Department subtracted the 46-percent benefits rate that HHS references, resulting in an overhead rate of approximately 54 percent.

[31] BLS, ''Occupational Employment and Wages, May 2021,'' *https://www.bls.gov/oes/current/oes430000.htm* (last visited May 19, 2022).

[32] Office of Personnel Management, ''General Schedule (GS) Locality Pay Tables,'' *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf* (last visited May 19, 2022).

[33] Congressional Budget Office, ''Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015,'' Apr. 25, 2017, *https://www.cbo.gov/publication/52637*. The wages of Federal workers averaged $38.30 per hour over the study period, while the benefits averaged $26.50 per hour, which is a benefits rate of 69 percent.

the February 17, 2021, suspension as well as decision making by potential SREs in the manner anticipated in the 2020 IRAP final rule, it is possible that there would be more than 27 SREs and 178 IRAPs in each year of the analysis period. Given the potential temporary nature of the February 17, 2021, suspension, some members of the public may believe there will be an opportunity to participate in the program again in the absence of this rule. Under such a scenario, 27 SREs and 178 IRAPs may be only fractions of the numbers of SREs and IRAPs that would come into existence, and perhaps those numbers would continue to grow throughout the analysis period. As such, this rule would then prevent some of the eventual effects of the 2020 IRAP final rule.

The Department is unable, however, to provide a quantitative analysis of this alternative baseline. The Department does not have a way to accurately estimate the number of SREs or IRAPs that would be established in the absence of this rule and the removal of the February 17, 2021, suspension. Specifically, the Department is unable to estimate a reasonable growth rate for SREs over the analysis period or a realistic number of IRAPs per SRE each year. Without these two key data points, a quantitative analysis is not possible.

The Department believes that the numbers of SREs and IRAPs estimated in the 2020 IRAP final rule are not an appropriate source for quantifying an alternative baseline in this final rule. Over the 9-month period between May 2020, when the 2020 IRAP final rule became effective, and February 2021, when the Department paused the consideration of SRE applications, data indicate that participation was far lower than what was projected in the 2020 IRAP final rule. To begin with, the number of SRE applications was far fewer than the number anticipated in the 2020 IRAP final rule. For the 2020 IRAP final rule, the Department used the number of entities that submitted grant applications under the AAI grant program in FY 2016 as a guidepost for estimating the number of SRE applications. It now seems that this guidepost was unrealistic because millions of dollars were awarded to each successful AAI grant application whereas similar grant funds were not available to SREs. The lack of Federal funding may largely explain the low number of SREs (27) and IRAPs (178) compared to the numbers anticipated in the 2020 IRAP final rule (203 SREs and 2,030 IRAPs in Year 1).

While the estimated number of SRE applications in the 2020 IRAP final rule was based on the number of entities that submitted AAI grant applications, the estimated number of IRAPs was not based on a specific source of data because the IRAP system was a new concept in the United States. Accordingly, the Department does not have a guidepost to realistically estimate the number of IRAPs for an alternative baseline that assumes the absence of this rule and the removal of the February 17, 2021, suspension.

Without a reasonable way to estimate the number of SREs and IRAPs or to quantify the cost savings, benefits, and transfer payments, the Department acknowledges that this rule may have an annual effect on the economy of $100 million or more; therefore, this rule has been designated as an economically significant regulatory action under section 3(f) of E.O. 12866.

e. Nonquantifiable Effects

The Department is rescinding the 2020 IRAP final rule and, instead, refocusing its efforts on expanding, modernizing, strengthening, and diversifying the Registered Apprenticeship system. As explained in the previous sections, the Registered Apprenticeship system is highly successful for industry. Industries that have adopted RAPs have cited the standards, skillsets, and retention offered by skilled workers associated with RAPs as advantageous to their bottom line. In one survey, nearly three-fourths of surveyed employers stated that RAPs drove increased worker productivity.[34] A skilled workforce is foundational to a strong economy, and Registered Apprenticeship provides a proven avenue by which to deliver talent development to various industry sectors.

In addition to the demonstrated success of RAPs as a workforce training model for industry, RAPs have proven to be highly beneficial to workers because of their emphasis on high-quality training as well as apprentice safety and welfare. During training, apprentices are guaranteed wage increases, and research shows that RAP completers earn over $300,000 (including benefits) more over their lifetimes as compared with similar individuals who do not complete a RAP.[35]

The Registered Apprenticeship system has successfully been adopted across a diverse range of sectors, with significant growth in recent years. The expansion of the Registered Apprenticeship system into ''nontraditional'' sectors indicates that the IRAP model may be superfluous and not a good use of Government resources that could support the proven activities of the Registered Apprenticeship system.

3. Regulatory Alternatives

OMB Circular A–4 directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. Accordingly, the Department considered two regulatory alternatives. Under the first alternative, the Department would allow the SREs and any related IRAPs to operate with the Department's recognition for a transitional period not to exceed the previously approved 5-year period. As noted above, the approach of permitting the continued recognition of SREs and any related IRAPs would continue to temporarily retain a parallel system that does not ensure sufficient protections for apprentices, would diminish Departmental resources available for expansion of Registered Apprenticeship, and would generate confusion among both entities interested in establishing apprenticeship programs and the potential apprentices in such programs. This alternative would result in lower cost savings over the 10-year analysis period than the cost savings presented in Exhibit 1 because SREs and IRAPs would be obligated to follow the provisions of the 2020 IRAP final rule for a longer period of time. Therefore, the costs of the 2020 IRAP final rule would accumulate for a longer duration and the cost savings would be delayed.

Under the second alternative, the Department would recast IRAPs as Certified Work-Based Learning. The Department considers the most effective and efficient use of its resources is to oversee a national system of Registered Apprenticeship that is more protective of the welfare of apprentices and that

[34] Urban Institute Research Report, ''The Benefits and Challenges of Registered Apprenticeship: The Sponsors' Perspective,'' June 12, 2009, *https://www.urban.org/research/publication/benefits-and-challenges-registered-apprenticeship-sponsors-perspective.*

[35] See, *e.g.,* Mathematica Policy Research, ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States: Final Report,'' July 25, 2012, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf.* This report categorizes reduced payments of unemployment insurance, welfare, and food stamps as benefits (separate from productivity increases) associated with Registered Apprenticeship; however, for purposes of this E.O. 12866 analysis, adding these effects would constitute double-counting and they should instead be presented as an assessment of who, other than workers themselves, receives some portion of productivity benefits. Moreover, as noted earlier in this regulatory preamble, the report does not speak to the relative effects of RAPs and IRAPs.

has demonstrated its capacity to grow and adapt across a range of industries and sectors. Similarly, recasting IRAPs as a type of Certified Work-Based Learning would not address the concerns identified in the discussions above regarding an indirect and insufficient oversight role for the Department in IRAPs. This alternative would also result in lower cost savings over the 10-year analysis period than the cost savings presented in Exhibit 1 because SREs and IRAPs would incur costs under the revised program. The Department cannot estimate the costs without details about the provisions of such a program.

B. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

In accordance with the Regulatory Flexibility Act, 5 U.S.C. ch. 6 (as amended), the Department examined the regulatory requirements of this final rule to determine whether they will have a significant economic impact on a substantial number of small entities. As explained in the E.O. 12866 economic analysis above, this final rule is expected to lead to cost savings for IRAPs because these entities will no longer be required to comply with the provisions of the 2020 IRAP final rule. Cost savings for IRAPs will primarily arise from no longer needing to submit performance data to the SRE and no longer needing to prepare or sign a written apprenticeship agreement with each apprentice.

In the 2020 IRAP final rule, the Department estimated that it would take IRAPs approximately 25 hours per year to collect and provide the relevant performance data. To estimate the cost savings per IRAP under this final rule, the Department multiplied the number of IRAPs (178) by 25 hours and by the hourly compensation rate for Training and Development Managers ($123.22 per hour). In the 2020 IRAP final rule, the Department estimated that it would take IRAPs approximately 10 minutes per apprentice to prepare and sign a written apprenticeship agreement. To estimate the cost savings per IRAP under this final rule, the Department multiplied the number of apprentices (23,975) by 10 minutes and by the hourly compensation rate for Training and Development Managers ($123.22 per hour). In total, the first-year cost savings per IRAP is estimated at $5,516 at a discount rate of 7 percent. The annualized cost savings per IRAP is estimated at $5,902 at a discount rate of 7 percent.

As of September 30, 2021, the number of IRAPs recognized by SREs stood at 178. Of the 178 IRAPs, 167 are in the health care industry; specifically, the vast majority of the 167 IRAPs are associated with hospitals and medical centers. As shown in Exhibit 2, the first-year and annualized cost savings for IRAPs in the hospitals subsector are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

Exhibit 2: Hospitals (NAICS 622)

Small Business Size Standard: $8.0 million – $41.5 million

	Number of Firms*	Number of Firms as Percent of Small Firms in Industry	Total Number of Employees*	Annual Receipts*	Average Receipts per Firm	First Year Cost Savings per Firm with 7% Discounting	First Year Cost Savings per Firm as Percent of Receipts	Annualized Cost Savings per Firm with 7% Discounting	Annualized Cost Savings per Firm as Percent of Receipts
Firms with receipts below $100,000	23	1.6%	0	$0	$0	$5,516	N/A	$5,902	N/A
Firms with receipts of $100,000 to $499,999	35	2.4%	145	$8,838,000	$252,514	$5,516	2.2%	$5,902	2.3%
Firms with receipts of $500,000 to $999,999	20	1.4%	136	$14,654,000	$732,700	$5,516	0.8%	$5,902	0.8%
Firms with receipts of $1,000,000 to $2,499,999	19	1.3%	515	$30,189,000	$1,588,895	$5,516	0.3%	$5,902	0.4%
Firms with receipts of $2,500,000 to $4,999,999	65	4.4%	3,616	$251,405,000	$3,867,769	$5,516	0.1%	$5,902	0.2%
Firms with receipts of $5,000,000 to $7,499,999	100	6.8%	7,135	$598,696,000	$5,986,960	$5,516	0.1%	$5,902	0.1%
Firms with receipts of $7,500,000 to $9,999,999	125	8.5%	12,010	$1,076,343,000	$8,610,744	$5,516	0.1%	$5,902	0.1%
Firms with receipts of $10,000,000 to $14,999,999	218	14.8%	28,209	$2,599,739,000	$11,925,408	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $15,000,000 to $19,999,999	213	14.5%	36,660	$3,593,092,000	$16,868,977	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $20,000,000 to $24,999,999	171	11.6%	36,287	$3,640,858,000	$21,291,567	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $25,000,000 to $29,999,999	133	9.0%	31,171	$3,507,932,000	$26,375,429	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $30,000,000 to $34,999,999	120	8.2%	31,175	$3,675,365,000	$30,628,042	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $35,000,000 to $39,999,999	97	6.6%	30,001	$3,547,170,000	$36,568,763	$5,516	0.0%	$5,902	0.0%
Firms with receipts of $40,000,000 to $49,999,999	132	9.0%	48,369	$5,577,594,000	$42,254,500	$5,516	0.0%	$5,902	0.0%

* Source: U.S. Census Bureau, Statistics of U.S. Businesses, https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html.

Similarly, the final rule will result in cost savings for SREs. The cost savings will arise from SREs no longer needing to perform the activities listed in the E.O. 12866 economic analysis above: notifying the Administrator of any major change to processes or programs; informing the Administrator of IRAP recognition, suspension, or derecognition; provision of data or information to the Administrator; provision of written attestation to the Administrator; disclosure of the credentials that apprentices will earn; quality control of IRAPs; submission of performance data to the Administrator; making publicly available IRAP performance data; and recordkeeping. The first-year cost savings per SRE is estimated at $13,555 at a discount rate of 7 percent. The annualized cost savings per SRE is estimated at $14,504 at a discount rate of 7 percent.

The Department has recognized 27 SREs. Only 6 of the 27 SREs have recognized IRAPs, and of those 6 SREs, 1 has 99.2 percent of all apprentices in IRAPs (23,781 out of 23,975 apprentices). This particular SRE is unlikely to be considered a small entity based on its annual revenue,[36] which exceeds the Small Business Administration's Small Business Size Standard of $20.5 million for professional organizations (North American Industry Classification System code 813920).[37]

[36] IRS Form 990 filing data available from the Internal Revenue Service, ''Tax Exempt Organization Search,'' *https://apps.irs.gov/app/eos* (last visited May 19, 2022).

[37] U.S. Small Business Administration, ''Table of Small Business Size Standards,'' *https://www.sba.gov/document/support-table-size-standards* (last updated May 2, 2022).

Accordingly, the Department certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Moreover, any economic impact experienced by IRAPs or SREs will be cost savings.

C. Paperwork Reduction Act

As explained in the ''Background'' section above, the Department is rescinding subpart B, ''Standards Recognition Entities of Industry-Recognized Apprenticeship Programs,'' from 29 CFR part 29, the regulatory framework for the Department's recognition of SREs and SREs' role in recognizing IRAPs.

As part of the implementation and rollout of the 2020 IRAP final rule, the Department developed and received OMB approval for two information collections (ICs), an application form and a performance report. The first active IC is entitled ''Industry-Recognized Apprenticeship Program Standards Recognition Entity Regulation and Application'' (OMB Control Number 1205–0536) and includes an annual approved burden of 141,819 responses and 285,310 hours. The second active IC is entitled ''IRAP Program and Performance Report for Standards Recognition Entities'' (OMB Control Number 1205–0545) and includes an annual approved burden of 12,447 responses and 111,118 hours. This rule does not result in any additional cost burden for either IC.

Because this final rule rescinds subpart B, which is the authority for these information collections, the Department will no longer use the ''Industry-Recognized Apprenticeship Program Standards Recognition Entity Regulation and Application'' IC and the ''IRAP Program and Performance Report for Standards Recognition Entities'' IC.

The Department has submitted requests to discontinue both OMB Control Number 1205–0536 and OMB Control Number 1205–0545, eliminating all paperwork burden associated with the ICs. These ICs will discontinue upon the effective date of this final rule.

D. Executive Order 13132: Federalism

This final rule does not have federalism implications because it does 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. Accordingly, E.O. 13132, Federalism, requires no further agency action or analysis.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532, requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed agency rule that may result in $100 million or more in expenditures (adjusted annually for inflation) in any one year by State, local, and tribal Governments, in the aggregate, or by the private sector.

This final rule does not exceed the $100-million expenditure in any one year when adjusted for inflation, and this rulemaking does not contain such a mandate. The requirements of title II of UMRA, therefore, do not apply, and the Department has not prepared a statement under the Act.

F. Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed this final rule in accordance with E.O. 13175 and has determined that it does not have tribal implications. The final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 29 CFR Part 29

Apprenticeability criteria, Apprentice agreements and complaints, Apprenticeship programs, Program standards, Registration and deregistration, Sponsor eligibility, State Apprenticeship Agency recognition and derecognition.

For the reasons stated in the preamble, the Department amends 29 CFR part 29 as follows:

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

■ 1. The authority citation for part 29 is revised to read as follows:

Authority: 29 U.S.C. 50; 40 U.S.C. 3145; 5 U.S.C. 301; 5 U.S.C. App. P. 534.

■ 2. Remove the subpart A heading.

■ 3. Amend § 29.1 by:

■ a. Revising the section heading; and

■ b. In paragraph (b), removing the word ''subpart'' and adding the word ''part'' in its place.

The revision reads as follows:

§ 29.1 Purpose and scope.

* * * * *

§ 29.2 [Amended]

■ 4. Amend § 29.2 by:

■ a. In the introductory text, removing the word ''subpart'' and adding the word ''part'' in its place;

■ b. In the definitions of ''Apprenticeship program'' and ''Registration agency'', removing the citation ''29 CFR part 29 subpart A, and part 30'' and adding the citation ''this part and 29 CFR part 30'' in its place; and

■ c. In the definition of ''Technical assistance'', removing the word ''subpart'' and adding the word ''part'' in its place.

§ 29.3 [Amended]

■ 5. In § 29.3 amend paragraphs (b)(1), (g) introductory text, and (h) by removing word ''subpart'' and add in its place the word ''part''.

§ 29.6 [Amended]

■ 6. In § 29.6 amend paragraph (b)(2) by removing word ''subpart'' and add in its place the word ''part''.

§ 29.10 [Amended]

■ 7. In § 29.10 amend paragraph (a)(2) by removing word ''subpart'' and add in its place the word ''part''.

§ 29.11 [Amended]

■ 8. In § 29.11 amend the introductory text removing word ''subpart'' and add in its place the word ''part''.

§ 29.13 [Amended]

■ 9. Amend § 29.13 by:

■ a. In paragraph (a)(1), removing the citation ''29 CFR part 29 subpart A, and part 30'' and adding the citation ''this part and 29 CFR part 30'' in its place;

■ b. In paragraph (b)(1), removing the citation ''29 CFR part 29 subpart A'' and adding ''this part'' in its place;

■ c. In paragraphs (c) and (e) introductory text, removing the word ''subpart'' and adding the word ''part'' in its place; and

■ d. In paragraph (e)(4), removing the citation ''part 29 subpart A'' and adding ''this part'' in its place.

§ 29.14 [Amended]

■ 10. Amend § 29.14 by:

■ a. In the introductory text, removing the citation ''part 29 subpart A, and part 30'' and adding the citation ''this part and 29 CFR part 30'' in its place; and

■ b. In paragraphs (e)(1) and (i), removing the word ''subpart'' and adding the word ''part'' in its place.

Subpart B—[Removed]

■ 11. Remove subpart B, consisting of §§ 29.20 through 29.31.

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–20560 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–FR–P

Proposed Rules

Federal Register
Vol. 87, No. 185
Monday, September 26, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1234; Project Identifier MCAI–2022–00289–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2013–05–13, which applies to certain Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–710 series turbofan engines. AD 2013–05–13 requires replacing the affected fuel pump splined couplings. Since the FAA issued AD 2013–05–13, the manufacturer has revised the time limits manual (TLM), introducing new and more restrictive instructions, including the replacement of the fuel pump splined coupling. This proposed AD would expand the applicability by adding a model turbofan engine to the applicability and would also require revisions to the airworthiness limitations section (ALS) of the operator's existing approved aircraft maintenance program (AMP), as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 10, 2022.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1234; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material identified in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Sungmo Cho, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7241; email: *Sungmo.D.Cho@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1234; Project Identifier MCAI–2022–00289–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Sungmo Cho, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2013–05–13, Amendment 39–17385 (78 FR 17080, March 20, 2013), (AD 2013–05–13), for certain RRD BR700–710 series turbofan engines. AD 2013–05–13 was prompted by service experience that demonstrated premature wear of the splined coupling on the fuel pump. AD 2013–05–13 requires replacing the fuel pump splined coupling and prohibits the installation of a fuel pump with an affected splined coupling that has accumulated 4,000 hours time-in-service. The FAA issued AD 2013–05–13 to prevent failure of the engine and loss of the airplane.

Actions Since AD 2013–05–13 Was Issued

Since the FAA issued AD 2013–05–13, EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD 2012–0161R1,

dated September 19, 2014 (EASA AD 2012–0161R1), which revises EASA AD 2012–0161, dated August 24, 2012. EASA subsequently issued EASA AD 2022–0033, dated March 03, 2022 (EASA AD 2022–0033), which supersedes EASA AD 2012–161R1. EASA AD 2022–0033 provides that since the certification of the BR700–710 engines, several changes have been made to the TLM by the manufacturer, introducing new and more restrictive instructions, including the replacement of the fuel pump splined coupling. EASA AD 2022–0033 expands the applicability to include BR700–710D5–21 model turbofan engines and specifies accomplishing the actions in the TLM.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1234.

Related Material Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0033, which describes actions for operators to revise the ALS of their existing approved AMP in accordance with the manufacturer's revised TLM, as applicable to each engine model. EASA AD 2022–0033 also describes actions for performing inspections, replacing life limited parts, and performing corrective actions for any finding of discrepancy as referenced in the TLM.

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 **ADDRESSES**.

Other Related Service Information

The FAA also reviewed RRD Non-Modification Service Bulletin (NMSB) BR700–72–A900509, Revision 5, dated March 07, 2022. This service information revises previous versions of this NMSB because the specified procedures have been incorporated into the applicable TLM.

The FAA also reviewed Rolls-Royce TLM T–710–1BR, Revision 70, for engine model BR700–710A1–10; TLM T–710–2BR, Revision 67, for engine model BR700–710A2–20; TLM T–710–4BR, Revision 40, for engine model BR700–710C4–11 (each dated October 13, 2021); and TLM T–710–8BR, Revision 18, for engine model BR700–710D5–21 (undated). This service information specifies thresholds for certain standard equipment; critical, sensitive, and unclassified parts; and life limited parts. This service information also specifies the replacement threshold for the fuel pump vespel coupling (fuel pump splined coupling).

FAA's Determination

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain none of the requirements of AD 2013–05–13. This proposed AD would expand the applicability to include BR700–710D5–21 model turbofan engines. This proposed AD would require accomplishing the actions specified in EASA AD 2022–0033, described previously, as incorporated by reference, except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Differences Between This Proposed AD and the EASA AD

Where EASA AD 2022–0033 defines the AMP as the approved Aircraft Maintenance Programme on the basis of which the operator or the owner ensures the continuing airworthiness of each operated engine, this proposed AD defines the AMP as the Aircraft Maintenance Program on the basis of which the operator or the owner ensures the continuing airworthiness of each operated airplane.

This proposed AD would not require compliance with paragraphs (1.2), (2), (4), or (5) of EASA AD 2022–0033.

EASA AD 2022–0033 requires revising the approved AMP within 12 months after its effective date, whereas this proposed AD would require incorporating the actions and associated thresholds and intervals, including life limits and maintenance tasks, into the existing approved maintenance or inspection program, as applicable, within 30 days of the initial replacement of the fuel pump splined coupling or within 90 days after the effective date of this proposed AD, whichever comes later.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 2,050 engines installed on airplanes of U.S. Registry. The FAA estimates that 1,350 engines installed on airplanes of U.S. Registry have already performed the initial replacement of the fuel pump splined coupling.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Initial Replacement of the fuel pump splined coupling.	6 work-hours × $85.00 per hour = $510	$2,273	$2,783	$1,948,100
Revise the ALS and the operator's existing approved AMP.	2 work-hours × $85.00 per hour = $170	0	170	348,500

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order

13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2013–05–13, Amendment 39–17385 (78 FR 17080, March 20, 2013); and

■ b. Adding the following new airworthiness directive:

Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Docket No. FAA–2022–1234; Project Identifier MCAI–2022–00289–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by November 10, 2022.

(b) Affected ADs

This AD replaces AD 2013–05–13, Amendment 39–17385 (78 FR 17080, March 20, 2013) (AD 2013–05–13).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG BR700–710A1–10, BR700–710A2–20, BR700–710C4–11, and BR700–710D5–21 model turbofan engines as identified in European Union Aviation Safety Agency (EASA) AD 2022–0033, dated March 03, 2022 (EASA AD 2022–0033).

(d) Subject

Joint Aircraft Service Component (JASC) Code 8300, Accessory Gearboxes.

(e) Unsafe Condition

This AD was prompted by service experience that demonstrated premature wear of the splined coupling on the fuel pump and subsequent manufacturer revision of the time limits manual (TLM) to incorporate revised life limits and updated mandatory inspection intervals, including replacement of the fuel pump splined coupling. The FAA is issuing this AD to prevent failure of the engine. The unsafe condition, if not addressed, could result in failure of the engine and loss of the airplane.

(f) Compliance

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

(g) Required Action

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, EASA AD 2022–0033.

(h) Exceptions to EASA AD 2022–0033

(1) Where EASA AD 2022–0033 defines the AMP as the approved Aircraft Maintenance Programme on the basis of which the operator or the owner ensures the continuing airworthiness of each operated engine, this AD defines the AMP as the Aircraft Maintenance Program on the basis of which the operator or the owner ensures the continuing airworthiness of each operated airplane.

(2) Where EASA AD 2022–0033 refers to the effective date of EASA AD 2022–0033, this AD requires using the effective date of this AD.

(3) This AD does not require compliance with paragraph (1.2) of EASA AD 2022–0033.

(4) This AD does not require compliance with paragraph (2) of EASA AD 2022–0033.

(5) Where paragraph (3) of EASA AD 2022–0033 specifies revising the approved AMP within 12 months after its effective date, this AD requires incorporating the actions and associated thresholds and intervals, including life limits and maintenance tasks, into the existing approved maintenance or inspection program, as applicable, within 30 days of the initial replacement of the fuel pump splined coupling or within 90 days after the effective date of this AD, whichever comes later.

(6) This AD does not require compliance with paragraph (4) of EASA AD 2022–0033.

(7) This AD does not require compliance with paragraph (5) of EASA AD 2022–0033.

(8) The ''Remarks'' section of EASA AD 2022–0033 is not incorporated by reference in this AD.

(i) Provisions for Alternative Actions, Thresholds, and Intervals, Including Life Limits

After performing the actions required by paragraph (g) of this AD, no alternative actions and associated thresholds and intervals, including life limits, are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0033.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(2) of this AD and email to: *ANE-AD-AMOC@faa.gov.*

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

(k) Additional Information

(1) Refer to EASA AD 2022–0033, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1234.

(2) For more information about this AD, contact Sungmo Cho, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7241; email: *Sungmo.D.Cho@faa.gov*.

(3) For service information identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; website: *rolls-royce.com/contact-us.aspx.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material 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) European Union Aviation Safety Agency AD 2022–0033, dated March 03, 2022.

(ii) Reserved.

(3) For EASA AD 2022–0033, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu*.

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

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

Issued on September 21, 2022.

Christina Underwood,

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

[FR Doc. 2022–20748 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2022–0689]

RIN 1625–AA09

Drawbridge Operation Regulation; Grand River, Grand Haven, MI

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan. This proposed temporary modification will allow contractors to perform maintenance to the mechanical and electrical systems of the bridge during the winter navigation season. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before November 25, 2022. The Coast Guard anticipates that this proposed rule will be effective from November 1, 2022, through May 26, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0689 using Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum based on IGLD85
MDOT Michigan Department of Transportation
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The MDOT, who owns and operates U.S. Route 31 Bridge, over the Grand River, at Grand Haven, Michigan, has requested this modification to facilitate maintenance of the drawbridge. This proposed rule is necessary to facilitate safe and effective bridge maintenance of the drawbridge, while providing for the reasonable needs of navigation.

The U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan, provides a horizontal clearance of 155 feet and a vertical clearance in the closed position of 25 feet above LWD and an unlimited clearance in the open position. The U.S. Route 31 Bridge, mile 2.89, over the Grand River operates under 33 CFR 117.633 providing one opening every hour from March 16 through December 14. From December 15 through March 15, the bridge opens on signal if a 12-hour advance notice is provided.

The Grand River is used primarily by recreational vessels. There is a stone loading facility at approximate mile 2.26 but they have not received barges in several years. During the winter, the ice in the Grand River prevents recreational vessels from navigating the Grand River safely.

III. Discussion of Proposed Rule

Originally, MDOT requested a deviation September 6, 2022, through October 30, 2022. Under the original plan, the bridge contractor would complete repairs with one leaf open and the other leaf closed, allowing recreational vessels to pass through the bridge between September 6, 2022, through October 30, 2022. Pursuant to this request, the Coast Guard issued a letter of deviation.

MDOT is now requesting additional maintenance time. Specifically, MDOT is requesting to secure the bridge to masted navigation from November 1, 2022, through April 30, 2023, and to secure one leaf to masted navigation, allowing the other leaf to operate normally, from May 1, 2023, through May 26, 2023. At any time, vessels that can safely pass under the bridge without an opening may do so at any time. MDOT's amended request comes at the request of its contractors, who believe the additional time is necessary to complete all necessary maintenance on the bridge.

Adding the November to May work will expand the proposed project beyond 180 days, triggering the need for a rule making process.

Ice formations in the Grand River from December to April prevent safe navigation of recreational vessel traffic through the bridge; commercial vessel traffic has not visited past the U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan, in several years. All recreational vessels that normally pass through the bridge can safely pass with one leaf open.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders.

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 NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

The bridge will be secured to masted navigation during times when ice formation in the river generally prevents safe navigation to recreational vessels. The maintenance in the late fall will accommodate all vessels with one-leaf operations and has been advertised in the Local Notice to Mariners and distributed by email to over 300 Great Lakes waterway users for over 10 months without comment.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

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–2022–0689 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 your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

To view documents mentioned in this proposed 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 proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published of any posting or updates to the docket.

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 in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.633, add paragraph (d) to read as follows:

§ 117.633 Grand River.

* * * * *

(d) The U.S. Route 31 Bridge, mile 2.89, over the Grand River: from November 1, 2022, through April 30, 2023, both leaves will be secured to masted navigation and from May 1, 2023, through May 26, 2023, one leaf will be secured to masted navigation and the other leaf will operate normally. Vessels that can safely pass under the bridge without an opening may do so at any time.

M.J. Johnston,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2022–20776 Filed 9–23–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2022–0515; FRL–10220–01–R1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; 111(d)/129 Revised State Plan for Large Municipal Waste Combustors and State Plan for Small Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Clean Air Act (CAA) State Plan for Municipal Waste Combustor (MWC) units submitted by the Maine Department of Environmental Protection (Maine DEP). This submission includes revisions to Maine's previously-approved State Plan for existing Large MWCs in response to amended emission guidelines (EGs) for Large MWCs. This submission also includes a State Plan for existing Small MWCs. Maine DEP's State Plans for Large and Small MWCs implement and enforce provisions at least as protective as the EGs applicable to these subcategories of solid waste incinerators. This action is being taken in accordance with the CAA.

DATES: Written comments must be received on or before October 26, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2022–0515 at *https://www.regulations.gov,* or via email to *wong.shutsu@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Shutsu Wong, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail Code 05–2), Boston, MA 02109–3912, tel. 617–918–1078, email *wong.shutsu@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What is a state plan?

Section 111(d) of the CAA requires that pollutants controlled under new source performance standards (NSPS) also be controlled at existing sources in the same source category. Once an NSPS is issued, EPA then publishes emission guidelines (EGs) applicable to the control of the same pollutant for existing (designated) facilities. States with designated facilities must develop state plans to adopt the EGs into their body of regulations. States must also include in their state plans other elements, such as legal authority, inventories, and public participation documentation to demonstrate their ability to enforce the state plans.

II. Why does EPA need to approve state plans?

Section 129(b)(2) of the CAA requires states to submit state plans to EPA for approval. Each state must show that its state plan will carry out and enforce the EGs. State plans must be at least as protective as the EGs and will become federally enforceable upon EPA's approval. The procedures for adopting and submitting state plans are in 40 CFR part 60, subpart B.

III. What history does Maine DEP have with MWC state plans?

A. Large MWCs

On April 15, 1998, the Maine DEP submitted a Section 111(d)/129 State Plan for implementing and enforcing EGs for existing Large MWCs with capacity to combust more than 250 tons per day (TPD) of municipal solid waste (MSW) pursuant to 40 CFR part 60, subpart Cb and Eb, respectively. On December 11, 1998, EPA approved this State Plan (63 FR 68394).

On December 21, 2007, Maine DEP submitted a revised State Plan for Large MWCs. This State Plan incorporated revisions made by EPA to 40 CFR part 60, subpart Cb and Eb in 2006. This State Plan did not receive final EPA approval. In 2019, further amendments and updates were made to align the state's rules with Federal requirements, and Maine DEP submitted the revised State Plan to EPA on December 24, 2019.

B. Small MWCs

Maine's December 21, 2007 submittal to EPA containing revisions to its State Plan for Large MWCs also contained necessary elements for a State Plan for Small MWCs. This 2007 submittal did not receive final EPA approval. In 2019, amendments and updates were made to align the state's rules with Federal requirements, and Maine DEP submitted the State Plan to EPA on December 24, 2019.

IV. Why did Maine DEP revise the Large MWC state plan?

Section 129(a)(5) of the CAA requires EPA to conduct a 5-year review of NSPS and EGs for solid waste incinerators and to amend standards and requirements as appropriate. Accordingly, EPA promulgated amended standards and requirements for Large MWCs on May 10, 2006 (71 FR 27324). This rulemaking included revised limits for dioxin/furan

(only for units equipped with electrostatic precipitators), mercury, cadmium, lead, particulate matter, and nitrogen oxides (for some types of units). It also contained revisions to the compliance testing provisions to require increased data availability from continuous emissions monitoring systems (CEMS). CEMS are required to generate at least ninety-five percent (95%) data availability on a calendar year basis and at least ninety percent (90%) data availability on a calendar quarter basis. The compliance testing provisions have also been revised to allow the optional use of CEMS to monitor particulate matter and mercury. Other revisions include:

- Operator stand-in provisions to clarify how long a shift supervisor is allowed to be off site when a provisionally certified control room operator is standing in;
- An eight-hour block average for measuring activated carbon injection rate;
- A provision for waiver of operating parameter limits during the mercury performance test and for two weeks preceding the test, as is already allowed for dioxin testing;
- A revision to relative accuracy criteria for sulfur dioxide and carbon monoxide CEMS;
- Flexibility to the annual compliance testing schedule so that a facility tests once per calendar year, but no less than nine months and no more than 15 months since the previous test;
- Allowing use of parametric monitoring limits from an exceptionally well-operated MWC unit to be applied to all identical units at the same plant site without retesting for dioxin;
- The option of monitoring the activated carbon injection pressure or equivalent parameter; and
- Clarifying the exclusion of monitoring data from compliance calculations.

In response to the amended EGs, Maine DEP made two revisions to the 06–096 Code of Maine Regulations (CMR) Chapter 121, entitled ''Emission Limitations and Emission Testing of Resource Recovery Facilities,'' effective on November 14, 2007 and September 14, 2019, respectively. The provisions for new Large MWCs covered in 06–096 CMR Chapter 121, Section 6., entitled ''Large Municipal Waste Combustor Units Subject to 40 CFR part 60, subpart Eb'' were excluded from the State Plan.

V. Why did Maine DEP submit a Small MWC state plan?

The EPA originally promulgated the EGs for large and Small MWCs on December 19, 1995. In 1997, the United States Court of Appeals for the District of Columbia Circuit vacated the initial MWC unit rules, subparts Cb and Eb as they apply to MWC units with a capacity to combust less than or equal to 250 TPD of MSW (*i.e.,* Small MWCs). As a result, subparts Cb and Eb were amended to apply only to MWC units with the capacity to combust more than 250 TPD of MSW per unit (*i.e.,* Large MWCs). In response to the court's decision, on December 6, 2000, EPA promulgated an NSPS applicable to new Small MWCs (*i.e.,* capacities of 35 to 250 TPD), an EGs applicable to existing (*i.e.,* construction commenced on or before August 30, 1999) Small MWCs. The NSPS and EGs are codified at 40 CFR part 60, subparts AAAA and BBBB, respectively (65 FR 76350 and 76378). The Small MWC rule regulates the following air pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

As required by Section 129(b)(3) of the Act, on January 31, 2003 EPA promulgated a Federal Plan (FP) for small MWCs that commenced construction on or before August 30, 1999. The FP is a set of maximum available control technology (MACT) requirements that implement the EG. It is applicable to those small, existing MWC units not specifically covered by an approved State Plan under sections 111(d) and 129 of the CAA. In addition, it fills a Federal enforceability gap until State Plans are approved and ensures that the MWC units stayed on track to complete, in an expeditious manner, pollution control equipment retrofits in order to meet the final compliance dates on or before of May 6, 2005.

Maine DEP revised the 06–096 CMR Chapter 121, entitled ''Emission Limitations and Emission Testing of Resource Recovery Facilities'' in 2007 and 2019 to regulate existing Small MWCs currently covered by the FP. Maine's State Plan submission seeks Federal approval such that the FP will no longer apply to existing Small MWCs in Maine, and Maine will implement and enforce the State Plan in lieu of the FP. This State Plan incorporates the requirements in 40 CFR part 60, subparts B and BBBB.

VI. Review of Maine DEP's State Plan

A. State Plan Elements Applicable to Large and Small MWCs

State Plans must include the following essential elements: (1) identification of legal authority, (2) identification of mechanism for implementation, (3) inventory of affected facilities, (4) emissions inventory, (5) emissions limits, (6) compliance schedules, (7) testing, monitoring, recordkeeping, and reporting, (8) public hearing records, and (9) annual state progress reports on facility compliance.

Maine DEP has demonstrated the state's legal authority to carry out the 111(d)/129 State Plan under state statutes of 38 Maine Revised Statutes sections 585 ''Establishment of emission standards,'' 585–B ''Hazardous air pollutant standards,'' and 590 ''Licensing.''

Maine's enforceable mechanisms for implementing the State Plan are 06–096 CMR Chapter 121, ''Emission Limitations and Emission Testing of Resource Recovery Facilities'' and Chapter 140, Part 70 ''Air Emission License Regulations.''

Maine DEP's State Plan provides an updated inventory of affected MWC facilities. Penobscot Energy Recovery Company, Limited Partnership, and ecomaine (formerly Regional Waste Systems, Inc.) are Large MWCs, and Mid-Maine Waste Action Corporation is a Small MWC. Two facilities have shut down, Maine Energy Recovery Company Limited Partnership and Northern Aroostook Regional Incinerator Facility (NARIF).[1] An inventory of the emissions from the affected sources has been provided as part of the State Plan.

Emissions limits, compliance schedules, testing, monitoring, recordkeeping, and reporting are established in the State Plan and apply to sources based on the size of the facility and the date of construction; the following Sections VII. B. and C. review the revisions to 06–096 CMR Chapter 121 that are at least as stringent as the Federal EGs. Note that the State Plan also provides the license limits for each of the identified sources; some license limits are more stringent that the emissions limitations established 06–096 CMR Chapter 121.

Maine DEP's State Plan includes public hearing records and a commitment to submit annual state progress reports on facility compliance to EPA.

[1] NARIF was included in Maine DEP's inventory of sources, but the facility ceased operations in March 1991 pursuant to a consent decree with EPA, and the facility was never subject to Federal MWC standards.

B. Revised Requirements for Large MWCs Constructed on or Before September 20, 1994 in 06–096 CMR Chapter 121

1. Emissions Limits

Emissions limits are established in 06–096 CMR Chapter 121 and incorporate limits by reference from 40 CFR part 60, subpart Cb except for where the state has more stringent standards. The State Plan has more stringent standards for mercury, sulfur dioxide and dioxans/furans.

2. Operating Practices

The State Plan requires affected sources to follow the operating practices specified in 40 CFR part 60, subpart Eb.

3. Operator Training

The State Plan requires operator training and certification as established under 40 CFR part 60, subpart Eb and according to the schedule specified in 40 CFR part 60, subpart Cb.

4. Compliance and Performance Testing Requirements

Compliance and performance testing requirements are incorporated by reference from 40 CFR part 60, subpart Eb except as provided for under 40 CFR part 60, subpart B. In addition, the State Plan establishes procedures for common stack testing, requirements for alternative performance testing schedule for dioxins/furans in certain conditions, requirements for initial performance testing, and requirements for emissions testing for arsenic, nickel, chromium and beryllium. Testing for arsenic, nickel, chromium and beryllium is not required by the Federal EGs.

5. Reporting, Recordkeeping and Compliance Schedules

The State Plan requires affected facilities to report to Maine DEP facility operating status and facility process data, pollutant emission data, combustion process data, and summary emission limitations as established by license conditions.

The State Plan requires emission test reports and recordkeeping to meet the requirements set forth in 40 CFR part A, except for the siting requirements under 40 CFR part 60, subpart Eb. In addition, the State Plan also establishes requirements for reporting to Maine DEP.

The State Plan incorporates by reference the compliance schedule specified in 40 CFR part 60, subpart Cb and establishes licensing requirements for affected sources.

C. Requirements for Small MWCs Established in 06–096 CMR Chapter 121

1. Emissions Limits

Emission limits are incorporated by reference from 40 CFR part 60, subpart BBBB. The State Plan has more stringent standards for particulate matter, cadmium, lead, mercury, nitrogen oxides, dioxins/furans, sulfur dioxide, hydrogen chloride and carbon monoxide.

2. Operating Practices

The State Plan requires affected sources to follow the operating practices specified in 40 CFR part 60, subpart BBBB.

3. Operator Training

The State Plan requires operator training and certification as established under 40 CFR part 60, subpart BBBB.

4. Compliance and Performance Testing

The State Plan establishes requirements for owners and operators to prepare and submit a performance testing plan for approval by Maine DEP prior to facility start up. The State Plan establishes an emission testing schedule and a process to request an alternative testing schedule. The State Plan references EPA Methods from 40 CFR part 60, Appendix A to establish requirements for emission testing of oxygen (or carbon dioxide), hydrogen chloride, particulate matter, metals and fugitive emissions. The State Plan requires all affected facilities to install and operate instruments for continuous emissions monitoring for carbon monoxide, sulfur dioxide and opacity and specifies requirements for compliance demonstration and instrumentation, including reference to 40 CFR part 60, Appendices B and F.

5. Reporting and Recordkeeping

The State Plan requires affected facilities to report to Maine DEP facility operating status and facility process data, pollutant emission data, combustion process data, and summary emission limitations as established by license conditions. The State Plan also establishes reporting requirements for exceedances, maintenance of records and submission of reports to Maine DEP.

VII. Why is EPA proposing to approve Maine DEP's State Plans for Large and Small MWCs?

EPA has evaluated the revised State Plan for existing Large MWCs and the initial State Plan for existing Small MWCs submitted by Maine DEP for consistency with the Act, the May 2006 EGs for Large MWCs, the December 2000 EGs for Small MWCs and EPA guidelines and policy. EPA has determined that Maine DEP's State Plan that was submitted on December 24, 2019 meets all requirements and, therefore, EPA is proposing to approve MassDEP's Plan to implement and enforce the EGs, as they apply to existing Large and Small MWCs. Upon the effective date of this notice, the Federal Plan will no longer apply to existing Small MWCs in Maine and Maine will implement and enforce the State Plan in lieu of the Federal Plan.

EPA's proposal to approve Maine DEP's State Plan is based on our findings that:

(1) Maine DEP provided adequate public notice of public hearings for the proposed rule-making, which allows Maine to carry out and enforce provisions that are at least as protective as the EGs for Large and Small MWCs, and

(2) Maine DEP demonstrated its legal authority to: adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

VIII. Proposed Action

EPA is proposing to approve the Maine DEP's revised State Plan for existing Large MWCs and the initial State Plan for existing Small MWCs. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IX. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions of 06–096 CMR Chapter 12, entitled ''Emissions Limitations and Emissions Testing of Resource Recovery Facilities,'' effective September 14, 2019, excluding Section 6., entitled

''Large Municipal Waste Combustor Units Subject to 40 CFR part 60, subpart Eb,'' which regulate emissions and emissions testing for large and small MWCs. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

X. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a State Plan submission that complies with the provisions of the Act and applicable Federal regulations. See Clean Air Act sections 111(d) and 129(b); 40 CFR part 60, subparts B and Cb; and 40 CFR part 62, subpart A; and 40 CFR 62.04. Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this rulemaking is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: September 15, 2022.

David Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2022–20379 Filed 9–23–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket 22–301; FCC 22–68; FRS ID 105135]

Review of the Commission's Assessment and Collection of Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Request for comments.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks further comment on the Commission's methodology for allocating indirect full-time equivalents (FTEs), previously raised in the Commission's Fiscal Year (FY) 2022 Notice of Proposed Rulemaking (*FY 2022 NPRM*), FCC 22–39, MD Docket Nos. 21–190, 22–223, adopted on June 1, 2022 and released on June 2, 2022.

DATES: Comments are due on or before October 26, 2022 and reply comments are due on or before November 25, 2022.

ADDRESSES: Interested parties may file comments and reply comments identified by MD Docket No. 22–301, by any of the following methods below.

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: *https://www.fcc.gov/ecfs*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

For detailed instructions for submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Inquiry* (NOI), FCC 22–68, MD Docket No. 22–301, adopted on September 1, 2022 and released on September 2, 2022. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., 45 L Street NE, Washington, DC 20554. Customers may contact BCPI, Inc. via their website, *https://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy*. During

the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

Ex Parte Rules. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. Synopsis

1. In this document, the Commission seeks further comment on its methodology for allocating indirect FTEs, as raised in the *FY 2022 NPRM* (87 FR 38588, June 28, 2022). While we found above that the record supported a limited correction to the method used for calculating the fees associated with certain indirect FTEs in the Universal Service Fund context, we seek to more broadly explore these issues outside of the short timeframe necessitated by the annual regulatory fee proceeding. The responses we receive will help us determine if there are lines of inquiry worth exploring in order to further revise our methodology. Finally, we hope that the comments and replies will allow interested parties to gain a better understanding of the regulatory fee process and the issues of importance to the various groups affected by our regulatory fee policies.

2. Historically, the Commission assesses the allocation of FTEs by first determining the number of non-auctions direct FTEs in each ''core bureau'' (*i.e.,* the Wireless Telecommunications Bureau, the Media Bureau, the Wireline Competition Bureau, and the International Bureau) and then attributing all other non-auctions Commission FTEs as indirect. The direct FTEs within each core bureau are then attributed to regulatory fee categories based on the nature of the FTE work. We expect that the work of the non-auctions direct FTEs in the four core bureaus will remain focused on the industry segment regulated by each of those bureaus. For this reason, the Commission starts with direct FTE counts in the core bureaus and then potentially adjusts fees to reflect other factors related to the payor's benefits.

3. We initially seek comment on whether we should expand the definition of ''core bureau'' to include other bureaus and offices within the Commission. Commenters should discuss the additional offices or bureaus we should consider ''core'' for regulatory fee purposes and why. We encourage commenters to review both the function and delegations of each office when considering this question. Is the work of the office or bureau focused on a specific industry segment regulated by that office or bureau? If so, what is the industry segment? Is the office or bureau responsible for regulating other work not related to a specific industry segment? Commenters should address whether expanding the Commission's definition of ''core bureau'' is feasible, administrable, sustainable, and consistent with section 9 of the Communications Act of 1934 (Act).

4. Unlike the work of direct FTEs, the work of FTEs designated as indirect benefits the Commission and the industry as a whole and is not specifically focused on the regulatees and licensees of a core bureau. Thus, indirect FTEs generally work on a wide variety of issues which may include services that are not specifically correlated with one core bureau, let alone one specific category of regulatees. Further, much of the work that could be assigned to a single category of regulatees is likely to be interspersed with the work that indirect FTEs perform on behalf of many entities that do not pay regulatory fees, *e.g.,* governmental entities, non-profit organizations, and regulatees that have an exemption. In addition to the fact that indirect FTEs work on matters that are not specific to any regulatory fee category, many Commission attorneys, engineers, analysts, and other staff work on a variety of issues even during a single fiscal year. Due to the variety of issues handled by many indirect FTEs, analyzing the work of such indirect FTEs for regulatory fee purposes and basing regulatory fees on specific assignments during any snapshot or incremental period of time, such as a year or two, would result in significant unplanned shifts in regulatory fees as assignments change.

5. In calculating regulatory fees, the Commission allocates indirect FTEs proportionally based on the allocation percentage of direct FTEs of each core bureau. In essence, if a core bureau's contribution to the regulatory fee burden is calculated to be 40%, then it is also responsible for 40% of the indirect costs. Commenters argue that this results in regulatory fee payors paying being unfairly burdened by costs of FTEs that do not directly provide oversight and regulation to such fee payors. We seek comment on whether the Commission should change its current methodology for calculating regulatory fees to minimize burdens on certain regulatory fee payors, while still collecting the entire appropriation, as required by section 9 of the Act. To the extent that commenters support amending the methodology, the proposals made must allow for the full collection of our annual appropriation. In other words, a proposed system that only provides that regulatees pay fees for the direct time of staff in the core bureaus would be per se contrary to our statutory mandate. Comments filed in the Notice of Inquiry docket proposing such amendments should provide full scale examples of the potential changes to the current methodology and explain how those changes would be consistent with section 9 of the Act.

6. As discussed above, we find that broadcasters should not be required to pay for a portion of the 38 indirect FTEs working on Universal Service Fund issues that are in the Wireline Competition Bureau but are designated as indirect FTEs. Although we affirmed

the Commission's previous finding in 2017 that these 38 FTEs were properly allocated as indirect FTEs for regulatory fee purposes, are there indirect FTEs that commenters believe should be considered direct FTEs for regulatory fee purposes? For example, in FY 2019, the Commission reassigned staff from other bureaus and offices to the Office of Economics and Analytics, effective December 11, 2018. This resulted in the reassignment of 95 FTEs (of which 64 were not auctions-funded) as indirect FTEs. The Commission also reassigned Equal Employment Opportunity enforcement staff from the Media Bureau to the Enforcement Bureau, effective March 15, 2019, resulting in a reduction of seven direct FTEs in the Media Bureau. These reassignments resulted in a reduction in direct FTEs in the Wireline Competition Bureau (from 123 FTEs to 100.8 FTEs), Wireless Telecommunications Bureau (from 89 FTEs to 80.5 FTEs), and Media Bureau (from 131 FTEs to 115.1 FTEs). In 2013, the Commission allocated all International Bureau FTEs except for 28 as indirect. Should we reconsider these assignments and now consider these FTEs direct FTEs in a core bureau instead of indirect? Commenters should discuss whether this allocation is still reasonable. Should we re-evaluate the number of direct and indirect FTEs in the International Bureau? For each category of FTE a commenter proposes to be reassigned, the commenter should explain how such reassignment is appropriate under both the Communications Act and also the body of precedent relating to federal agency fee setting. If these reassignments are still appropriate, should we consider other corrections to our fee calculation methodology, as we did in the Universal Service Fund context?

7. As indicated in the *FY 2022 NPRM,* early in each fiscal year, the Commission receives FTE data from its Human Resources Office, and identifies FTE data at the core bureau level (*i.e.,* direct FTEs), which are then used to determine the FTE allocations for the four core bureaus. These FTE data are then filtered down to the various fee categories within each core bureau based on the fee category percentages for each bureau. We encourage commenters in looking at the question to consider how indirect FTE time devoted to work on one or more regulated services could be considered direct FTE time. How should time be calculated for purposes of regulatory fees if FTE time is devoted to issues involving different regulated services at the same time (*e.g.,* voice services)?

8. Commenters should also consider that indirect FTEs may be difficult to disaggregate in a manner that is easy to administer and transparent with respect to how it applies to certain regulated services. For example, a complex enforcement investigation involving a space station operator could result in many Enforcement Bureau indirect FTEs working on space station issues on a temporary basis instead of on other issues. Would allocating those indirect FTEs as direct FTEs for the International Bureau unfairly increase the regulatory fees for all space station licensees or all International Bureau regulatees for that fiscal year? Is there a way to disaggregate the time indirect FTEs may spend on issues associated with core bureaus in a way that would not result in significant regulatory fee increases from year to year? Taking into consideration practical limits on what the Commission may accomplish using existing systems and also limited staff time, how frequently should FTE time be analyzed for reassessments of the work done by indirect FTEs?

9. Other indirect FTEs may not be able to disaggregate the issues that they handle or may work on matters that do not correlate with any particular regulated service. Commenters who advocate analyzing the indirect FTE time to determine if their time can be allocated to specific regulated services should explain how to address indirect FTE time that cannot be specifically disaggregated into work performed for certain regulated services. SIA observes that the current indirect FTE allocation method is appropriate for certain non-core bureaus and offices, such as the Office of the General Counsel. Are there other bureaus and offices that commenters consider to be more appropriately designated as indirect? State Broadcasters Associations suggest that the Commission adopt a third classification of intersectional FTEs to avoid unfair burdens on broadcasters. SIA suggests an alternative allocation mechanism for indirect FTEs in cases where the work is not always proportional. Commenters should also specifically address these alternatives to the Commission's current methodology. Commenters should explain how we could implement these alternative suggestions, consistent with section 9 of the Act. Moreover, commenters should consider if such changes might result in a more complicated fee system that nevertheless results in the setting similar fee amounts but requires more time and Commission resources to manage.

10. One commenter, the State Broadcasters Associations, suggest that the Commission adopt a third classification of intersectional FTEs. SIA suggests an alternative allocation mechanism for indirect FTEs in cases where the work is not always proportional. Commenters should also specifically address these alternatives to the Commission's current regulatory fee methodology. Commenters should explain how we could implement these alternative suggestions, consistent with section 9 of the Act. Moreover, commenters should consider if such changes might result in a more complicated fee system that nevertheless results in the setting similar fee amounts but requires more time and Commission resources to manage.

11. Commenters advocating allocating indirect FTEs as direct for regulatory fee purposes should explain how we should assess FTE time in order to make the reallocation. Commenters are encouraged to consider practical aspects of FTE time. For example, how should FTEs devoted to administrative matters, such as releasing and posting Commission and Bureau level items, be categorized? Should such FTE time be considered indirect, or should each released item be analyzed to determine to which core bureau it is associated? How should FTE time devoted to matters encompassing voice issues (*i.e.,* wireless and wireline, including VoIP) be characterized? Is there a fair way to allocate such FTE time among or between bureaus or should that FTE time be considered indirect? We note that our regulatory fee methodology must be consistent with the requirements of section 9 of the Act that ''fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission.'' Commenters should recognize that cherry picking certain groups of FTEs from indirect bureaus and offices and reassigning them as direct FTEs for regulatory fee purposes could result in a less equitable methodology overall and achieve a result inconsistent with their intention of reducing their regulatory fees. Finally, commenters should recognize that any new methodology they propose must be consistent with section 9 of the Act, fair, administrable, and sustainable.

II. Ordering Clause

12. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i) and (j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r), the Notice of Inquiry *is hereby adopted*.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2022–20711 Filed 9–23–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1

[FAR Case 2022–002; Docket No. 2022–0002; Sequence No. 1]

RIN 9000–AO39

Federal Acquisition Regulation: Exemption of Certain Contracts From the Periodic Inflation Adjustments to the Acquisition-Related Thresholds

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2022 that provides a statutory exception to the periodic inflation adjustments of acquisition-related thresholds for certain bond requirements.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before November 25, 2022 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2022–002 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2022–002''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2022–002''. Follow the instructions provided on the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2022–002'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FAR Case 2022–002'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Ryba, Procurement Analyst, at 314–586–1280 or by email at *marissa.ryba@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAR Case 2022–002.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR at section 1.109 to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 (Pub. L. 117–81), which provides a statutory exception to the periodic inflation adjustments of acquisition-related thresholds under 41 U.S.C. 1908.

A. What is an acquisition-related threshold?

41 U.S.C. 1908 is applicable to ''a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as the [Federal Acquisition Regulatory] Council determines.''

B. What acquisition-related thresholds are not subject to escalation adjustment?

41 U.S.C. 1908 does not permit escalation of acquisition-related thresholds established by the Construction Wage Rate Requirements statute (Davis Bacon Act), the Service Contract Labor Standards statute, or the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979.

C. Revisions to 41 U.S.C. 1908

Section 861 of the NDAA for FY 2022 modifies 41 U.S.C. 1908(b)(2) to add performance and payment bond requirements for construction in 40 U.S.C. chapter 31 to the already established list of acquisition-related thresholds that are not subject to escalation. The list appears in the FAR at 1.109(c).

40 U.S.C. chapter 31, subchapter III, Bonds (formerly known as the Miller Act) requires certain performance and payment bonds for construction contracts. Sections 3131 through 3134 are the subject of the changes required by section 861.

- 40 U.S.C. 3131 requires performance and payment bonds for any construction contract exceeding $100,000, unless otherwise waived.
- 40 U.S.C. 3132 requires alternatives to payment bonds as payment protections for certain types of construction contracts. For construction contracts greater than $25,000, but not greater than $100,000, the contracting officer must select one or more payment protections.
- 40 U.S.C. 3133 requires agencies to provide a certified copy of the payment bonds referenced in section 3131 to any person (*e.g.,* subcontractor) who has not been paid or is being sued on the bond.
- 40 U.S.C. 3134 provides waivers from the subchapter for certain contracts issued by the Military Departments, Department of Transportation, and the National Oceanic and Atmospheric Administration.

The FAR threshold for performance and payment bonds at 28.102 is currently $150,000 as a result of one escalation adjustment in accordance with FAR 1.109. FAR Case 2008–024, published on August 30, 2010, at 75 FR 53129, raised the threshold by $50,000 from the $100,000 reflected in 40 U.S.C. 3131. The threshold was added to 52.228–11, Individual Surety—Pledge of Assets, after the most recent escalation, by FAR case 2017–003, published on January 14, 2021, at 86 FR 3682.

The FAR threshold for alternatives to payment bonds at 28.102 is currently $35,000, as a result of two escalation adjustments in accordance with FAR 1.109. FAR Case 2004–033, published on September 28, 2006, at 71 FR 57363 and 2014–022 published on July 2, 2015, at 80 FR 38293, each raised the threshold by $5,000 from the $25,000 reflected at 40 U.S.C. 3132.

II. Discussion and Analysis

The proposed rule adds the statutory exception provided by section 861 to the list of acquisition-related thresholds that are not subject to escalation under 41 U.S.C. 1908 at FAR 1.109(c). Section 1908 does not permit the escalation of acquisition-related thresholds established by the following:

- 40 U.S.C. 31, subchapter IV, Wage Rate Requirements (Construction).
- 41 U.S.C. 67, Service Contract Labor Standards.
- The United States Trade Representative under the Trade Agreements Act.

The rule proposes to restructure FAR 1.109(c), by consolidating the citation for 40 U.S.C. chapter 31, subchapter III,

Bonds, with the existing citation for subchapter IV, Wage Rate Requirements (Construction). Since section 861 requires the thresholds to remain at the current escalated values, no other changes are required for implementation.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not create new solicitation provisions or contract clauses or revise the text of any existing provisions or clauses. The rule does not change any current requirements in the provisions or clauses but does prevent future periodic inflation adjustments to an acquisition-related threshold.

IV. Expected Impact of the Rule

This rule is not expected to have a significant impact on the Government or industry because this rule maintains acquisition-related thresholds that have been in the FAR for several years without significant change.

The FAR threshold for performance and payment bonds at 28.102 had one escalation adjustment in 2010, which raised the threshold by $50,000 from $100,000 and has since remained unchanged. The FAR threshold for alternatives to payment bonds at 28.102 is currently $35,000; it was escalated twice, one in 2006 and again in 2015. Each adjustment raised the threshold by $5,000 starting from $25,000. Since the second adjustment, this threshold has also remained unchanged.

Because the acquisition-related thresholds under 28.102 have remained mostly unchanged, there is little expectation for future increases or changes that would affect Government and industry. There is also no expected cost impact of this rule since the acquisition-related thresholds will remain the same. There may be some benefit of consistency to the public by ensuring that the thresholds remain the same.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the rule maintains the status quo. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 (Pub. L. 117–81) that provides a statutory exception to the periodic inflation adjustments of acquisition-related thresholds for certain bond requirements.

The objective of the proposed rule is to retain the current dollar thresholds for performance and payments bonds as well as the threshold for alternatives to such bonds until changed by statute. The legal basis for the rule is Section 861 of the NDAA for FY 2022 (Pub. L. 117–81).

The proposed rule will apply to small entities performing construction services for the Government; however, the impact is expected to be de minimis. Contract actions with a value between $35,000 and $150,000 will still require an alternative to payment bonds for payment protection, and those with a value exceeding $150,000 will still require performance and payment bonds. The rule makes permanent the thresholds that have been in place for several years, resulting in no changes for any entity performing construction services.

Data obtained from the Federal Procurement Data System (FPDS) for FY 2019, 2020, and 2021 indicates that an average of 678 unique small entities received an estimated 1,219 awards annually that require alternatives to payment bonds. FPDS data also indicates that an average of 1,340 unique small entities received an estimated 2,706 awards that are subject to performance and payment bonds annually. Approximately 2,018 (678 + 1,340) unique small entities will continue to comply with current bond requirements as a result of this proposed rule.

The proposed rule does not include additional reporting or record keeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no available alternatives to the proposed rule to accomplish the desired objective of the statute.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2022–002), in correspondence.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies to the information collection described in this rule; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000–0045, Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protection.

List of Subjects in 48 CFR Part 1

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 1 as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 1. The authority citation for 48 CFR part 1 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 1.109 by revising paragraph (c)(1) to read as follows:

1.109 Statutory acquisition—related dollar thresholds—adjustment for inflation.

* * * * *

(c) * * *

(1) 40 U.S.C. chapter 31—
(i) Subchapter III, Bonds; and
(ii) Subchapter IV, Wage Rate Requirements (Construction);
* * * * *

[FR Doc. 2022–20766 Filed 9–23–22; 8:45 am]
BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220919–0194]

RIN 0648–BL46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Amendment 50

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 50 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For red porgy, this proposed rule would revise the sector annual catch limits (ACLs), commercial seasonal quotas, commercial trip limits, recreational bag and possession limits, recreational fishing season, and recreational accountability measures (AMs). In addition, Amendment 50 would establish a new rebuilding plan, and revise the acceptable biological catch (ABC), annual optimum yield (OY), and sector allocations. The purpose of this proposed rule and Amendment 50 is to end overfishing of red porgy, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

DATES: Written comments must be received on or before October 26, 2022.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2022–0054,'' by either 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–2022–0054'', in the Search box. Click 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), 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 Amendment 50, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-50-catch-level-adjustments-rebuilding-schedule-and-allocations-red-porgy/*.

FOR FURTHER INFORMATION CONTACT: Frank Helies, telephone: 727–824–5305, or email: *frank.helies@noaa.gov*.

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery, which includes red porgy, is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

In 1990, a stock assessment for red porgy was completed and it was determined that the stock was subject to overfishing and overfished. As a result of that stock status, Amendment 4 to the FMP established an initial rebuilding plan and implemented a minimum size limit for red porgy (56 FR 56016; October 31, 1991). The rebuilding plan was put into effect in 1991 with a target time to rebuild of 10 years. The stock was again assessed in 1999 and again was determined to be subject to overfishing and overfished. Through an emergency rule published in 1999, NMFS prohibited the harvest and possession of red porgy in or from the exclusive economic zone off the southern Atlantic states (64 FR 48324; September 3, 1999). NMFS subsequently extended the emergency rule to prohibit the harvest and possession of red porgy through August 28, 2000 (65 FR 10039; February 25, 2000).

The final rule to implement Amendment 12 to the FMP replaced the emergency rule and closed commercial harvest during the red porgy peak spawning season, reduced the commercial trip limit, and reduced the recreational bag limit (65 FR 51248; August 23, 2000). Amendment 12 also specified a new 18-year rebuilding plan, which began with the implementation of the emergency rule that prohibited harvest on September 3, 1999. The red porgy stock was assessed again in 2002, as the first stock in the South Atlantic to be assessed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 1). The SEDAR 1 assessment indicated the stock was overfished but not undergoing overfishing. Subsequent update assessments in 2006 and 2012 also resulted in the same stock status determinations as the 2002 SEDAR 1 assessment.

The most recent SEDAR stock assessment for South Atlantic red porgy (SEDAR 60) was completed in April 2020. The assessment included data through 2017 and incorporated the revised estimates for recreational catch from the Marine Recreational Information Program Fishing Effort Survey (MRIP FES), as discussed later in this proposed rule. The Council's Scientific and Statistical Committee (SSC) reviewed SEDAR 60 at their April 2020 meeting and found that the assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic red porgy stock is undergoing overfishing and is overfished. NMFS also determined that the red porgy stock has not made adequate progress towards rebuilding because it did not rebuild by the end of 2017 under the previous 18-year rebuilding plan. The red porgy stock has not rebuilt despite

management efforts throughout its management history.

The findings of SEDAR 60 showed a declining trend in average recruitment throughout the time series reviewed in the assessment, and that red porgy has made little progress towards rebuilding, given the low recruitment in recent years. The projections within SEDAR 60 indicate the reduced ABCs would have only a very minor impact on stock rebuilding. If recruitment continues to be low, the productivity of the stock and the benchmark management reference points would need to be reevaluated. The red porgy stock is currently scheduled to be assessed again in 2025.

Following a notification from NMFS to a Council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the Council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. The Council developed Amendment 50 in response to the results of SEDAR 60.

In addition to the revisions to the commercial quotas and sector ACLs, modified red porgy management measures are needed to constrain commercial and recreational harvest to the proposed fishing levels. The proposed rule would reduce commercial trip and recreational bag and possession limits, and implement a 2-month recreational fishing season. The Council intends that the proposed actions would allow retention of red porgy over the longest predicted timeframe while preventing overfishing. The proposed rule would also adjust recreational AMs to ensure they are effective at keeping recreational landings from exceeding the recreational ACL and correct for overages when they occur. This proposed rule and Amendment 50 would not adjust commercial AMs.

The Council determined that the actions in Amendment 50 would end overfishing of South Atlantic red porgy, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Management Measures Contained in This Proposed Rule

This proposed rule would revise the sector ACLs, commercial seasonal quotas, commercial trip limits, recreational bag and possession limits, recreational fishing season, and recreational AMs. All weights described in this proposed rule are in gutted weight, unless otherwise specified.

Total ACLs

As implemented through Regulatory Amendment 18 to the FMP, the current total ACL and annual OY for red porgy are equal to the current ABC of 328,000 lb (148,778 kg), round weight. In Amendment 50, the Council would revise the ABC based on SEDAR 60 and the recommendation of the SSC, and keep the ABC, ACL, and OY equal to each other.

The proposed rule would revise the total ACL equal to the recommended ABC of 75,000 lb (34,019 kg), round weight, 72,115 lb (32,711 kg), gutted weight, for 2022; 81,000 lb (36,741 kg), round weight, 77,885 lb (35,328 kg), gutted weight, for 2023; 87,000 lb (39,463 kg), round weight, 83,654 lb (37,945 kg), gutted weight, for 2024; 91,000 lb (41,277 kg), round weight, 87,500 lb (39,689 kg), gutted weight, for 2025; and 95,000 lb (43,091 kg), round weight, 91,346 lb (41,434 kg), gutted weight, for 2026 and subsequent fishing years.

Sector Allocations and ACLs

Amendment 50 would revise the commercial and recreational allocations for red porgy. The current sector ACLs for red porgy are based on the commercial and recreational allocations of the total ACL at 50.00 percent and 50.00 percent, respectively, and were established through Amendment 15B to the FMP (74 FR 58902; November 16, 2009).

The new red porgy sector allocations in Amendment 50 would result in commercial and recreational allocations of 51.43 percent and 48.57 percent, respectively. The Council determined the proposed sector allocations by applying the allocation formula adopted through the Comprehensive ACL Amendment to the FMP, which is ACL = ((mean landings 2006–2008) × 0.5)) + ((mean landings 1986–2008) × 0.5), to the revised total ACL that includes updated recreational landings from the MRIP FES method.

Utilizing the proposed allocation formula would incorporate revised recreational landings from the MRIP FES, which would result in a slight shift of allocation to the commercial sector. Although commercial fishing, compared to recreational fishing, tends to occur in deeper water, where mortality of discarded fish is greater, the Council reasoned that a slightly increased allocation to the commercial sector would potentially reduce the number of fish that are discarded if the commercial ACL is reached in-season and a sector closure becomes necessary, thus promoting conservation.

The commercial ACLs would be 37,089 lb (16,823 kg), for 2022; 40,056 lb (18,169 kg), for 2023; 43,023 lb (19,515 kg), for 2024; 45,001 lb (20,412 kg), for 2025; and 46,979 lb (21,309 kg), for 2026 and subsequent years.

The recreational ACLs would be 35,026 lb (15,888 kg), for 2022; 37,829 lb (17,159 kg), for 2023; 40,631 lb (18,430 kg), for 2024; 42,499 lb (19,277 kg), for 2025; and 44,367 lb (20,125 kg), for 2026 and subsequent years.

Regulatory Amendment 27 to the FMP established two commercial fishing seasons for red porgy with 30 percent of the commercial ACL allocated to Season 1 (January through April) and 70 percent allocated to Season 2 (May through December) (85 FR 4588; January 27, 2020). Any remaining commercial quota from Season 1 would be added to the commercial quota in Season 2. Any remaining quota from Season 2 would not be carried forward into the next fishing year. Amendment 50 and this proposed rule would not alter the current fishing seasons or commercial season ACL allocations.

Under Amendment 50, the commercial quotas in 2022 for Season 1 would be 11,127 lb (5,047 kg) and Season 2 would be 25,962 lb (11,776 kg); in 2023, Season 1 would be 12,017 lb (5,451 kg) and Season 2 would be 28,039 lb (12,718 kg); in 2024, Season 1 would be 12,907 lb (5,855 kg) and Season 2 would be 30,116 lb (13,660 kg); in 2025, Season 1 would be 13,500 lb (6,123 kg) and Season 2 would be 31,501 lb (14,289 kg); and for 2026 and subsequent years, Season 1 would be 14,094 lb (6,393 kg) and Season 2 would be 32,886 lb (14,917 kg).

Commercial Trip Limits

Amendment 13C to the FMP established the current commercial trip limit for red porgy of 120 fish from May 1 through December 31, with no harvest allowed from January 1 through April 30 (71 FR 55096; September 21, 2006). Regulatory Amendment 27 to the FMP removed the January 1 through April 30 spawning season commercial closure and established the current 60 fish trip limit from January 1 through April 30, to reduce discarding of red porgy by the commercial sector during the early part of the fishing year. This proposed rule would modify the commercial trip limits for red porgy to be 15 fish for both Seasons 1 and 2.

The Council decided that under the proposed 15-fish commercial trip limit, the lowest trip limit considered, commercial fishermen could retain an amount of red porgy over the longest amount of time during the fishing seasons, and this would increase the likelihood of red porgy remaining open to commercial harvest and available to consumers for as long as possible. Additionally, the Council expects the

proposed commercial trip limit to minimize discards of incidentally harvested red porgy when fishers target other snapper-grouper species, such as gray triggerfish and vermilion snapper.

Recreational Bag and Possession Limits

The current recreational bag and possession limits for red porgy in the South Atlantic, established by Amendment 13C to the FMP, are 3 per person per day, or 3 per person per trip, whichever is more restrictive. This proposed rule would reduce the recreational bag and possession limits to 1 fish per person per day, or 1 fish per person per trip, whichever is more restrictive.

Given the substantial reduction in harvest needed to end red porgy overfishing immediately and to increase the likelihood of rebuilding the stock, the Council selected the lowest bag limit considered in Amendment 50 to continue to allow recreational retention and help constrain harvest to the reduced recreational ACL.

Recreational Fishing Season

Recreational harvest of red porgy is currently allowed year-round until the recreational ACL is met or is projected to be met. This proposed rule would establish a recreational fishing season for red porgy where harvest would be allowed only from May 1 through June 30. The recreational sector would be closed annually from January 1 through April 30 and from July 1 through December 31. During the proposed seasonal closures, the recreational bag and possession limits for red porgy would be zero.

Given the substantial reductions in harvest that are needed to address the determination that the stock is undergoing overfishing and overfished, shortening the time recreational fishing is allowed helps to reduce the risk that recreational catches would exceed the proposed reduced sector ACL. The Council selected the most conservative recreational fishing season alternative in Amendment 50 to reduce the chance the recreational ACL would be exceeded, while still allowing for some recreational harvest opportunities.

Recreational AMs

The current AMs were established through Amendment 34 to the FMP (81 FR 3731; January 22, 2016). The current AM includes an in-season closure for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACL, regardless of whether the stock is overfished. The current AM also includes post-season adjustments. If recreational landings exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If the total ACL is exceeded and red porgy are overfished, the length of the recreational fishing season and the recreational ACL are reduced by the amount of the recreational ACL overage.

This proposed rule would revise the recreational AMs for red porgy. Given the proposed 2-month fishing season, the current in-season closure and stock status based post-season AM would be removed. The proposed recreational AM would be a post-season AM that would be triggered in the following fishing year if the recreational ACL is exceeded. If recreational landings exceed the recreational ACL, the length of the following year's recreational fishing season would be reduced by the amount necessary to prevent the recreational ACL from being exceeded in the following year. However, the length of the recreational season would not be reduced if the Regional Administrator determines, using the best scientific information available, that a reduction is not necessary.

The Council's intent in revising the recreational AM is to avoid an in-season closure of the recreational sector and extend maximum fishing opportunities to the sector during the proposed 2-month recreational season. The proposed AM would remove the current potential duplicate AM application of a reduction in the recreational season length and a payback of the recreational ACL overage if the total ACL was exceeded. Under the proposed measure, the AM trigger would not be tied to the total ACL, but only to the recreational ACL. The proposed modification would ensure that overages in the recreational sector do not in turn affect the catch levels for the commercial sector. Any reduced recreational season length as a result of the AM being implemented would apply to the recreational fishing season in the year following a recreational ACL overage.

Management Measures in Amendment 50 Not Codified by This Proposed Rule

In addition to the measures within this proposed rule, Amendment 50 would revise the overfishing limit for red porgy equal to the ABC and update other biological reference points. The amendment would also establish a new rebuilding plan, and revise the ABC, the OY, and the sector allocations.

Rebuilding Plan for the South Atlantic Red Porgy Stock

As previously discussed, the Council implemented an 18-year rebuilding plan for the South Atlantic red porgy stock through Amendment 12 to the FMP that was expected to rebuild the stock by the end of 2017 (65 FR 51248; September 22, 2000). Because the South Atlantic red porgy stock did not rebuild within that time, and is still overfished, Amendment 50 would establish a new rebuilding plan schedule equal to the time estimated to rebuild the stock while maintaining fishing mortality at 75 percent of the maximum fishing mortality threshold during the rebuilding period. This rebuilding period would be 26 years, beginning in 2022 and ending in 2047.

ABC and Annual OY

The current ABC for red porgy was implemented in Regulatory Amendment 18 to the FMP, based upon a stock assessment update (2012 SEDAR 1 Update) and the Council's SSC's recommendations (78 FR 47574; August 6, 2013).

In April 2020, the Council's SSC reviewed the latest stock assessment (SEDAR 60) and recommended new ABC levels as determined by SEDAR 60. The assessment and associated ABC recommendations incorporated the revised estimates for recreational catch and effort from the MRIP Access Point Angler Intercept Survey (APAIS) and FES. MRIP began incorporating a new survey design for APAIS in 2013 and replaced the Coastal Household Telephone Survey (CHTS) with FES in 2018. Prior to the implementation of MRIP in 2008, recreational landings estimates were generated using the Marine Recreational Fisheries Statistics Survey (MRFSS). As explained in Amendment 50, total recreational fishing effort estimates generated from MRIP FES are generally higher than both the MRFSS and MRIP CHTS estimates. This difference in estimates occurs because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden increase in fishing effort. The MRIP FES is considered by the Council's SSC, the Council, and NMFS to be a more reliable estimate of recreational effort and more robust compared to the MRIP CHTS method. The new ABC recommendations within Amendment 50 also represent the best scientific information available as determined by the SSC.

The Council chose to specify OY for red porgy on an annual basis and set it equal to the ABC and total ACL, in

accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv), and using the formula implemented through the Comprehensive ACL Amendment to the FMP (77 FR 15915; March 16, 2012).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 50, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The objective of this proposed rule and Amendment 50 is to end overfishing of South Atlantic red porgy, rebuild the stock, and achieve optimum yield while minimizing, to the extent practicable, adverse social and economic effects. The Magnuson-Stevens Act provides the legal basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. No new reporting and record-keeping requirements are introduced by this proposed rule. All monetary estimates in the following analysis are in 2019 dollars.

Amendment 50 would directly affect both anglers (recreational fishers) and commercial fishing businesses that harvest red porgy in the South Atlantic Exclusive Economic Zone (EEZ). Anglers, however, are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from for-hire fishing, private, or leased vessels. Therefore, neither estimates of the number of anglers nor the impacts on them are required or provided in this analysis. For-hire fishing businesses would be indirectly affected, and because the effects on for-hire businesses would be indirect, they fall outside the scope of the RFA.

Any business that operates a commercial fishing vessel that harvests red porgy in the South Atlantic EEZ must have a valid South Atlantic snapper-grouper permit assigned to that vessel. From 2015 through 2019, an annual average of 161 (24 percent) snapper-grouper permitted vessels reported landings of red porgy. Therefore, an annual average of 161 snapper-grouper permitted vessels would be directly affected by this proposed rule.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $11 million for all of its affiliated operations worldwide. The average annual total revenue for a snapper-grouper permitted vessel that landed red porgy from 2015 through 2019 was $68,539, which is substantially less than the above threshold. Moreover, none of the permitted vessels that land red porgy have annual revenue close to or greater than $11 million. Hence, all of the businesses that operate snapper-grouper permitted vessels that land red porgy are small.

Actions 1 and 2, which would establish a rebuilding plan and revise the ABC, annual OY, and total ACL for red porgy, would have indirect impacts on small businesses and their magnitudes are dependent on subsequent action.

Action 3 of Amendment 50 revises the sector allocations and would increase the commercial allocation of the total ACL from 50 percent to 51.43 percent. Currently, the commercial ACL is constant at 157,692 lb (71,528 kg), gutted weight, 164,000 lb (157,692 kg), whole weight. In combination, Actions 2 (ACL) and 3 would reduce the commercial ACL by 120,603 lb (54,705 kg) in 2022, then have smaller reductions until it is reduced in 2026 and thereafter by 110,713 lb (50,219 kg). If average annual commercial ACL landings from 2015 through 2019 represent future baseline landings from 2022 through 2026, Action 3 (commercial allocation) would generate an average annual reduction of commercial ACL landings of 68,822 lb (31,217 kg) during that 5-year period. At an average dockside price of $2.35 per lb, if the average 161 snapper-grouper permitted vessels with red porgy landings account for all commercial ACL landings of red porgy, they would collectively have annual losses of dockside revenue of $161,733 or individually have an average reduction of $1,005 (1.47 percent) per vessel. However, commercial landings reported by snapper-grouper permitted vessels represent, on average, 91.34 percent of commercial ACL landings from 2015 through 2019. As such, the 161 permitted vessels would collectively have average annual reductions of red porgy landings of 62,822 lb (28,496 kg) (91.34 percent of 68,822 lb) and dockside revenue of $147,727 or individually have average annual reductions of 427 lb (194 kg) and $918 (1.34 percent) per vessel.

Commercial landings of red porgy are not equally divided across the states. On average, Florida and Georgia combined account for 28.73 percent of the annual landings by weight and North Carolina and South Carolina account for 35.38 percent and 35.90 percent, respectively, of the annual landings by weight. Consequently, the average revenue losses per vessel under Action 3 (commercial allocation) vary by state. The average Florida or Georgia vessel would have an annual loss of $870 (1.24 percent of total dockside revenue) for the average 49 vessels that land red porgy in Florida or Georgia. The average North Carolina vessel would have an annual loss of $747 (1.41 percent of total dockside revenue) for the average 70 vessels that land the species in North Carolina, and the average South Carolina vessel would have an annual loss of $1,251 (1.48 percent of total dockside revenue) for the average 42 vessels that land red porgy in South Carolina.

Action 4 would reduce the commercial trip limits for red porgy in the South Atlantic EEZ from 60 to 15 fish in Season 1 (January 1 through April 30) and 120 to 15 fish in Season 2 (May 1 through December 31). Because of the prohibition on commercially harvesting red porgy from January through April that had previously been in effect from January 1, 2015, to February 26, 2020, landings per trip during March and April of 2020 are used to evaluate baseline trips and landings per trip during March and April of Season 1. The resulting March and April figures are then doubled to produce estimates of the baseline number of trips and landings during Season 1. Baseline landings per trip during Season 2 are evaluated using landings from May 1 through December 31 from 2015 through 2019.

During Season 1, an estimated 7 (14.29 percent) of the 49 Florida and Georgia vessels report 82 trips that land over 15 red porgy. Similarly, an estimated 17 (24.29 percent) of the 70 North Carolina vessels and 13 (30.95 percent) of the 42 South Carolina vessels report 86 and 84 trips, respectively, that land over 15 red porgy during Season 1. The average trip that lands over 15 red porgy during Season 1 would lose 63 lb (29 kg) in Florida and Georgia, 45 lb (20 kg) in North Carolina, and 62 lb (28 kg) in South Carolina. The average losses in dockside revenue per vessel during Season 1 would be $1,734 for the 7 snapper-grouper permitted vessels that land red porgy in Florida and Georgia, $535 for the 17 snapper-grouper permitted vessels that land the species in North Carolina, and $941 for the 13 snapper-grouper permitted vessels that land red porgy in South Carolina.

From 2015 through 2019, an annual average of up to 52 vessels made 293 trips that landed red porgy in Florida or Georgia during Season 2 (May through December) and 68.60 percent of those trips made by 29 vessels landed more than 15 fish. During that same 5-year period, an annual average of 70 vessels made 590 trips that landed red porgy in North Carolina during Season 2 and 52.88 percent of those trips made by 47 vessels landed more than 15 fish. Furthermore, during that same 5-year period an annual average of 42 vessels made 362 trips that landed red porgy in South Carolina during Season 2 and 66.85 percent of the trips made by 36 vessels landed more than 15 fish. The average trip that currently lands over 15 red porgy in Florida and Georgia would lose 127 lb (58 kg) of red porgy, while the average trips that land over 15 red porgy in North Carolina and South Carolina would lose respectively 75 lb (34 kg) and 103 lb (47 kg), respectively. With an average dockside price of $2.35 per lb, the annual average of 29 vessels that land over 15 red porgy per trip during Season 2 in Florida and Georgia would have average individual annual reductions of $2,069. Similarly, the average annual 47 vessels that land over 15 fish per trip in North Carolina and 38 vessels that land over 15 fish per trip in South Carolina during Season 2 would have an average annual revenue loss of $1,170 and $1,627 per vessel, respectively.

Action 5 (recreational bag limits and recreational fishing season) and Action 6 (recreational AMs) would have direct impacts on anglers (recreational fishers), and no direct impacts on small businesses. Therefore, descriptions of those actions and analysis of their impacts are neither required nor provided.

The average impacts of each of the proposed actions on a snapper-grouper permitted vessel that reports landings of red porgy are summarized in Table 1. The maximum and minimum average annual adverse impacts of the combined actions per vessel are summarized in Table 2.

TABLE 1—SUMMARY OF AVERAGE ANNUAL ADVERSE IMPACTS PER VESSEL BY STATE BY ACTION

Action	Brief description	Florida and Georgia	North Carolina	South Carolina
1	Rebuilding Timeframe	No direct impact.		
2	Total OY & ACL	No direct impact.		
3	Commercial ACL	$870 per vessel for 49 (100%) vessels.	$747 per vessel for 70 (100%) vessels.	$1,251 per vessel for 42 (100%) vessels.
4	Season 1 Trip Limit	$1,734 per vessel for 7 (14.29%) vessels.	$535 per vessel for 17 (24.29%) vessels.	$535 per vessel for 13 (30.95%) vessels.
	Season 2 Trip Limit	$2,069 for 29 vessels	$1,179 per vessel for 47 vessels.	$1,627 per vessel for 38 vessels.
5	Recreational bag limit	No direct impact.		
6	Recreational Accountability Measures.	No direct impact.		

TABLE 2—MAXIMUM AND MINIMUM AVERAGE ANNUAL IMPACTS PER VESSEL FOR PERCENTAGE OF SNAPPER-GROUPER PERMITTED VESSELS THAT LAND RED PORGY AND THOSE IMPACTS AS PERCENTAGE OF AVERAGE ANNUAL REVENUE PER VESSEL

State	Maximum average impact	Percent of average number vessels	Percent of average revenue	Minimum average impact	Percent of average number vessels	Percent of average revenue
FL/GA	$4,673	14.29	6.64	$870	100.00	1.24
NC	2,461	24.29	4.65	747	100.00	1.41
SC	3,413	30.95	4.03	1,251	100.00	1.48

As described in Amendment 50, annual net revenue from operations for vessels in the commercial snapper-grouper industry was approximately 5 percent of their average annual total revenue from 2014 through 2016, while average net cash flow was about 19 percent of their average annual gross revenue during this time. Given the extent that the average maximum adverse impact could represent reductions of annual total revenue from 4.03 percent to 6.64 percent, it is determined that this proposed rule would have a significant adverse impact on a substantial number of small entities.

Three alternatives to Action 2, which would revise the total ACL, were considered, but not selected by the Council. Two of those alternatives would have larger decreases in the total ACL and subsequently larger reductions

in the commercial ACL. As such, those two alternatives would have a larger adverse impact on small businesses. The third alternative, the status quo, would have no adverse impact on small businesses beyond the baseline.

The status-quo alternative to Action 3 (commercial allocation and sector ACLs), which would keep the commercial allocation of the total ACL at 50 percent, was considered, but not selected by the Council. It would have a larger adverse economic impact on small businesses than the selected alternative.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Accountability measures, Annual catch limits, Commercial, Fisheries, Fishing, Recreational, Red porgy, South Atlantic.

Dated: September 19, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.183, add paragraph (b)(9) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(9) *Red porgy recreational sector closure.* The recreational sector for red porgy is closed from January 1 through April 30, and July 1 through December 31, each year. During a closure, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

■ 3. In § 622.187, revise paragraphs (b)(6) and (c)(2) to read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *

(6) *Red porgy.* 1.

* * * * *

(c) * * *

(2) A person aboard a vessel may not possess red porgy in or from the EEZ in excess of one per day or one per trip, whichever is more restrictive.

■ 4. In § 622.190, revise paragraphs (a) introductory text and (a)(6)(i) and (ii) to read as follows;

§ 622.190 Quotas.

* * * * *

(a) *South Atlantic snapper-grouper, excluding wreckfish.* The quotas apply to persons who are not subject to the bag limits. (See § 622.11 for applicability of the bag limits.) The quotas are in gutted weight, that is eviscerated but otherwise whole, except for the quotas in paragraphs (a)(4), (5), and (7) of this section which are in both gutted weight and round weight.

* * * * *

(6) * * *

(i) For the period January 1 through April 30 each year.

(A) For the 2022 fishing year—11,127 lb (5,047 kg).

(B) For the 2023 fishing year—12,017 lb (5,451 kg).

(C) For the 2024 fishing year—12,907 lb (5,855 kg).

(D) For the 2025 fishing year—13,500 lb (6,123 kg).

(E) For the 2026 and subsequent fishing years—14,094 lb (6,393 kg).

(ii) For the period May 1 through December 31 each year.

(A) For the 2022 fishing year—25,962 lb (11,776 kg).

(B) For the 2023 fishing year—28,039 lb (12,718 kg).

(C) For the 2024 fishing year—30,116 lb (13,660 kg).

(D) For the 2025 fishing year—31,501 lb (14,289 kg).

(E) For the 2026 and subsequent fishing years—32,886 lb (14,917 kg).

* * * * *

■ 5. In § 622.191, revise paragraphs (a)(4)(i) and (ii) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(4) * * *

(i) From January 1 through April 30—15 fish.

(ii) From May 1 through December 31—15 fish.

* * * * *

■ 6. In § 622.193, revise paragraphs (v)(1)(ii) and (v)(2) and add paragraph (v)(3) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(v) * * *

(1) * * *

(ii) If commercial landings for red porgy, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL as specified in paragraph (v)(3) of this section, is exceeded during the same fishing year, and red porgy are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for red porgy, as estimated by the SRD, exceed the recreational ACL specified in paragraph (v)(2)(ii) of this section, then during the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL. However, the length of the recreational fishing season will not be reduced in the following fishing year if NMFS determines, using the best scientific information available, that no fishing season reduction is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(ii) The recreational ACL for red porgy is 35,026 lb (15,888 kg), gutted weight, for the 2022 fishing year; 37,829 lb (17,139 kg), gutted weight, for 2023 fishing year; 40,631 lb (18,430 kg), gutted weight, for the 2024 fishing year; 42,499 lb (19,277 kg), gutted weight, for the 2025 fishing year; and 44,367 lb (20,125 kg), gutted weight, for the 2026 and subsequent fishing years.

(3) *Combined commercial and recreational ACLs.* The combined commercial and recreational ACL for red porgy is 72,115 lb (32,711 kg), gutted weight, 75,000 lb (34,019 kg), round weight, for the 2022 fishing year; 77,885 lb (35,328 kg), gutted weight, 81,000 lb (36,741 kg), round weight, for 2023 fishing year; 83,654 lb (37,945 kg), gutted weight, 87,000 lb (39,463 kg), round weight, for the 2024 fishing year; 87,500 lb (39,689 kg), gutted weight, 91,000 lb (41,277 kg), round weight, for the 2025 fishing year; and 91,346 lb (41,434 kg), gutted weight, 95,000 lb (43,091 kg), round weight, for the 2026 and subsequent fishing years.

* * * * *

[FR Doc. 2022–20705 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 185
Monday, September 26, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (NFAB) will hold a public meeting according to the details shown below. The committee is authorized under the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, the Federal Public Lands Recreation Enhancement Act, and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire, insect and disease, travel management, forest monitoring and evaluation, recreation fees, and site specific projects having forest-wide immplications. General information can be found at the following website: *https://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on October 19, 2022, 1:00 p.m.–4:30 p.m., Mountain Standard Time.

All commmittee meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting is open to the public and will be held at the U.S. Forest Service, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–440–1409 or email at *scott.j.jacobson@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The meeting agenda will include:

1. Forest Plan Revision under 2012 Planning Rule;
2. Summer 2022 Trail Ranger Report Out;
3. Fiscal Year 2022 Timber Program Recap; and
4. 2022 Fire Season Recap.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by at least three days before the meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Scott Jacobson, NFAB Committee Coordinator, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702; or by email to *scott.j.jacobson@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: September 20, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–20725 Filed 9–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Plumas National Forest within Plumas County,

consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/plumas/workingtogether/advisorycommittees.*

DATES: The meeting will be held on October 14, 2022, 9:00 a.m.–4:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting is open to the public and will be held at the Plumas-Sierra County Fairgrounds Mineral Building, 204 Fairground Road, Quincy, California. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Joseph Hoffman, Designated Federal Officer (DFO), by phone at 530–283–7610 or email at *joseph.hoffman@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Conduct roll call;
2. Comments from the Desigated Federal Officer (DFO);
3. Title II authorized funding;
4. Public comment period;
5. Hear from Title II project proponents and discuss Title II project proposals;
6. Make funding recommendations on Title II projects;
7. Closing comments from the DFO.

The meeting is open to the public. The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Joseph Hoffman, Mount Hough Ranger District, Plumas National Forest, 39696 CA Highway 70, Quincy, CA, 95971; or by email to *joseph.hoffman@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at 202–720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at 1–800–877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: September 20, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–20723 Filed 9–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Delivery Verification Procedures for Imports

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 June 7, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security.

Title: Delivery Verification Procedures for Imports.

OMB Control Number: 0694–0016.

Form Number(s): BIS–647P.

Type of Request: Regular submission, revision, and extension of a current information collection.

Number of Respondents: 100.

Average Hours per Response: 30 minutes.

Burden Hours: 56.

Needs and Uses: Foreign governments, on occasions, require U.S. importers of strategic commodities to furnish their foreign supplier with a U.S. Delivery Verification Certificate validating that the commodities shipped to the U.S. were in fact received. This procedure increases the effectiveness of controls on the international trade of strategic commodities.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Pub L. 95–223 Sec 203. International Emergency Economic Powers Act (IEEPA).

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 0694–0016.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–20803 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–814]

Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Covered Merchandise Inquiry

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) has received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP investigation concerning alleged evasion of the antidumping duty (AD) order on certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings) from the People's Republic of China (China). Commerce is initiating a covered merchandise inquiry to determine whether the merchandise described in the referral is subject to the AD order on butt-weld pipe fittings from China. Interested parties are invited to comment and submit factual information addressing this initiation.

DATES: Applicable September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Rachel Jennings or Miranda Bourdeau, AD/CVD Operations, Office V, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1110 or (202) 482–2021, respectively.

SUPPLEMENTARY INFORMATION:

Background

Section 517(b)(4)(A)(i) of the Tariff Act of 1930, as amended (the Act), provides a procedure whereby if, during the course of an Enforce and Protect Act (EAPA) investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an AD order issued under section 736 of the Act or a countervailing duty order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. Commerce's regulations at 19 CFR 351.227 establish procedures for covered merchandise referrals that Commerce receives from CBP in connection with an EAPA investigation.[1]

On September 6, 2022, Commerce received a sufficient covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7335,[2] which concerns the AD order on butt-weld pipe fittings from China.[3] Specifically, CBP explained that an allegation was filed by Allied Group alleging that Norca Industrial Company, LLC (Norca) and International Piping & Procurement Group, LP (IPPG), imported butt-weld pipe fittings from China into the United States that were transshipped through the Socialist Republic of Vietnam (Vietnam).[4] CBP informed Commerce that CBP is unable to determine whether certain merchandise is covered merchandise subject to the *Order.* Thus, CBP requested that Commerce issue a determination as to whether: (1) Chinese-origin rough fittings that only underwent the final stage of three production stages [5] (*i.e.,* finishing processes) in Vietnam are within the scope of the *Order;* and (2) whether Chinese-origin rough fittings that underwent both the second and third stages of production in Vietnam are within the scope of the *Order.*

[1] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52354–62 (September 20, 2021) (final rule promulgating the regulation establishing procedures for covered merchandise referrals).

[2] *See* CBP's Letter, ''Covered Merchandise Referral Request for Merchandise Under EAPA Consolidated Case Number 7335 (Remand Number 7717), Imported by Norca Industrial Company, LLC and International Piping & Procurement Group, LP: Antidumping Duty Order on Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,'' dated September 6, 2022 (Covered Merchandise Referral Request). The covered merchandise referral and any supporting documents will be made available on Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).

[3] *See Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,* 57 FR 29702 (July 6, 1992) (*Order*).

[4] *See* Covered Merchandise Referral Request at 1–2.

[5] CBP's referral states that subject merchandise typically undergoes three production processes to convert seamless pipe into butt-weld pipe fittings: (1) converting seamless pipe ''into the rough shape of an elbow, tee, reducer, *etc.,* through a cold- or hot-forming (or forging) process; (2) reforming or sizing the rough fitting so that the fitting will match the pipe it is destined to be welded to; and (3) a finishing process such as ''shot blasting, or other cleaning, machine beveling, boring and tapering, grinding, die stamping, inspection, and painting.''

Initiation of Covered Merchandise Inquiry

Commerce is hereby notifying interested parties that it is initiating a covered merchandise inquiry to determine whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act. Additionally, Commerce intends to provide interested parties with the opportunity to participate in this segment of the proceeding, including through the submission of comments and factual information, and, if appropriate, verification.

In accordance with 19 CFR 351.227(d)(1), within 30 days of the date of publication of this notice, interested parties are permitted one opportunity to submit comments and factual information addressing the initiation. Within 14 days of the filing of such comments, any interested party is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information submitted by the other interested parties.

In accordance with 19 CFR 351.227(d)(2), following initiation of a covered merchandise inquiry, Commerce may also issue questionnaires and verify submissions received, where appropriate. Commerce may limit issuance of questionnaires to a reasonable number of respondents. Questionnaire responses are due on the date specified by Commerce. Within 14 days after a questionnaire response has been filed with Commerce, an interested party other than the original submitter is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information contained in the questionnaire response. Within seven days of the filing of such rebuttal, clarification, or correction, the original submitter is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information submitted in the interested party's rebuttal, clarification, or correction.

In certain circumstances, Commerce may issue a preliminary determination as to whether there is a reasonable basis to believe or suspect that the product that is subject to the covered merchandise inquiry is covered by the scope of the order. Pursuant to 19 CFR 351.227(c), Commerce intends to issue a final determination within 120 days of the publication of this notice (this deadline may be extended if Commerce determines that good cause exists to warrant an extension). Promptly after

publication of Commerce's final determination, Commerce will convey a copy of the final determination in the manner prescribed by section 516A(a)(2)(A)(ii) of the Act to all parties to the proceeding and Commerce will transmit its final determination to CBP in accordance with section 517(b)(4)(B) of the Act.[6]

Pursuant to 19 CFR 351.227(d)(5), during the pendency of this proceeding, Commerce may rescind, in whole or in part, a covered merchandise inquiry. Situations in which Commerce may rescind a covered merchandise inquiry include if CBP withdraws its covered merchandise referral or if Commerce determines that it can address CBP's covered merchandise referral in another segment of the proceeding. In accordance with 19 CFR 351.227(c)(3), Commerce may align the deadlines of this covered merchandise inquiry with the deadlines of another segment of the proceeding if it determines it is appropriate to do so.

Parties are hereby notified that this may be the only notice that Commerce publishes in the **Federal Register** concerning this covered merchandise referral. Except as indicated below, interested parties that wish to participate in this segment of the proceeding and receive notice of the final determination must submit their letters of appearance as discussed below. Further, any representative of an interested party desiring access to business proprietary information in this segment of the proceeding must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Scope of the Order

The merchandise covered by the *Order* consists of certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.,* threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the HTSUS. The HTSUS subheading is provided for convenience and customs purposes. The written product description remains dispositive.

[6] *See* 19 CFR 351.227(e)(2).

Merchandise Subject to the Covered Merchandise Inquiry

The covered merchandise inquiry will address whether the scope covers rough fittings originating in China and processed into butt-weld pipe fittings through two production scenarios in Vietnam.[7] Pursuant to 19 CFR 351.227(m)(1), Commerce will consider, based on the available record evidence, whether the final determination in the covered merchandise inquiry should be applied on a: (i) producer-specific, exporter-specific, importer-specific basis, or some combination thereof; or (ii) on a country-wide basis, regardless of the producer, exporter, or importer, to all products from the same country with the same relevant physical characteristics as the product at issue.

Filing Requirements

All submissions to Commerce must be filed electronically via ACCESS, unless an exception applies.[8] An electronically filed document must be received successfully in its entirety by the applicable deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9] Each submission must be placed on the record of the segment of the proceeding for the *Order* (A–570–814), ACCESS Covered Merchandise Inquiry segment ''CBP EAPA Inv. No. 7335.''

Suspension of Liquidation

In accordance with 19 CFR 351.227(l)(1), Commerce will notify CBP of the initiation of the covered merchandise inquiry and direct CBP to continue to suspend liquidation of entries of products subject to the covered merchandise inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the *Order.* Should Commerce issue preliminary or final covered merchandise determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.227(l)(2)-(4). In accordance with 19 CFR 351.227(l)(5), nothing in this section affects CBP's authority to take any additional action with respect to the suspension of liquidation or related measures.

Notification to Interested Parties

Interested parties that wish to participate in this segment of the proceeding and be added to the public service list(s) for this segment of the proceeding must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the relevant parties to CBP's EAPA investigation publicly identified by CBP in the covered merchandise referral referenced above are not required to submit a letter of appearance, and will be added to the public service list for this segment of the proceeding by Commerce.

Commerce placed an APO on the record on September 19, 2022.[10] Commerce intends to place the business proprietary versions of the documents (if any) contained in the covered merchandise referral on the record of this proceeding in ACCESS.

Representatives of interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to this segment of the proceeding, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

This notice is issued and published pursuant to section 517(b)(4) of the Act and 19 CFR 351.227(b).

Dated: September 20, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–20794 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–DS–P

[7] Specifically, CBP requests that Commerce address rough fittings that were shipped from China to Vietnam and were either: (1) reformed or sized (so that the fitting will match the pipe it is destined to be welded to) and finished (*i.e.,* shot blasted, or other cleaning, machine beveling, boring and tapering, grinding, die stamping, inspection, and painting) prior to shipping to the United States; or (2) finished prior to shipping to the United States.

[8] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf.*

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* Administrative Protective Order, ''Request for Establishment of Administrative Protective Order: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China (A–570–814),'' dated September 19, 2022.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Federal Advisory Committee open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee (NAIAC or Committee) will hold a hybrid, open meeting on Wednesday, October 12, 2022, from 9:00 a.m. to 4:30 p.m. and Thursday, October 13, 2022, from 9:30 a.m. to 12:30 p.m. Pacific Daylight Time. NAIAC members will discuss how to direct their input into actionable recommendations. These final recommendations will be presented to the President and National Artificial Intelligence Initiative Office. The final agenda will be posted to the NAIAC website: *https://www.ai.gov/naiac/.*

DATES: The meeting will be held on Wednesday, October 12, 2022, from 9:00 a.m. to 4:30 p.m. and Thursday, October 13, 2022, from 9:30 a.m. to 12:30 p.m. Pacific Daylight Time.

ADDRESSES: The meeting will be open to the public via webcast. Registration is not required to watch the live webcast, but those interested in watching live are encouraged to register for alerts. Limited space is also available on a first-come, first-served basis for anyone who wishes to attend in person at Stanford University, 450 Serra Mall, Stanford, CA 94305. Registration for in-person attendance is required. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for additional details. NAIAC members may attend the meeting via webcast or in-person.

FOR FURTHER INFORMATION CONTACT: Alicia Chambers, Committee Liaison Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, *alicia.chambers@nist.gov* or 301–975–5333, or Melissa Banner, Designated Federal Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, *melissa.banner@nist.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NAIAC will hold an open meeting on Wednesday, October 12, 2022, from 9:00 a.m. to 4:30 p.m. and Thursday, October 13, 2022, from 9:30 a.m. to 12:30 p.m. Pacific Daylight Time. For more information please visit: *https://www.ai.gov/naiac/.*

The NAIAC is authorized by Section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. App. The Committee advises the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence Initiative. Additional information on the NAIAC is available at *https://www.ai.gov/naiac/.*

Comments: Individuals and representatives of organizations who would like to offer comments and suggestions or ask questions related to the NAIAC's business are invited to submit comments and questions in advance of the meeting. Written comments and questions may be submitted to the DFO, Melissa Banner, via email to: *melissa.banner@nist.gov* with the subject line ''October 12–13, 2022, NAIAC Meeting Comments.'' Comments and questions must be received by 5:00 p.m. Pacific Daylight Time, Wednesday, October 5, 2022, to be considered. Please note that all submitted comments will be treated as public documents and will be made available for public inspection.

Admittance Instructions: Registration is not required to watch the live webcast, however, anyone interested in receiving notifications is encouraged to register to receive notifications at: *https://www.ai.gov/naiac/.* Anyone wishing to attend this meeting in-person must register via the registration link available at *https://www.ai.gov/naiac/* by 5:00 p.m. Eastern Daylight Time, Wednesday, October 5, 2022. Please note that due to requirements for social distancing in the meeting room, limited space is available in the meeting room and registration will be available on a first-come, first-served basis.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2022–20801 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Institute of Standards and Technology Performance Review Board Membership

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice lists the membership of the National Institute of Standards and Technology Performance Review Board (NIST PRB) and supersedes the list published on September 28, 2020.

DATES: The changes to the NIST PRB membership list announced in this notice are effective September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Didi Hanlein, (240) 449–6356 or by email at *desiree.hanlein@nist.gov* or Amy Laughter, (202) 845–5196 or by email at *amy.laughter@nist.gov* at the National Institute of Standards and Technology.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology Performance Review Board (NIST PRB or Board) reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and Senior Professional employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

This notice lists the membership of the NIST PRB and supersedes the list published in the **Federal Register** on September 28, 2020 (85 FR 60764).

NIST PRB Members

Mojdeh Bahar (C) (alternate), Associate Director for Innovation and Industry Services, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/24

Marla Dowell (C), Director, Communications Technology Laboratory, National Institute of Standards & Technology, Boulder, CO 80305, Appointment Expires: 12/31/24

Robert Fangmeyer (C) (alternate), Director, Baldrige Performance Excellence Program, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/24

Robert Ivester (C), Senior Advisor for Semiconductor Engagement, National Institute of Standards & Technology,

Gaithersburg, MD 20899, Appointment Expires: 12/31/22
Elizabeth Mackey (C) (alternate), Chief Safety Officer, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/22
Paula Patrick (C), Strategic Advisor to Enterprise Services, Department of Commerce Enterprise Services, Washington, DC 20230, Appointment Expires: 12/31/24

Authority: 5 U.S.C. 4301 *et seq.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2022–20799 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC362]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to In-Water Construction at Two Ferry Facilities on Bainbridge Island, Washington

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization (IHA).

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to the Washington State Department of Transportation (WSDOT) Ferries Division to incidentally harass marine mammals during two in-water construction projects on Bainbridge Island, Washington: the Bainbridge Island Ferry Terminal Overhead Loading Replacement Project and Eagle Harbor Maintenance Facility Slip F Improvement Project.

DATES: This authorization is effective from September 16, 2022 through September 15, 2023.

FOR FURTHER INFORMATION CONTACT: Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On February 15, 2022, NMFS received a request from WSDOT for an IHA to take marine mammals incidental to the Bainbridge Island Ferry Terminal Overhead Loading Replacement Project (the Bainbridge Project) and Eagle Harbor Maintenance Facility Slip F Improvement Projects (the Eagle Harbor Project) in Bainbridge Island, Washington. The application was deemed adequate and complete on July 25, 2022. WSDOT's request is for take of 12 species of marine mammal by Level B harassment and, for a subset of these species (harbor seal (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoenoides dalli*)), Level A harassment. Neither WSDOT nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The WSDOT Ferries Division (WSF) operates and maintains 19 ferry terminals and 1 maintenance facility, all of which are located in either Puget Sound or the San Juan Islands. Two projects are planned to be conducted: replacement of the Bainbridge Island Ferry Terminal overhead loading structure and improvement of the Eagle Harbor Maintenance Facility Slip F. Both of the projects are located within Eagle Harbor on Bainbridge Island, Washington, would be completed within the same in-water work season, would have overlapping ensonified areas, and use the same information to estimate marine mammal takes. Therefore, WSDOT submitted one application for a single IHA to cover both projects.

The purpose of the Bainbridge Project is to replace the seismically vulnerable timber trestle and fixed steel portions of the overhead loading structure at the Bainbridge Island Ferry Terminal. The purpose of the Eagle Harbor Project is to improve the maintenance efficiency of the facility. The facility has six vessel slips whose purpose is to maintain the WSF system's vessels.

Dates and Duration

Due to in-water work timing restrictions established by NMFS and the U.S. Army Corps of Engineers, construction in the projects area is limited each year from August 1 through February 15. Both the Bainbridge Project and the Eagle Harbor Project would be constructed during the 2022 to 2023 in-water work season. For the Bainbridge Project, in-water construction is expected to occur on up to 57 days (Table 1). For the Eagle Harbor Project, in-water construction is expected to occur on up to 31 days (Table 2).

Specific Geographic Region

Both projects are located within Eagle Harbor on Bainbridge Island, Washington, approximately 9 miles (mi; 14.5 kilometers (km)) west of Seattle, Washington. The Eagle Harbor Maintenance Facility is approximately 0.25 mi (0.4 km) southwest of the Bainbridge Island Ferry Terminal. Eagle Harbor contains a mix of commercial docks, public marinas, private docks, and undeveloped waterfront properties. The harbor extends 2 mi (1.2 km) west from the mouth of the harbor, which is approximately 900 feet (ft; 274.3 meters (m)) wide and is bounded by Wing Point to the north and Bill Point to the south. A large underwater sand bar extends to the southeast from Wing Point. Water

depths within Eagle Harbor are up to 50 ft (15.2 m) but outside the harbor, water depths between Bainbridge Island and Seattle can be over 700 ft (213.4 m).

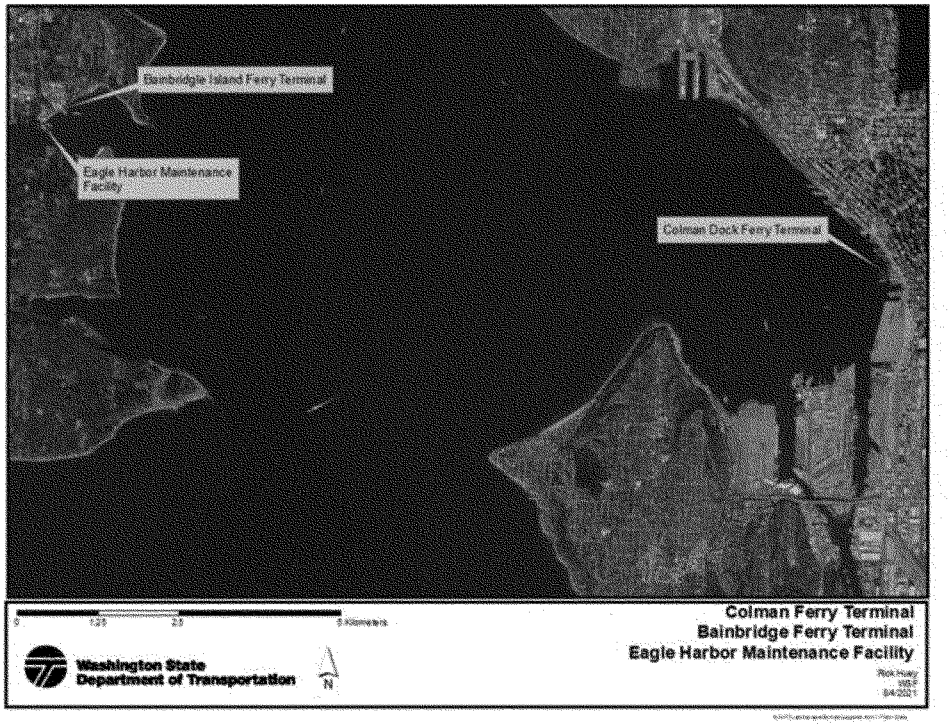

Figure 1 -- Location of Bainbridge Island Ferry Terminal and Eagle Harbor Maintenance Facility in Puget Sound

Detailed Description of Specific Activity

Bainbridge Project

The proposed project elements for the Bainbridge Project include:

1. Using vibratory and impact hammers to install 31 24-inch (in) steel pipe piles for 2 temporary work platforms to support construction equipment;

2. Using vibratory and impact hammers to install four 24-in steel pipe piles for a temporary walkway to maintain overhead loading operations while the new walkway is constructed;

3. Using vibratory and impact hammers to install 14 30-in and 12 36-in steel pipe piles to support the new permanent walkway;

4. Using a vibratory hammer to remove 76 creosote-treated 12-in timber piles and using a saw to cut one 4.5 ft (1.4 m) diameter concrete drill shaft at the mudline that supported the existing overhead loading walkway; and

5. Using a vibratory hammer to remove all steel pipe piles installed for the temporary walkway and work platforms.

TABLE 1—PROPOSED PILE DRIVING FOR THE BAINBRIDGE PROJECT

Project element	Pile size and type	Install or remove	Method	Number of piles	Duration per pile (minutes)	Piles per day	Duration (days)
Temporary work platform and temporary walkway.	24-in Steel	Install	Vibratory	39	30	4	10
			Impact	39	30	4	10
		Remove	Vibratory	39	30	4	10
New Overhead Loading Structure.	24-in Steel	Install	Vibratory	6	30	2	3
			Impact	6	30	2	3
	30-in Steel	Install	Vibratory	4	30	2	2
			Impact	4	30	2	2
	36-in Steel	Install	Vibratory	12	30	2	6
			Impact	12	30	2	6
Old Overhead Loading Structure Removal.	12-in Timber	Remove	Vibratory	76	15	15	5
Total Temporary Piles Installed and Removed				39			
Total Permanent Piles Installed				26			
Total Timber Piles Removed				76			

TABLE 1—PROPOSED PILE DRIVING FOR THE BAINBRIDGE PROJECT—Continued

Project element	Pile size and type	Install or remove	Method	Number of piles	Duration per pile (minutes)	Piles per day	Duration (days)
Total Duration (days)							57

Eagle Harbor Project

The proposed project elements for the Eagle Harbor Project include:

1. Using vibratory and impact hammers to install nine 24-in steel pipe piles and two 3-in steel pipe piles to support a new trestle and vehicle transfer span;

2. Using a vibratory hammer to install eight 36-in steel reaction piles and four 36-in steel fender piles for two new steel wingwalls;

3. Using a vibratory hammer to install eight 30-in steel reaction piles and two 36-in fender piles for two new fixed dolphins; and

4. Using a vibratory hammer to remove 186 12-in timber piles and 4 18-in steel pipe piles that supported existing walkways, timber pile dolphins, and a U-float.

TABLE 2—PROPOSED PILE DRIVING FOR THE EAGLE HARBOR PROJECT

Project element	Pile size and type	Install or remove	Method	Number of piles	Duration per pile (minutes)	Duration (hours)	Rate per day	Duration (days)
Timber Walkway Pile Removal.	12-in Timber	Remove	Vibratory	52	15	13	15	4
Timber Dolphin Removal.	12-in Timber	Remove	Vibratory	134	15	33.5	15	9
Temporary Relocated Float.	18-in Steel	Install	Vibratory	4	30	4	4	1
		Remove		4	30	3	4	1
U-Float Removal	18-in Steel	Remove	Vibratory	4	30	4	4	1
Trestle and Transfer Span.	24-in Steel	Install	Vibratory	9	30	4.5	4	3
			Impact	9	30	4.5	3	3
	36-in Steel	Install	Vibratory	2	30	1	4	1
			Impact	2	30	1	3	1
Wingwall	30-in Steel	Install	Vibratory	8	30	4	4	2
	36-in Steel	Install	Vibratory	4	30	2	4	1
Intermediate Dolphin.	30-in Steel	Install	Vibratory	4	30	2	4	1
	36-in Steel	Install	Vibratory	1	30	5	4	1
Outer Dolphin	30-in Steel	Install	Vibratory	4	30	2	4	1
	36-in Steel	Install	Vibratory	2	30	1	4	1
Total Piles Removed				194				
Total Piles Installed				38				
Total Duration (days)								31

A detailed description of the planned construction project was provided in the **Federal Register** notice for the proposed IHA (87 FR 48623; August 10, 2022). Since that time, no changes have been made to the planned construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposal to issue an IHA to WSDOT was published in the **Federal Register** on August 10, 2022 (87 FR 48623). That notice described, in detail, WSDOT's activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period.

During the public comment period, the United States Geological Survey provided a letter stating that it had no comment. No other comments were received.

Changes From the Proposed IHA to Final IHA

No changes have been made to the authorization itself, but NMFS has added a clarification in Table 6 of this notice to note that the source levels listed for impact pile driving are attenuated measurements, and has corrected the reference for the source levels for impact pile driving. See Table 6.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, incorporated here by reference, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks for which take is expected and proposed to

be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is expected to occur, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs. All values presented in Table 3 are the most recent available at the time of publication and are available in the 2021 SARs (Carretta *et al.,* 2022; Muto *et al.,* 2022).

TABLE 3—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern N Pacific	-, -, N	26,960 (0.05, 25,849, 2016).	801	131
Family Balaenopteridae (rorquals):						
Minke whale	*Balaenoptera acutorostrata*	California/Oregon/Washington	-, -, N	915 (0.792, 509, 2018)	4.1	≥ 0.59
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Long-Beaked Common Dolphin.	*Delphinus capensis*	California	-, -, N	83,379 (0.216, 69,636, 2018).	668	≥29.7
Bottlenose Dolphin	*Tursiops truncatus*	California Coastal	-, -, N	453 (0.06, 346, 2011)	2.7	≥2.0
Pacific White-Sided Dolphin	*Lagenorhynchus obliquidens*	California/Oregon/Washington	-, -, N	34,999 (0.222, 29,090, 2018).	279	7
Killer Whale	*Orcinus orca*	West Coast Transient	-, -, N	349 [4] (N/A, 349, 2018)	3.5	0.4
Family Phocoenidae (porpoises):						
Harbor Porpoise	*Phocoena phocoena*	Washington Inland Waters	-, -, N	11,233 (0.37, 8,308, 2015).	66	≥7.2
Dall's Porpoise	*Phocoenoides dalli*	California/Oregon/Washington	-, -, N	16,498 (0.61, 10,286, 2019).	99	≥0.66
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California Sea Lion	*Zalophus californianus*	U.S.	-, -, N	257,606 (N/A,233,515, 2014).	14,011	>320
Steller Sea Lion	*Eumetopias jubatus*	Eastern	-, -, N	43,201 [5] (see SAR, 43,201, 2017).	2,592	112
Family Phocidae (earless seals):						
Harbor Seal	*Phoca vitulina*	Washington Northern Inland Waters.	-, -, N	11,036 [6] (UNK, UNK, 1999).	UND	9.8
Northern Elephant Seal	*Mirounga angustirostris*	California Breeding	-, -, N	187,386 (N/A, 85,369, 2013).	5,122	13.7

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual mortality/serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range.

[4] Based on counts of individual animals identified from photo-identification catalogues. Surveys for abundance estimates of these stocks are conducted infrequently.

[5] Best estimate of pup and non-pup counts, which have not been corrected to account for animals at sea during abundance surveys.

[6] The abundance estimate for this stock is greater than eight years old and is therefore not considered current. PBR is considered undetermined for this stock, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

As indicated above, all 12 species (with 12 managed stocks) in Table 3 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. While humpback whales (*Megaptera novaeangliae*) and killer whales from the Southern Resident stock are known to occur in Puget Sound, in consideration of the proposed requirements described in the Mitigation and Monitoring and Reporting sections of this notice, WSDOT has determined that take of these species is unlikely to occur and has therefore not requested take of humpback whales or Southern Resident killer whales. NMFS has concurred with

this determination and no take of these species is anticipated or authorized.

A detailed description of the species likely to be affected by WSDOT's projects, including brief introductions to species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (87 FR 48623; August 10, 2022); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia*, river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from WSDOT's construction activities have the potential to result in harassment of marine mammals in the vicinity of the project areas. The **Federal Register** notice of proposed IHA (87 FR 48623; August 10, 2022) included a discussion of the effects of underwater noise from WSDOT's activities on marine mammals and their habitat. That information and analysis is incorporated by reference into the final IHA determination and is not repeated here; please refer to the notice of proposed authorization (87 FR 48623; August 10, 2022).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform both NMFS' consideration of ''small numbers,'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment (in the form of behavioral disturbance and temporary threshold shift (TTS)), as use of the acoustic sources (*i.e.,* vibratory or impact pile driving and removal) have the potential to result in disruption of behavioral patterns and cause a temporary loss in hearing sensitivity for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for porpoises and harbor seals because predicted auditory injury zones are larger. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the authorized take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential

takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the authorized take numbers.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage (non-acoustic Level A harassment or mortality) from exposure to pressure waves from explosive detonation. Thresholds have also been developed identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed.

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 µPa)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

WSDOT's planned activities include the use of continuous (vibratory hammer) and impulsive (impact hammer) sources, and therefore the 120 and 160 dB re 1 µPa (rms) thresholds are applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). WSDOT's activities include the use of impulsive (impact hammer) and non-impulsive (vibratory hammer) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI, 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project areas is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected by sound generated by the primary components of the project (*i.e.,* impact and vibratory pile driving).

In order to calculate distances to the Level A harassment and Level B harassment thresholds for the methods and piles being used in these projects, NMFS used acoustic monitoring data from previous pile driving at the Bainbridge Island Ferry Terminal (impact installation of 24-in steel piles) and Eagle Harbor Maintenance Facility (impact installation of 30-in steel piles), as well as pile driving at other locations within Puget Sound to develop source levels for the various pile types, sizes, and methods for the two projects (Table 6). A source level for vibratory driving of 18-in steel piles is not available so it is conservatively assumed to be equivalent to the source level for 24-in steel piles.

TABLE 6—EXPECTED PROJECT SOUND SOURCE LEVELS

Pile type and size (in)	Method	Source level (dB re 1 μPa)	Source level measurement distance (m)	Reference
12-in timber	Vibratory removal	152 dB rms	10	Greenbusch Group (2018).
18-in and 24-in steel	Vibratory installation and removal.	166 dB rms	10	WSDOT (2020) [1].
30-in steel	Vibratory installation and removal.	176 dB rms	6	WSDOT (2020) [1].
36-in steel	Vibratory installation	184 dB rms	10	WSDOT (2020) [1].
24-in steel	Impact installation	206 dB peak, 179 dB SEL, 195 dB rms.	10	WSDOT (2020) [2].
30-in steel	Impact installation	194 dB peak, 182 dB SEL, 184 dB rms.	10	WSDOT (2020) [2].
36-in steel	Impact installation	205 dB peak, 178 dB SEL, 191 dB rms.	10	WSDOT (2020) [2].

[1] WSDOT Biological Assessment Manual Table 7–15.
[2] Bubble curtain-attenuated source levels from WSDOT Biological Assessment Manual Table 7–14.

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * Log10 (R1/R2)$

Where:

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
R1 = the distance of the modeled SPL from the driven pile, and
R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for WSDOT's planned activities in the absence of specific modelling. The Level B harassment zones for WSDOT's planned activities are shown in Table 7.

Level A Harassment Zones

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile installation and removal, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. The isopleths generated by the User Spreadsheet used the same TL coefficient as the Level B harassment zone calculations (*i.e.,* the practical spreading value of 15). Inputs used in the User Spreadsheet (*e.g.,* number of piles per day, duration and/or strikes per pile) are presented in Tables 1 and 2, and the resulting isopleths are reported below in Table 7.

TABLE 7—LEVEL A HARASSMENT AND LEVEL B HARASSMENT ZONES

Pile size/type	Pile driving method	Level A harassment zone (m)					Level B harassment zone (m)
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids	
12-in timber	Vibratory removal	4.1	0.4	6.1	2.5	0.2	[a] 1,360
18-in steel	Vibratory installation/removal.	23.4	2.1	34.5	14.2	1.0	[a] 11,659
24-in steel	Vibratory installation/removal.	27.1	2.4	40.1	16.5	1.2	[a] 11,659
30-in steel	Vibratory installation/removal.	65.1	5.8	96.2	39.5	2.8	[a b] 32,470
36-in steel	Vibratory installation.	485.1	43.0	717.2	294.9	20.7	[a b] 184,785
24-in steel	Impact installation	784.8	27.9	934.8	420.0	30.6	[c] 2,154
30-in steel	Impact installation	1,359.6	48.4	1,619.5	727.6	53.0	[c] 398
36-in steel	Impact installation	795.9	28.3	948.0	425.9	31.0	[c] 1,166

[a] Distance to 120 dB rms threshold.
[b] Distance to Level B harassment threshold without obstruction; however for these projects, 13,345 m is the maximum in-water distance until land is reached.
[c] Distance to 160 dB rms threshold.

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information, that will inform the quantitative estimate of the take that is reasonably likely to occur and proposed for authorization. Unless otherwise specified, the term ''pile driving'' in this section, and all following sections, may refer to either pile installation or removal. WSDOT first estimated take for both projects using the areas ensonified above the Level B harassment threshold and density estimates for marine mammals in Puget Sound. Density estimates for all species except harbor porpoises were from the U.S. Navy's Marine Species Density Database (MSDD) for the Northwest Training and Testing (NWTT) Study Area (U.S. Navy, 2019). For harbor porpoises, WSDOT used the density estimate from Evenson (2016) as it was considered more conservative than the density estimate for harbor porpoises from the NWTT MSDD. However, for all species except harbor seals and harbor porpoises, WSDOT did not consider the resulting take estimates to be realistic (*i.e.,* either over- or underestimated take). Instead, WSDOT compiled monitoring results from pile driving between August 2017 and February 2021 at the Seattle Ferry Terminal Multimodal Project at Colman Dock (WSDOT, 2021) (Table 8). Because the Level B harassment zones from vibratory pile driving at Colman Dock extended to or near the Bainbridge Island shoreline, and because the Level B harassment zones from vibratory pile driving at the Bainbridge Ferry Terminal and Eagle Harbor Maintenance Facility extend to the Seattle shoreline, WSDOT considered the monitoring results from the Seattle Multimodal Project to be the most relevant and comprehensive sightings data available for the project areas. Based on the Seattle Multimodal Project monitoring results, WSDOT used their best professional judgement to estimate the number of marine mammals that may be taken incidental to the planned activities.

NMFS has carefully reviewed WSDOT's analysis and concludes that it represents an appropriate and accurate method for estimating incidental take caused by WSDOT's activities.

TABLE 8—MARINE MAMMAL DENSITY AND SIGHTINGS

Species	Density/km^2	Sightings total	Average sightings/day (372 days)	Maximum one-day sightings	Take requested and authorized
Harbor Seal	3.91	1,939	5.21	43	Yes.
Northern Elephant Seal	0.0[1]	1	0.003	1	Yes.
California Sea Lion	0.0152–0.2211	2,625	7.05	38	Yes.
Steller Sea Lion	0.0010–0.0478	100	0.27	10	Yes
Unidentified pinniped	N/A	118	N/A	9	N/A.
Killer Whale Southern Resident	0.000009–0.007828	297	0.80	26	No.
Killer Whale Transient	0.001582–0.002373	47	0.13	20	Yes.
Gray Whale	0.000086	4	0.011	1	Yes.
Minke Whale	0.00045	1	0.003	1	Yes.
Unidentified large whale	N/A	2	N/A	1	N/A.
Unidentified small whale	N/A	10	N/A	9	N/A.
Harbor Porpoise	0.58	413	1.11	40	Yes.
Dall's Porpoise	0.00045	8	0.02	5	Yes.
Pacific White-sided Dolphin	0.0	2	0.005	2	Yes.
Long-beaked Common Dolphin	0.0	2	0.005	1	Yes.
Common Bottlenose Dolphin	0.0	6	0.02	2	Yes.
Unidentified dolphin/porpoise	N/A	42	N/A	5	N/A.

Gray Whale

WSDOT estimated that up to 20 Level B harassment takes of gray whales could result from each project, for a total of 40 gray whale takes by Level B harassment. In consideration of the infrequent occurrence of gray whales in the project areas, the mitigation and monitoring measures that WSDOT is required to comply with, including marine mammal monitoring and coordination with Orca Network that would alert WSDOT to the presence of large whales in the project area (see Mitigation), and given the size and visibility of gray whales, WSDOT will be able to detect gray whales and stop work before gray whales can enter the Level A harassment zones. Therefore, it is unlikely that any gray whales would be taken by Level A harassment. No take of gray whales by Level A harassment is requested or authorized.

Minke Whale

WSDOT estimated that up to 20 Level B harassment takes of minke whales could result from each project, for a total of 40 minke whale takes by Level B harassment. Like gray whales, in consideration of the infrequent occurrence of minke whales in the project areas, the mitigation and monitoring measures that WSDOT is required to comply with, including marine mammal monitoring and coordination with Orca Network (see Mitigation), and given the size and visibility of minke whales, WSDOT will be able to detect minke whales and stop work before minke whales can enter the Level A harassment zones. Therefore, it is unlikely that any minke whales would be taken by Level A harassment. No take of minke whales by Level A harassment is requested or authorized.

Long-Beaked Common Dolphin

WSDOT estimated that up to 20 Level B harassment takes of long-beaked common dolphins could result from each project, for a total of 40 long-beaked common dolphin takes by Level B harassment. The Level A harassment zones for mid-frequency cetaceans are all less than 50 m. Given the visibility of long-beaked common dolphins, WSDOT will be able to cease pile driving before long-beaked common dolphins can enter the Level A harassment zone. No take of long-beaked common dolphins by Level A harassment is requested or authorized.

Bottlenose Dolphin

WSDOT estimated that up to 20 Level B harassment takes of bottlenose

dolphins could result from each project, for a total of 40 bottlenose dolphin takes by Level B harassment. The Level A harassment zones for mid-frequency cetaceans are all less than 50 m. Given the visibility of bottlenose dolphins, WSDOT will be able to cease pile driving before bottlenose dolphins can enter the Level A harassment zone. No take of bottlenose dolphins by Level A harassment is requested or authorized.

Pacific White-Sided Dolphin

WSDOT estimated that up to 20 Level B harassment takes of Pacific white-sided dolphins could result from each project, for a total of 40 Pacific white-sided dolphin takes by Level B harassment. The Level A harassment zones for mid-frequency cetaceans are all less than 50 m. Given the visibility of Pacific white-sided dolphins, WSDOT will be able to cease pile driving before Pacific white-sided dolphins can enter the Level A harassment zone. No take of Pacific white-sided dolphins by Level A harassment is requested or authorized.

Killer Whale (Transient)

WSDOT estimated that up to 60 Level B harassment takes of transient killer whales could result from each project, for a total of 120 killer whale takes by Level B harassment. The Level A harassment zones for mid-frequency cetaceans are all less than 50 m. Given the visibility of killer whales, WSDOT will be able to cease pile driving before killer whales can enter the Level A harassment zone. No take of killer whales by Level A harassment is requested or authorized.

As stated above, no take of Southern Resident killer whales is expected or authorized.

Harbor Porpoise

To estimate the number of harbor porpoises that may be taken by Level B harassment from the two projects, WSDOT calculated the area ensonified above the Level B harassment threshold for each pile size, type, and method for both projects. WSDOT then multiplied the estimated density of harbor porpoises in the area (0.58 per km^2; Evenson 2016) by the ensonified area and the expected days of work for each project element (Table 9).

TABLE 9—ESTIMATED TAKE OF HARBOR PORPOISES BY LEVEL B HARASSMENT

Pile size, type, and method	Bainbridge ensonified area (km^2)	Bainbridge days of work	Eagle Harbor ensonified area (km^2)	Eagle Harbor days of work	Bainbridge takes by Level B harassment by pile size, type, and method	Eagle Harbor takes by Level B harassment by pile size, type, and method
12-in timber vibratory	0.5	5	0.8	13	3	6
18-in steel vibratory	N/A	0	23.2	3	0	27
24-in steel vibratory	2.3	2	23.2	3	3	40
30-in steel vibratory	2.3	23	23.2	4	320	53
36-in steel vibratory	2.3	6	23.2	4	84	53
24-in steel impact	0.9	13	0.87	3	17	2
30-in steel impact	0.4	2	N/A	0	3	0
36-in steel impact	0.9	6	0.87	1	8	1
Total					298	183

The areas ensonified above the Level A harassment threshold for high-frequency cetaceans has been omitted from the areas ensonified above the Level B harassment threshold presented in Table 9. For impact installation of 30-in steel piles, the Level A harassment zone for high-frequency cetaceans is approximately 1,620 m. To estimate the number of harbor porpoises that may be present within the Level A harassment zone, WSDOT used the average sightings rate from the Seattle Multimodal Project at Colman Dock (0.691 harbor porpoises per day; Table 8) multiplied by the days of impact pile driving expected for each project (27 days for the Bainbridge Project and 8 days for the Eagle Harbor Project) to estimate that 19 and 6 harbor porpoises may be taken by Level A harassment from the Bainbridge Project and Eagle Harbor Project, respectively. Therefore, WSDOT requested, and NMFS has authorized, a total of 25 takes of harbor porpoises by Level A harassment.

Dall's Porpoise

WSDOT estimated that up to 20 Level B harassment takes of Dall's porpoises could result from each project, for a total of 40 Dall's porpoise takes by Level B harassment.

For impact installation of 30-in steel piles, the Level A harassment zone for high-frequency cetaceans is approximately 1,620 m. Dall's porpoises are considered rare in the project area and are unlikely to be present within the Level A harassment zones but WSDOT conservatively estimates that no more than 5 Dall's porpoises could enter the Level A harassment zones of each project. Therefore, WSDOT requested, and NMFS has authorized, a total of 10 takes of Dall's porpoises by Level A harassment.

California Sea Lion

Over the course of 372 days of monitoring for the Seattle Multimodal Project at Colman Dock, the average number of California sea lions observed per day was 7.05 (Table 8). WSDOT used that average sightings rate multiplied by the days of work for each project (57 days for the Bainbridge Project and 31 days for the Eagle Harbor Project) to estimate that 402 and 219 California sea lions may be taken by Level B harassment from the Bainbridge Project and Eagle Harbor Project, respectively, for a total of 621 takes of California sea lions by Level B harassment.

The largest Level A harassment zone for otariid pinnipeds is 53 m. WSDOT would be required to implement a 60 m shutdown zone for otariids for all pile driving activities. At that close range, WSDOT will be able to detect California sea lions and implement the required shutdown measures before California sea lions can enter the Level A harassment zone. Therefore, no takes of California sea lions by Level A harassment are requested or authorized.

Steller Sea Lion

WSDOT estimated that 180 Level B harassment takes of Steller sea lions could result from each project, for a total of 360 Steller sea lion takes by Level B harassment. The largest Level A

harassment zone for otariid pinnipeds is 53 m. WSDOT would be required to implement a 60 m shutdown zone for otariids for all pile driving activities. At that close range, WSDOT will be able to detect Steller sea lions and implement the required shutdown measures before Steller sea lions can enter the Level A harassment zone. Therefore, no takes of Steller sea lions by Level A harassment are requested or authorized.

Harbor Seal

To estimate the number of harbor seals that may be taken by Level B harassment from the two projects, WSDOT calculated the area ensonified above the Level B harassment threshold for each pile size, type, and method for both projects. WSDOT then multiplied the estimated density of harbor seals in the area (3.91 per km^2; Navy, 2019) by the ensonified area and the expected days of work for each project element (Table 10). In total, WSDOT estimates that 3,450 harbor seals may be taken by Level B harassment.

TABLE 10—ESTIMATED TAKE OF HARBOR SEALS BY LEVEL B HARASSMENT

Pile size, type, and method	Bainbridge ensonified area (km^2)	Bainbridge days of work	Eagle Harbor ensonified area (km^2)	Eagle Harbor days of work	Bainbridge takes by pile size, type, and method	Eagle Harbor takes by pile size, type, and method
12-in timber vibratory	1.5	5	1.6	13	30	81
18-in steel vibratory	N/A	0	24.1	3	0	188
24-in steel vibratory	24.0	2	24.1	3	188	283
30-in steel vibratory	24.0	23	24.1	4	2,158	377
36-in steel vibratory	24.0	6	24.1	4	563	377
24-in steel impact	2.0	13	1.66	3	102	20
30-in steel impact	1.3	2	N/A	0	10	0
36-in steel impact	2.0	6	1.66	1	47	7
Total					2,117	1,333

The areas ensonified above the Level A harassment threshold for phocid pinnipeds has been omitted from the areas ensonified above the Level B harassment threshold presented in Table 10. For impact installation of 30-in steel piles, the Level A harassment zone for phocid pinnipeds is approximately 728 m. To estimate the number of harbor seals that may be present within the Level A harassment zone, WSDOT used the average sightings rate from the Seattle Multimodal Project at Colman Dock (5.21 harbor seals per day; Table 8) multiplied by the days of impact pile driving expected for each project (27 days for the Bainbridge Project and 8 days for the Eagle Harbor Project) to estimate that 141 and 42 harbor seals may be taken by Level A harassment from the Bainbridge Project and Eagle Harbor Project, respectively. Therefore, WSDOT requested, and NMFS has authorized, a total of 183 takes of harbor seals by Level A harassment.

Northern Elephant Seal

Individual elephant seals have occasionally been reported in central Puget Sound (*e.g.,* Orca Network, 2020), but are considered rare in the project areas. WSDOT estimated that up to 10 Level B harassment takes of northern elephant seals could result from each project, for a total of 20 northern elephant seal takes by Level B harassment. The largest Level A harassment zone (728 m) occurs during impact installation of 30-in steel pipe piles (Table 7). It is unlikely that northern elephant seals would be found within this zone, and even more unlikely that northern elephant seals would be found within the Level A harassment zones for vibratory pile driving (up to 295 m). However, even if northern elephant seals were encountered in the project areas, at that close range, WSDOT will be able to detect them and implement the required shutdown measures before any northern elephant seals can enter the Level A harassment zones. Therefore, no take of northern elephant seals by Level A harassment is requested or authorized.

TABLE 11—AUTHORIZED TAKE OF MARINE MAMMALS BY LEVEL A AND LEVEL B HARASSMENT FROM THE BAINBRIDGE PROJECT BY SPECIES AND STOCK

Species	Stock	Authorized take by Level B harassment	Authorized take by Level A harassment
Gray whale	Eastern North Pacific	20	0
Minke whale	California/Oregon/Washington	20	0
Killer whale	West Coast Transient	60	0
Bottlenose dolphin	California Coastal	20	0
Long-beaked common dolphin	California	20	0
Pacific white-sided dolphin		20	0
Harbor porpoise	Washington Inland Waters	298	19
Dall's porpoise	California/Oregon/Washington	20	5
California sea lion	U.S.	402	0
Steller sea lion	Eastern	180	0
Northern elephant seal	California Breeding	10	0
Harbor seal	Washington Northern Inland Waters	2,117	141

TABLE 12—AUTHORIZED TAKE OF MARINE MAMMALS BY LEVEL A AND LEVEL B HARASSMENT FROM THE EAGLE HARBOR PROJECT BY SPECIES AND STOCK

Species	Stock	Authorized take by Level B harassment	Authorized take by Level A harassment
Gray whale	Eastern North Pacific	20	0
Minke whale	California/Oregon/Washington	20	0
Killer whale	West Coast Transient	60	0
Bottlenose dolphin	California Coastal	20	0
Long-beaked common dolphin	California	20	0
Pacific white-sided dolphin		20	0
Harbor porpoise	Washington Inland Waters	183	6
Dall's porpoise	California/Oregon/Washington	20	5
California sea lion	U.S.	219	0
Steller sea lion	Eastern	180	0
Northern elephant seal	California Breeding	10	0
Harbor seal	Washington Northern Inland Waters	1,333	42

TABLE 13—TOTAL AUTHORIZED TAKE OF MARINE MAMMALS BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Species	Stock	Authorized take by Level A harassment	Authorized take by Level B harassment	Total authorized take	Percent of stock
Gray whale	Eastern North Pacific	0	40	40	0.2
Minke whale	California/Oregon/Washington	0	40	40	11.0
Killer whale	West Coast Transient	0	120	120	34.4
Bottlenose dolphin	California Coastal	0	40	40	8.8
Long-beaked common dolphin	California	0	40	40	3.2
Pacific white-sided dolphin	California/Oregon/Washington	0	40	40	0.2
Harbor porpoise	Washington Inland Waters	25	481	506	5.0
Dall's porpoise	California/Oregon/Washington	10	40	50	0.3
California sea lion	U.S.	0	621	621	0.24
Steller sea lion	Eastern	0	360	360	0.83
Northern elephant seal	California Breeding	0	20	20	0.01
Harbor seal	Washington Northern Inland Waters	183	3,450	3,633	32.9

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

Shutdown Zones

Before the commencement of in-water construction activities, WSDOT must establish shutdown zones for all activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Pile driving would also not commence until all marine mammals are clear of their respective shutdown zones. Shutdown zones are established in consideration of the Level A harassment zones and therefore typically vary based on the activity type and marine mammal hearing group. However, rather than establishing different shutdown zones for each hearing group for each project element, WSDOT proposed, and NMFS has included in the authorization, simplified shutdown zones and only one or two shutdown zones for each hearing group to implement across all project elements (Table 14). For example, the 720 m shutdown zone for low-frequency and high-frequency cetaceans for all vibratory pile driving activities encompasses both the largest Level A harassment zone for high-frequency cetaceans (717.2 m; see Table 7) and the largest Level A harassment zone for low-frequency cetaceans (485.1 m; see Table 7). This conservatively protects animals in both hearing groups, simplifies analysis and monitoring, and presents minimal risks to implementing the project, as marine mammals in these hearing groups are unlikely to be present within 720 m of the construction site during pile driving activities. For impact pile driving, WSDOT must retain the 720 m shutdown zone for high-frequency cetaceans but increase the shutdown zone for low-frequency cetaceans to 2,175 m which encompasses the largest Level B harassment zone for impact pile driving, and is also the required shutdown zone for preventing take of unauthorized species (*e.g.,* Southern Resident killer whales, humpback whales) (Table 14). The Level A harassment zones for high-frequency cetaceans from impact pile driving are all greater than 720 m (Table 7), thus any high-frequency cetacean that enters the Level A harassment zone beyond 720 m must be recorded as taken by Level A harassment.

At minimum, the shutdown zone for all hearing groups and all activities is 10 m. For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, *etc.*), if a marine mammal comes within 10 m, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include, for example, the movement of the barge to the pile location or positioning of the pile on the substrate via a crane.

WSDOT must also establish shutdown zones for all marine mammals for which take has not been authorized or for which incidental take has been authorized but the authorized number of takes has been met. These zones are equivalent to the Level B harassment zones for each activity (see Table 14).

WSDOT must also implement shutdown measures for Southern Resident killer whales and humpback whales. If Southern Resident killer whales or humpback whales are sighted within the vicinity of the project areas and are approaching the Level B harassment zone (see Table 14), WSDOT must shut down the pile driving equipment to avoid possible take of these species. If a killer whale approaches the Level B harassment zone during pile driving, and it is unknown whether it is a Southern Resident killer whale or a transient killer whale, it must be assumed to be a Southern Resident killer whale and WSDOT would implement the shutdown measure.

If a Southern Resident killer whale, unidentified killer whale, or humpback whale enters the Level B harassment zone undetected, in-water pile driving must be suspended until the whale exits the Level B harassment zone, or 15 minutes have elapsed with no sighting of the animal, to avoid further Level B harassment.

TABLE 14—SHUTDOWN ZONES FOR THE BAINBRIDGE AND EAGLE HARBOR PROJECTS

Pile type and method	Shutdown zone (m)					
	LF cetacean	MF cetacean	HF cetacean	Phocids	Otariids	Southern Resident killer whales, humpback whales, and other unauthorized species
12-in timber vibratory	720	60	720	60	60	2,175
18-in steel vibratory	720	60	720	60	60	[a] 13,345
24-in steel vibratory	720	60	720	60	60	[a] 13,345
30-in steel vibratory	720	60	720	60	60	[a] 13,345
36-in steel vibratory	720	60	720	60	60	[a] 13,345
24-in steel impact	2,175	60	720	60	60	2,175
30-in steel impact	2,175	60	720	60	60	2,175
36-in steel impact	2,175	60	720	60	60	2,175

[a] 13,345 m is the maximum distance sound can travel before reaching land.

Protected Species Observers

The placement of protected species observers (PSOs) during all pile driving activities (described in the Monitoring and Reporting section) must ensure that the entire shutdown zone is visible. Should environmental conditions deteriorate such that the entire shutdown zone would not be visible (*e.g.,* fog, heavy rain), pile driving must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected.

Monitoring for Level A and Level B Harassment

PSOs must monitor the Level B harassment zones to the extent practicable, and all of the Level A harassment zones. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs must observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone is considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zones listed in Table 14, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity must not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zones or 15 minutes have passed without re-detection of the animal. When a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone, activities may begin and Level B harassment take must be recorded. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones would commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

Coordination With Local Marine Mammal Research Network

Prior to the start of pile driving for the day, the PSOs must contact the Orca Network to find out the location of the nearest marine mammal sightings. The Local Marine Mammal Research Network consists of a list of over 600 (and growing) residents, scientists, and government agency personnel in the United States and Canada. Sightings are called or emailed into the Orca Network and immediately distributed to other sighting networks including: the NMFS Northwest Fisheries Science Center, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline, and the British Columbia Sightings Network.

Sightings information collected by the Orca Network includes detection by hydrophone. The SeaSound Remote Sensing Network is a system of interconnected hydrophones installed in the marine environment of Haro Strait (west side of San Juan Island) to study orca communication, in-water noise, bottom fish ecology, and local climatic conditions. A hydrophone at the Port Townsend Marine Science Center measures average in-water sound levels and automatically detects unusual sounds. These passive acoustic devices allow researchers to hear when different marine mammals come into the region. This acoustic network, combined with the volunteer visual sighting network allows researchers to document presence and location of various marine mammal species.

Soft Start

Soft-start procedures are used to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors are required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

Bubble Curtain

A bubble curtain must be employed during impact installation or proofing of steel piles, unless the piles are driven in the dry, or water is less than 3 ft (0.9 m) in depth. A noise attenuation device is not required during vibratory pile driving. If a bubble curtain or similar measure is used, it must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure must provide 100 percent coverage in the water column for the full depth of the pile. The lowest bubble ring must be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring must ensure 100 percent mudline contact. No parts of the ring or other objects may prevent full mudline contact.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or

cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Marine mammal monitoring during pile driving activities must be conducted by PSOs meeting NMFS' standards and in a manner consistent with the following:

- Independent PSOs (*i.e.,* not construction personnel) who have no other assigned tasks during monitoring periods must be used;
- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience; and
- Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including, but not limited to, the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

During impact driving of all steel piles, and during vibratory removal of timber piles, WSDOT must have three PSOs stationed to monitor the project area: one at the construction site, one across Eagle Harbor looking toward the construction site, and one on board the Seattle-Bainbridge ferry. For vibratory driving of all steel piles, WSDOT must have five PSOs to monitor the project area: three at the locations described for impact pile driving, with one additional PSO stationed on the Seattle waterfront and one stationed on Alki Beach looking west toward Bainbridge Island.

Monitoring must be conducted 30 minutes before, during, and 30 minutes after all in water construction activities. In addition, observers must record all incidents of marine mammal occurrence, regardless of distance from activity, and must document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Reporting

A draft marine mammal monitoring report must be submitted to NMFS within 90 days after the completion of pile driving activities, or 60 days prior to a requested date of issuance of any future IHAs for the project, or other projects at the same location, whichever comes first. The marine mammal report must include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (a) How many and what type of piles were driven or removed and the method (*i.e.,* impact or vibratory); and (b) the total duration of time for each pile (vibratory driving) number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

For each observation of a marine mammal, the following must be reported:

- Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;
- Time of sighting;
- Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
- Distance and location of each observed marine mammal relative to the pile being driven or hole being drilled for each sighting;
- Estimated number of animals (min/max/best estimate);
- Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);
- Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species; and
- Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specified actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS' comments must be submitted within 30 days after receipt of comments. All PSO datasheets and/or raw sighting data must be submitted with the draft marine mammal report.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, WSDOT must report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to the West Coast Region (WCR) regional stranding coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, WSDOT must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHAs. WSDOT must not resume their activities until notified by NMFS.

The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and

updated location information if known and applicable);

2. Species identification (if known) or description of the animal(s) involved;

3. Condition of the animal(s) (including carcass condition if the animal is dead);

4. Observed behaviors of the animal(s), if alive;

5. If available, photographs or video footage of the animal(s); and

6. General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities from the Bainbridge and Eagle Harbor Projects have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level A and Level B harassment, from underwater sounds generated from pile driving. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

The authorized takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated or authorized given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Mitigation section).

To avoid repetition, the majority of our analysis applies to all the species listed in Table 3, given that the anticipated effects of these projects on different marine mammal stocks are expected to be relatively similar in nature. Where there are special circumstances for a species or stock (*e.g.,* gray whales), they are included as a separate subsection below.

NMFS has identified key factors which may be employed to assess the level of analysis necessary to conclude whether potential impacts associated with a specified activity should be considered negligible. These include (but are not limited to) the type and magnitude of taking, the amount and importance of the available habitat for the species or stock that is affected, the duration of the anticipated effect to the species or stock, and the status of the species or stock. The following factors support negligible impact determinations for all affected stocks.

Take by Level A harassment is authorized for three species (harbor seals, harbor porpoise, and Dall's porpoise) to account for the possibility that an animal could enter a Level A harassment zone prior to detection, and remain within that zone for a duration long enough to incur PTS. Any take by Level A harassment is expected to arise from, at most, a small degree of PTS, *i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by impact pile driving (*i.e.* the low-frequency region below 2 kilohertz (kHz)), not severe hearing impairment or impairment within the ranges of greatest hearing sensitivity. Animals would need to be exposed to higher levels and/or longer duration than are expected to occur here in order to incur any more than a small degree of PTS. Two of the three species for which Level A harassment is authorized are high-frequency cetaceans (harbor porpoise and Dall's porpoise), and the hearing ability of the third species for which Level A harassment is authorized (harbor seal) below 2 kHz is also poor (NMFS, 2018). Given the hearing ranges of these three species, PTS incurred at the low frequencies of pile driving noise would not interfere either with conspecific communication or echolocation, and therefore would not be expected to impact the survival or reproductive abilities of the affected individuals, let alone the stock or population.

As described above, NMFS expects that marine mammals would likely move away from an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start. WSDOT is also required to shut down pile driving activities if marine mammals approach within hearing group-specific zones (see Table 14), further minimizing the likelihood and degree of PTS that would be incurred. Even absent mitigation, no serious injury or mortality from construction activities is anticipated or authorized.

Effects on individuals that are taken by Level B harassment in the form of behavioral disruption, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as avoidance, increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006). Most likely, individuals would simply move away from the sound source and temporarily avoid the area where pile driving is occurring. If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activities are occurring, particularly as the project is located in a busy harbor with high amounts of vessel traffic, including large ferry boats. We expect that any avoidance of the project areas by marine mammals would be temporary in nature and that any marine mammals that avoid the project areas during construction would not be permanently displaced. Short-term avoidance of the project areas and energetic impacts of interrupted foraging or other important behaviors is unlikely to affect the reproduction or survival of individual marine mammals, and the effects of behavioral disturbance on individuals is not likely to accrue in a manner that would affect the rates of recruitment or survival of any affected stock.

Additionally, and as noted previously, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. However, since the hearing sensitivity of individuals that incur TTS is expected to recover completely within minutes to hours, it

is unlikely that the brief hearing impairment would affect the individual's long-term ability to forage and communicate with conspecifics, and would therefore not likely impact reproduction or survival of any individual marine mammal, let alone adversely affect rates of recruitment or survival of the species or stock.

The projects are also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Aside from the biologically important area (BIA) for gray whales described below, there are no known areas of importance for other marine mammals, such as feeding or pupping areas, in the project area.

For all species and stocks, take would occur within a limited, relatively confined area (Eagle Harbor within central Puget Sound) of the stocks' ranges. Given the availability of suitable habitat nearby, any displacement of marine mammals from the project areas is not expected to affect marine mammals' fitness, survival, and reproduction due to the limited geographic area that will be affected in comparison to the much larger habitat for marine mammals in Puget Sound. Level A harassment and Level B harassment will be reduced to the level of least practicable adverse impact to the marine mammal species or stocks and their habitat through use of mitigation measures described herein. Some individual marine mammals in the project areas may be present and be subject to repeated exposure to sound from pile driving on multiple days. However, these individuals would likely return to normal behavior during gaps in pile driving activity. Eagle Harbor is a busy harbor and monitoring reports from previous in-water pile driving activities along the nearby Seattle waterfront (*e.g.,* WSDOT, 2022) indicate that marine mammals continue to remain in the greater project area throughout pile driving activities. Therefore, any behavioral effects of repeated or long duration exposures are not expected to negatively affect survival or reproductive success of any individuals. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any effects on rates of reproduction and survival of the stock.

Gray Whales

Puget Sound is part of a BIA for migrating gray whales (Calambokidis *et al.,* 2015). While Eagle Harbor is included in the BIA, gray whales typically remain further north in Puget Sound, primarily in the waters around Whidbey Island (Calambokidis *et al.,* 2018). Gray whales are rarely observed in central Puget Sound, and have never been documented inside Eagle Harbor. Therefore, even though the project areas overlap with the BIA, the infrequent occurrence of gray whales suggests that the projects would have minimal, if any, impact on the migration of gray whales in the BIA, and would therefore not affect reproduction or survival.

There is an ongoing UME for gray whales (see the Description of Marine Mammals in the Area of Specified Activities section of the **Federal Register** notice of proposed IHA (87 FR 48623; August 10, 2022)). However, we do not expect the authorized takes to exacerbate or compound upon this ongoing UME. As noted previously, no Level A harassment, serious injury, or mortality of gray whales is expected or authorized, and any Level B harassment takes of gray whales would most likely be in the form of behavioral disturbance. Preliminary findings from necropsied gray whales that are considered part of the ongoing UME have shown evidence of emaciation, suggesting that impacts to feeding would be of most concern. However, the project areas have not been identified as important for feeding of gray whales. Additionally, the project areas are not considered important for breeding gray whales. Therefore the projects are unlikely to disrupt any critical behaviors (*e.g.,* feeding, mating) or have any effect on the reproduction or survival of gray whales, even in light of the ongoing UME.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from these activities are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or authorized for either project;
- Level A harassment is not anticipated or authorized for 9 of the 12 species. For the other three species, Level A harassment would be in the form of a slight degree of PTS;
- Level B harassment would be in the form of behavioral disturbance, primarily resulting in avoidance of the project areas around where impact or vibratory pile driving is occurring, and some low-level TTS that may limit the detection of acoustic cues for relatively brief amounts of time in relatively confined footprint of the activities;
- Nearby areas of similar habitat value within Puget Sound are available for marine mammals that may temporarily vacate the project areas during construction activities for both projects;
- Effects on species that serve as prey for marine mammals from the activities are expected to be short-term and, therefore, any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations from either project;
- The number of authorized takes by Level B harassment is relatively low for all stocks for both projects;
- The ensonified areas from both projects are very small relative to the overall habitat ranges of all species and stocks, and will not adversely affect ESA-designated critical habitat, or cause more than minor impacts in any BIAS or any other areas of known biological importance;
- The lack of anticipated significant or long-term negative effects to marine mammal habitat from either project;
- The efficacy of the mitigation measures in reducing the effects of the specified activities on all species and stocks for both projects; and
- Monitoring reports from similar work in Puget Sound that have documented little to no effect on individuals of the same species that could be impacted by the specified activities from both projects.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available,

NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

For all species and stocks other than killer whales from the West Coast Transient stock, the authorized take is below one-third of the stock abundance. The authorized take of transient killer whales, as a proportion of the stock abundance is 34.4 percent, if all takes are assumed to occur for unique individuals. In reality, it is unlikely that all takes would occur to different individuals. The project area represents a small portion of the stock's overall range (from Alaska to California (Muto *et al.,* 2019)) and based on sightings reports from the Orca Network, it is reasonable to expect that the same individual transient killer whales would be present within the project area on multiple days during the proposed activities. Therefore, it is more likely that there will be multiple takes of a smaller number of individuals within the project area, such that the number of individuals taken would be less than one-third of the population.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

As a result of these determinations, NMFS has issued an IHA to WSDOT for the potential harassment of small numbers of 12 marine mammal species incidental to the Bainbridge Island Ferry Terminal Overhead Loading Replacement Project and Eagle Harbor Maintenance Facility Slip F Improvement Project in Bainbridge Island, Washington, that includes the previously explained mitigation, monitoring, and reporting requirements.

Dated: September 20, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–20701 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC407]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR 74 Post-Data Workshop Discard Mortality Webinar II for Gulf of Mexico Red Snapper.

SUMMARY: The SEDAR 74 assessment of Gulf of Mexico red snapper will consist of a Data workshop, a series of assessment webinars, and a Review workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 74 Post-Data Workshop Discard Mortality Webinar II will be held Friday, October 14, 2022, from 10 a.m. to 1 p.m., Eastern.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological

benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Post-Data Workshop Discard Mortality Webinar II are as follows:

Participants will review discard mortality information for use in the assessment of Gulf of Mexico red snapper.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 3 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20792 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; State Digital Equity Planning Grant Program

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 July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Telecommunications and Information Administration (NTIA), Commerce.

Title: State Digital Equity Planning Grant Program.

OMB Control Number: TBD.

Form Number(s): None.

Type of Request: New information collection.

Number of Respondents: 606.

Average Hours per Response: 33.22.

Burden Hours: 60,393.96.

Needs and Uses: With this information collection, NTIA will monitor grant recipients' spending and activities to ensure compliance with SDEPG requirements and program priorities. In the absence of collecting this information, NTIA would fail to evaluate effectively the award recipients' progress toward completing project activities and achieving core purposes of the SDEPG. Moreover, without these reports, NTIA would lack the ability to monitor effectively the award recipients' expenditure of funds to deter waste, fraud, and abuse of SDEPG funds. Therefore, it is necessary for NTIA to collect information using Semi-Annual Performance Reports and an Annual Report.

Affected Public: Grant award recipients consisting of States, territories or possessions of the United States, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.

Frequency: Semi-annually and Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Section 60304(c) of the Infrastructure Investment and Jobs Act of 2021, Public Law 117–58, 135 Stat. 429 (November 15, 2021).

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 the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Department of Commerce.

[FR Doc. 2022–20804 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2022–0023]

Extension of the Period for Comments on Director Review, Precedential Opinion Panel Review, and Internal Circulation and Review of Patent Trial and Appeal Board Decisions

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Extension of the comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) published a request for comments in the **Federal Register** on July 20, 2022, seeking public comment on the processes for Director review, Precedential Opinion Panel review, and internal circulation and review of Patent Trial and Appeal Board (PTAB) decisions. The USPTO is extending the period for public comment until October 19, 2022.

DATES: Written comments must be received on or before October 19, 2022, to ensure consideration.

ADDRESSES: For reasons of Government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov*. To submit comments via the portal, enter docket number PTO–P–2022–0023 on the homepage and click ''Search.'' The site

will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format or MICROSOFT WORD® format. Because comments will be made available for public inspection, information that a respondent does not desire to be made public, such as a phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Kalyan Deshpande, Vice Chief Administrative Patent Judge; Amanda Wieker, Acting Senior Lead Administrative Patent Judge; or Melissa Haapala, Vice Chief Administrative Patent Judge; at 571–272–9797.

SUPPLEMENTARY INFORMATION: The USPTO is extending the period for public comment on various practices and policies for the review of PTAB decisions.

In a Federal Register Notice, Request for Comments on Director Review, Precedential Opinion Panel Review, and Internal Circulation and Review of Patent Trial and Appeal Board Decisions, 87 FR 43249 (Jul. 20, 2022) (the Notice), the USPTO sought input from the public regarding the current interim Under Secretary of Commerce for Intellectual Property and Director of the USPTO (Director) review process that allows a party to request Director review of a PTAB final written decision in inter partes review or post-grant review proceedings, and also provides the Director the option to sua sponte (at the Director's discretion) initiate the review of any PTAB decisions, including institution decisions and decisions on rehearing. The USPTO also sought input on the Precedential Opinion Panel process and on the current interim process for PTAB decision circulation and internal PTAB review. In view of the importance of these topics, and given the desire to receive input from as broad a cross-section of the public as possible, the USPTO is now extending the period to address the questions raised in the Notice, or to provide any additional comments, until October 19, 2022. All other information and instructions to commenters provided in the July 20, 2022, Notice remain unchanged. Previously submitted comments do not need to be resubmitted.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–20697 Filed 9–23–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0045]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Spouse Education and Career Opportunities Program; OMB Control Number 0704–0556.

Type of Request: Extension.

Number of Respondents: 26,000.

Responses per Respondent: 1.

Annual Responses: 26,000.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 19,500 hours.

Needs and Uses: The DoD Spouse Education and Career Opportunities (SECO) Program is the primary source of education, career and employment counseling for all military spouses who are seeking post-secondary education, training, licenses and credentials needed for portable career employment. The SECO system delivers the resources and tools necessary to assist spouses of service members with career exploration/discovery, career education and training, employment readiness, and career connections at any point within the spouse career lifecycle. It is imperative that the DoD collect data to ensure that the SECO program is meeting its overarching goal of increasing employment opportunities for military spouses. The DoD requires the information in the proposed collection for program planning and management purposes. Collected information will ensure that the SECO program will be able to collect relevant metrics and make determinations of program viability and improvement. Additionally, the data collected is utilized to build a spouse profile that allows information to be saved over time and to prepopulate information into tools such as resume builders and career and education planning resources.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20715 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0084]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Science, Mathematics and Research for Transformation Scholarship Program; DD Forms 3067–2, 3067–4, 3067–7, 3067–8, 3067–9, 3067–11, 3067–12, 3067–13, 3067–15; OMB Control Number 0704–0466.

Type of Request: Revision.

Number of Respondents: 2,800 (a percentage of respondents complete one or multiple instruments).

Responses per Respondent: 3.8.

Annual Responses: 10,640.

Average Burden per Response: 3 hours.

Annual Burden Hours: 31,920 hours.

Needs and Uses: Science, Mathematics and Research for Transformation Scholarship Program (SMART) is designed to increase the number of new civilian science, technology, engineering, and mathematics (STEM) entrants to the DoD. Additionally, the SMART Program develops and retains current DoD civilian STEM employees that are critical to the national security functions of the DoD and are needed in the DoD's workforce. SMART awards scholarships, ranging from 1.5 to 5 years, to undergraduate and graduate level students pursuing a degree in one of 21 technical disciplines. Upon graduation, scholars fulfill a service commitment with the DoD facility that nominated the scholar for an award. The information collection activity under review is a statutory and functional requirement necessary to administer the scholarship program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20704 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0071]

Submission for OMB Review; Comment Request

AGENCY: The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Technical Assistance for Public Participation Application; DD Form 2749; OMB Control Number 0704–0392.

Type of Request: Extension.

Number of Respondents: 25.

Responses per Respondent: 2.

Annual Responses: 50.

Average Burden per Response: 4 hours.

Annual Burden Hours: 200.

Needs and Uses: The information collection requirement is necessary to identify products or services requested by community members of restoration advisory boards or technical review committees to aid in their participation in the Department of Defense's environmental restoration program, and to meet Congressional reporting requirements.

Affected Public: Individuals or households.

Frequency: As required.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20706 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0053]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Collection of Required Data Elements to Verify Eligibility; OMB Control Number 0704–0545.

Type of Request: Revision.

Number of Respondents: 50,000.

Responses per Respondent: 1.

Annual Responses: 50,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 4,166.7 hours

Needs and Uses: Defense Manpower Data Center (DMDC) has implemented the Office of Personnel Management (OPM) Verification portal to provide a self-service, easy to use, navigable public facing website that allows individuals potentially impacted by the OPM data breach to securely provide personal identifiable information in order to investigate their eligibility for credit monitoring as a result of being affected by the OPM background investigation data breach without calling a Government call center. The information collected will be used only to verify whether an individual was impacted by the OPM cybersecurity incident involving background investigation records and to send a letter confirming status as ''impacted'' or ''not impacted'' by this incident. Once the minimally required information has been entered into the OPM Verification portal, it will be compared to an electronic master file and verification will be accomplished electronically. After the Government has validated the individual's status, the DMDC will generate and mail a response letter. This letter will either confirm eligibility and contain a pin for impacted individuals, or confirm that the individual was not impacted by this cybersecurity incident.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20712 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0087]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD Sexual Assault Prevention and Response Office Victim-Related Inquiries; DD Form 2985, DD Form 2985–1; OMB Control Number 0704–0565.

Type of Request: Extension.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 75 hours.

Needs and Uses: This information collection requirement is necessary to facilitate a timely response and appropriate resolution to inquiries from DoD sexual assault victims/survivors, support personnel and others. Collection of this information is used to support victims and survivors of sexual assault in their recovery and to maintain a database of inquiries that documents the nature and status of inquiries in order to provide adequate follow-up services and inform sexual assault prevention and response program and policy improvements while promoting victim recovery. Military sexual assault victims, parents, other family members,

and friends requesting assistance can contact the Sexual Assault Prevention and Response Office by completing the DD Form 2985, ''Department of Defense Sexual Assault Prevention and Response Office Request for Assistance.'' After receiving permission from the requesting individual, the request for assistance is referred to the appropriate agency for action to facilitate a resolution.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20718 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Science and Technology Reinvention Laboratory (STRL) Personnel Demonstration (Demo) Project Program

AGENCY: Under Secretary of Defense for Research and Engineering (USD(R&E)), Department of Defense (DoD).

ACTION: Notice of amendment; STRL Personnel Demonstration Project reduction-in-force (RIF) procedures.

SUMMARY: This notice amends STRL Personnel Demonstration Project reduction-in-force (RIF) procedures. STRL RIF procedures will ensure employees involuntarily separated through a RIF are separated primarily based on performance, as determined under any applicable performance-management system.

DATES: Implementation of this **Federal Register** notice will be September 26, 2022.

FOR FURTHER INFORMATION CONTACT:

Department of the Air Force:

• *Air Force Research Laboratory:* Ms. Rosalyn Jones-Byrd, 937–656–9747, *Rosalyn.Jones-Byrd@us.af.mil.*

• *Joint Warfare Analysis Center:* Ms. Amy Balmaz, 540–653–8598, *Amy.T.Balmaz.civ@mail.mil.*

Department of the Army:

• *Army Futures Command:* Ms. Marlowe Richmond, 512–726–4397, *marlowe.richmond.civ@army.mil.*

• *Army Research Institute for the Behavioral and Social Sciences:* Dr. Scott Shadrick, 254–288–3800, *Scottie.B.Shadrick.civ@army.mil.*

• *Combat Capabilities Development Command Armaments Center:* Mr. Mike Nicotra, 973–724–7764, *Michael.J.Nicotra.civ@mail.mil.*

• *Combat Capabilities Development Command Army Research Laboratory:* Mr. Christopher Tahaney, 410–278–9069, *Christopher.S.Tahaney.civ@army.mil.*

• *Combat Capabilities Development Command Aviation and Missile Center:* Ms. Nancy Salmon, 256–876–9647, *Nancy.C.Salmon2.civ@army.mil.*

• *Combat Capabilities Development Command Chemical Biological Center:* Ms. Patricia Milwicz, 410–417–2343, *Patricia.L.Milwicz.civ@army.mil.*

• *Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center:* Mr. Gregory Peck, 443–395–2110, *Gregory.A.Peck16.civ@army.mil.*

• *Combat Capabilities Development Command Ground Vehicle Systems Center:* Ms. Jennifer Davis, 586–306–4166, *Jennifer.L.Davis1.civ@army.mil.*

• *Combat Capabilities Development Command Soldier Center:* Ms. Joelle Montecalvo, 508–206–3421, *Joelle.K.Montecalvo.civ@army.mil.*

• *Engineer Research and Development Center:* Ms. Patricia Sullivan, 601–634–3065, *Patricia.M.Sullivan@usace.army.mil.*

• *Medical Research and Development Command:* Ms. Linda Krout, 301–619–7276, *Linda.J.Krout.civ@mail.mil.*

• *Technical Center, Space and Missile Defense Command:* Dr. Chad Marshall, 256–955–5697, *Chad.J.Marshall.civ@army.mil.*

Department of the Navy:

• *Naval Air Warfare Center, Weapons Division and Aircraft Division:* Mr. Richard Cracraft, 760–939–8115, *Richard.A.Cracraft2.civ@us.navy.mil.*

• *Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center:* Ms. Lori Leigh, 805–901–5917, *Lori.A.Leigh.civ@us.navy.mil.*

• *Naval Information Warfare Centers:*

○ *Naval Information Warfare Center Atlantic:* Mr. Michael Gagnon, 843–218–3871, *Michael.L.Gagnon2.civ@us.navy.mil.*

○ *Naval Information Warfare Center Pacific:* Ms. Angela Hanson, 619–553–0833, *Angela.Y.Hanson.civ@us.navy.mil.*

• *Naval Medical Research Center:* Dr. Jill Phan, 301–319–7645, *jill.c.phan.civ@mail.mil.*

• *Naval Research Laboratory:* Ms. Ginger Kisamore, 202–767–3792, *Ginger.Kisamore@nrl.navy.mil.*

• *Naval Sea Systems Command Warfare Centers:* Ms. Diane Brown, 215–897–1619, *Diane.J.Brown.civ@us.navy.mil.*

• *Office of Naval Research:* Ms. Margaret J. Mitchell, 703–588–2364, *Margaret.J.Mitchell@navy.mil.*

DoD:

• Dr. Jagadeesh Pamulapati, Director, Laboratories and Personnel Office, 571–372–6372, *Jagadeesh.Pamulapati.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

1. Background

As authorized by 10 U.S.C. 4121, the Secretary of Defense (SECDEF), through the USD(R&E), may conduct personnel demonstration projects at DoD laboratories designated as STRLs. An STRL implementing these flexibilities must have an approved personnel demonstration project plan published in a FRN and must fulfill any collective bargaining obligations. Procedures described herein supersede and cancel the RIF procedures described in previously published STRL FRNs (Appendix B) and establish performance, also referred to as ''contribution,'' as the primary basis for determining which employees will be separated from employment when implementing a RIF. STRL internal operating procedures (IOPs) will describe the use of discretionary flexibilities when conducting a RIF.

The 21 current STRLS are:

- Air Force Research Laboratory
- Joint Warfare Analysis Center
- Army Futures Command
- Army Research Institute for the Behavioral and Social Sciences

- Combat Capabilities Development Command Army Research Laboratory
- Combat Capabilities Development Command Armaments Center
- Combat Capabilities Development Command Aviation and Missile Center
- Combat Capabilities Development Command Chemical Biological Center
- Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center
- Combat Capabilities Development Command Ground Vehicle Systems Center
- Combat Capabilities Development Command Soldier Center
- Engineer Research and Development Center
- Medical Research and Development Command
- Technical Center, U.S. Army Space and Missile Defense Command
- Naval Air Warfare Center
- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center
- Naval Information Warfare Centers, Atlantic and Pacific
- Naval Medical Research Center
- Naval Research Laboratory
- Naval Sea Systems Command Warfare Centers
- Office of Naval Research

2. Summary of Comments

On July 28, 2021, the Department of Defense published a notice in the **Federal Register**, ''Department of Defense Science and Technology Reinvention Laboratory Personnel Demonstration Project Program,'' (86 FR 40500–40509), for comment from members of the public. The comment period ended on August 27, 2021, with one comment received.

Comment: The proposed provision of putting an employee with an unacceptable rating ahead of a non-rated employee for purpose of RIF retention standing should be re-examined. For the purpose of RIF, I suggest considering the grant of an assumed fully successful rating of record for non-rated employees and laboratory discretion (to be documented in internal operating procedures) to determine the score for non-rated employees.

Response: In response to this comment, the notice has been revised to permit, but not require, adoption of internal operating procedures which assign an assumed rating and associated demo score to recently hired employees who are ineligible for a rating of record, for purposes of RIF procedures.

3. Overview

I. Introduction

A. Purpose

This notice implements RIF procedures for the STRL employees in the competitive or excepted services and ensures they are separated from employment primarily on the basis of performance, as determined under any applicable performance management system. This is an overarching FRN applicable to all STRLs.

B. Required Waivers to Law and Regulations

Waivers and adaptations of certain Title 5 U.S.C., and Title 5, Code of Federal Regulations (CFR), provisions are required only to the extent that these statutory and regulatory provisions limit or are inconsistent with the actions authorized under these demonstration projects. Appendix A lists waivers needed to enact authorities described in this FRN. Nothing in this plan is intended to preclude the STRLs from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this FRN.

C. Participating Organizations and Employees

All DoD laboratories designated as STRLs pursuant to 10 U.S.C. 4121, with approved personnel demonstration project plans published in FRNs, must use the provisions described in this FRN.

II. Personnel System Changes

A. Authority

For any RIF of civilian employees in the competitive and excepted services in DoD, the determination as to which employees will be separated from employment will be primarily based on performance, also referred to as ''contribution.''

The STRLs will consider every reasonably available option to mitigate the impact of a proposed RIF, including but not limited to job changes or retraining, the use of voluntary early retirement authority or voluntary separation incentive payments, hiring freezes, termination of temporary employees, termination of employees in tenure group 0, reduction in work hours, curtailment of discretionary spending, and other pre-RIF placement activities for employees eligible for placement assistance and referral programs. Use of any such options shall be consistent with applicable policies and procedures.

B. Definitions

Assumed rating—A designated rating for purposes of determining retention standing that is the equivalent of a fully successful rating under the STRL performance management system. It is not a rating of record and only may be used for purposes of determining retention standing of employees who are ineligible for a rating as documented in the STRL IOP.

Career path—A grouping of occupations with similar characteristics composed of pay bands designed to facilitate career progression. May also be referred to as career track, occupational family, or pay plan.

Displace/Displacement—The assignment of an employee to a continuing position that is held by another employee with a lower retention standing (*i.e.,* ''bumping'' another employee). Displacement may be at the same band or the next lower band below the employee's existing band as documented in STRL IOPs. A preference-eligible employee with a compensable service-connected disability of 30 percent or more (veteran preference category AD) may displace to positions two bands (or equivalent to five grades) below his/her current band. A released employee may have displacement rights to a position without regard to whether the employee previously held the position of the employee with lower retention standing.

Flexible and renewable term technical appointment—An appointment that affords eligibility for employee programs and benefits comparable to those provided to similar employees with permanent appointments, to include opportunities for professional development and eligibility for award programs, as described in Section 1109 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and in 82 FR 43339, as amended. Appointments may be made in six-year increments and extended without limit in up to six-year increments.

Fully qualified—Employee meets the Office of Personnel Management qualification standards, or standard-level descriptors as described in STRL IOPs, and has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption, *e.g.,* within 90 days. Determination as to whether an impacted employee is fully qualified for RIF placement will be made by an STRL subject matter expert.

Modified term appointment—An appointment used to fill a position for a period of more than one year but not more than five years when the need for

an employee's services is not permanent. The modified term appointment differs from the term appointment described in 5 CFR part 316 in that it may be made for up to five years, compared to four years for the term appointment, and it may be extended for an additional year for a total of six years. An employee hired under this appointment authority may be eligible for conversion to a career or career-conditional appointment. It may also be referred to as a contingent term appointment.

Non-rated (NR) rating—A designated rating for purposes of determining retention standing which is less than the lowest rating under the STRL performance management system. It is not a rating of record and only may be used for purposes of determining retention standing of employees who are ineligible for a rating of record and have not been assigned an assumed rating.

Performance—For the purposes of a RIF in the STRLs, performance is determined by each STRL performance-management system, including contribution-based or performance-based systems, as recorded in the rating of record.

Period of performance—STRL performance-management plans may specify a minimum number of months to receive a performance assessment. Such periods will be at least 90 days and generally allow all employees to receive at least one performance assessment prior to implementation of a RIF.

Retreat—The assignment of an employee released from their competitive level to a position held by another employee lower in retention standing if the position is the same position or an essentially identical position formerly held by the released employee. This assignment may be to an essentially identical position in the released employee's current band or to the next lower band, regardless of career path as documented in STRL IOPs.

Unacceptable rating—Documented ratings of record of unacceptable, unsuccessful, failure, or unsatisfactory are used synonymously and reflect summary level 1 as described in 5 CFR 430.208.

C. Provisions

(1) Identification of Positions Being Abolished. Positions may be identified to be abolished based on budget, research area, project funding, lack of work, reorganization, or other elements identified by the STRL.

(2) Scope of Competition. STRLs will determine the retention standing of each employee competing in the RIF based on any factors outlined in this FRN, as long as performance, as documented in the rating of record, is the primary consideration.

a. Competitive Areas. The STRL may determine the competitive area by career path (pay plan), occupational group, line of business, product line, organizational unit, funding line, occupational series, functional area, competency area, technology directorate, or geographical location, or a combination of these elements, and must include all demonstration project employees within the defined competitive area. The competitive area must be defined at least 90 days prior to the effective date of the RIF and descriptions of all competitive areas must be made readily available for review.

b. Competitive Levels. Competitive levels may or may not be used, as documented in STRL IOPs. If competitive levels are used, they are assigned at the time the position description is classified and may be based on demonstration project criteria, such as specialty areas or functional codes, so long as these criteria serve to define those positions that are similar enough in duties and qualification requirements such that an incumbent of one position may be reassigned to another in the competitive level without causing an undue interruption in work. When competitive levels are used and established, employees will be released as described in II.C.(7)a.2 and II.C.(7)b. If competitive levels are not used, employees will be released as described in II.C.(7)d.1.

(3) Retention Standing. Competitive-service employees and excepted-service employees are placed on separate retention registers, with performance as the first factor as documented in ratings of record and designated ratings. Sample retention registers are in Appendix C.

(4) Periods of Assessed Performance. Because the primary consideration is performance, STRL employees with no performance assessment (annotated as ''NR'') may not be placed above those with an assessed rating of less than fully successful/acceptable. STRLs may, but are not required to, group employees based on periods of assessed performance (*e.g.,* those with a period of assessed performance of at least 90 days, those with a period of assessed performance of a least 180 days, etc.), as documented in STRL IOPs.

(5) Retention Factors. Competing employees will first be listed on a retention register based on the rating of record (as documented in the personnel data system) or the designated rating. If meaningful distinctions do not exist in the rating of record, each STRL may, as secondary criteria, differentiate based on average score or other performance-related factor. Each STRL may further differentiate based on any of the following retention factors: tenure group; average score or other performance-related factor as determined by the STRL (where not previously utilized); veterans' preference; DoD service computation date-RIF (DoD SCD–RIF); SCD–RIF adjusted by additional service credit for performance; or period of performance.

a. Rating of Record. Rating of record is documented by each STRL in accordance with its designated performance or contribution management cycle. Additionally, STRL procedures may provide that a single rating of record or multiple ratings of record will be used and averaged, as described in its IOPs. When multiple ratings of record are used, they will be drawn from the ratings within the four-year period preceding the ''cutoff date'' established for the RIF. However, when the most recent rating of record is ''unacceptable,'' only that rating of record will be considered for purposes of a RIF. STRL procedures will provide a method for converting an employee's rating pattern from another system when it does not align with the STRL performance-management system, as documented in STRL IOPs.

1. Presumptive Ratings. A presumptive rating will be used as the current rating of record for purposes of a RIF when an employee did not receive a performance appraisal due to an absence resulting from: uniformed military service; performance of duties under the expeditionary civilian deployment program; extended leave or sabbatical; a work-related injury approved for compensation pursuant to an Office of Workers' Compensation Program; or other similar absence. The presumptive rating of record will be the employee's last performance appraisal of record prior to the period of absence or as specified in STRL IOPs.

2. Modal Ratings. A modal rating will be used as the rating of record only for those employees who do not have any previous performance within the four-year period preceding the cutoff date established for the RIF and have an absence resulting from: uniformed military service; performance of duties under the expeditionary civilian deployment program; extended leave or sabbatical; a work-related injury approved for compensation pursuant to an Office of Workers' Compensation Program; or other similar absence. The modal rating is the rating of record most

frequently used among the actual ratings of record given to employees within the same competitive area for the appropriate rating cycle or cycles.

b. Designated Rating

1. Assumed rating. As documented in the STRL IOP, the STRL may authorize use of assumed ratings along with associated demo scores for purposes of determining retention standing.

2. Non-Rated (NR) rating. An NR rating will be used when an employee is ineligible for a rating of record and no assumed rating has been assigned.

c. Average Score or Other Performance-Related Factor as Determined by the STRL. STRLs may assign numeric values to other aspects of their performance-management systems that further differentiate levels of performance or contribution. For example, if an STRL utilizes a contribution-based system, the delta overall contribution score or assessment category score may be used; in a performance-based system, the assigned decimal score may be used, as documented in STRL IOPs. STRLs using Pass/Fail as the rating of record must use average score or other performance-related factor as the second retention factor.

d. Tenure Group

1. Tenure groups are defined in 5 CFR 351.501(b) for competitive service and 5 CFR 351.502(b) for excepted service, or in an STRL's FRN. In addition, STRLs may consider tenure group 1 and 2 employees as tenure group 1 for RIF purposes and employees on modified term appointments as tenure group 0 or tenure group 3, as documented in STRL IOPs.

2. Employees on modified term or flexible-length and renewable term appointments who were previously selected through competitive procedures, and who otherwise meet conditions required for such conversion, may be converted to permanent appointments (tenure group 1 or tenure group 2, as appropriate), provided such conversions are effective not less than 90 days prior to the effective date of the RIF.

3. Employees on flexible-length and renewable term appointments who have completed three years of service may be treated as permanent employees (tenure group 1) and those with less than three years may be treated as tenure group 2, as documented in STRL IOPs.

4. Employees treated as tenure group 3 are ranked below any tenure group 1 or 2 employees, notwithstanding any other retention factor.

d. Veterans' Preference. Competing employees are placed in a veterans' preference category as described in 5 CFR 351.501(c).

e. DoD SCD–RIF. The SCD–RIF includes all creditable service authorized by 5 CFR 351.503(a) and (b). The STRLs may further differentiate an employee's retention standing by utilizing the retention service credit for performance as described in 5 CFR 351.504. If used, this is referred to as DoD SCD–RIF adjusted.

(6) Creation of the Retention Register. STRLs will determine and document the order of retention in a manner that ensures retention decisions are based primarily on performance, as documented in the rating of record. Other factors which may receive secondary consideration are tenure group, veterans' preference, SCD RIF, SCD RIF adjusted, and period of performance. Factors will be weighted in a manner that generally ensures that high-performing employees are not displaced.

(7) Order of Release.

a. Employees to be Released First.

1. STRLs can release Tenure 0 employees prior to RIF competition based on mission needs.

2. STRLs will release employees from the competitive level (if used) with a written decision of removal under 5 CFR parts 432 or 752 before releasing any employee competing in the RIF.

3. Employees demoted for unacceptable performance who have not received a rating on their current position will have ratings of record drawn from within the four-year period preceding the cutoff date established for the RIF (to include any rating of record of ''unacceptable''), if the STRL uses multiple ratings in its retention factors.

b. If competitive levels are utilized by an STRL, employees will be released beginning with the employee with the lowest retention standing on the retention register for that competitive level. An STRL may provide for intervening displacement within the competitive level before final release of the employee with the lowest retention standing from the competitive level.

c. STRL employees have assignment rights under RIF procedures if the current performance appraisal reflects a rating of record of at least minimally successful/minimally acceptable.

d. STRLs may apply assignment rights described in 5 CFR 351.701 or other assignment rights as described below.

1. Single Round. When a specific position is to be abolished, the incumbent of that position may displace an employee within the band or at the next lower band, as documented in STRL IOPs, when the incumbent has a higher retention standing and is fully qualified for a position occupied by an employee with a lower retention standing among those competing in the RIF. A preference-eligible employee with a compensable service-connected disability of 30 percent or more (veterans' preference category AD) may displace to positions two bands (or equivalent to five grades) below his/her current band. If there is no position in which an employee can be placed using this process or through assignment to a vacant position, that employee will be separated.

2. Two Round. When reducing positions in the same occupational series and pay band, competitive levels—consisting of such positions that are similar enough in duties, qualification requirements, and working conditions that the incumbent of one position can successfully perform the duties of any other position in the competitive level without unduly interrupting the work program—will be established. In round one, STRLs identify employees for release beginning with the employees with the lowest retention standing in the competitive level. In round two, within each competitive area, an employee identified for release in round one may displace an employee within the band or at the next lower band, as documented in STRL IOPs, when the released employee has a higher retention standing and is fully qualified for a position occupied by an employee with a lower standing among those competing in the RIF. A preference-eligible employee with a compensable service-connected disability of 30 percent or more (veterans' preference category AD) may displace to positions two bands (or equivalent to five grades) below the band of the position from which he/she is released. If there is no position in which an employee can be placed using this process or through assignment to a vacant position, that employee will be separated.

3. Retreat during RIF. STRLs may establish procedures permitting an employee identified for release to displace an employee within the band or at the next lower band when the released employee has a higher retention standing than the displaced employee and previously served in the displaced employee's position, or an essentially identical position, regardless of career path.

4. Offers of Vacant Position. When an STRL chooses to utilize vacancies for which released employees qualify, the STRL must consider the relative retention standing of all released

employees and must offer the position to the released employee with the highest retention standing.

e. Exceptions. STRLs must comply with protections afforded employees pursuant to 5 CFR 351.606, including protections under the Uniformed Services Employment and Reemployment Rights Act.

III. Required Waivers to Law and Regulations

The following waivers and adaptations of certain 5 U.S.C. and 5 CFR provisions are required only to the extent to which these statutory and regulatory provisions limit or are inconsistent with the actions contemplated under these STRL demonstration project RIF procedures. Nothing in this plan is intended to preclude the demonstration projects from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this notice.

APPENDIX A—WAIVERS TO LAW AND REGULATIONS

Title 5, United States Code	Title 5, Code of Federal Regulations
5 U.S.C. 3502—Order of Retention is waived to allow STRLs to determine the appropriate order of retention as described in this FRN.	5 CFR part 351 subparts B, D, E, F, and G are waived to the extent necessary to allow the provisions of reduction in force as described in this FRN. 5 CFR 430.208—Rating Performance is waived to the extent necessary to allow STRLs to assign an assumed rating as described in this FRN.

APPENDIX B—AUTHORIZED STRLS AND FEDERAL REGISTER NOTICES

STRL	**Federal Register** Notice
Air Force Research Laboratory	61 FR 60400 amended by 75 FR 53076.
Joint Warfare Analysis Center	85 FR 29414.
Army Futures Command	Not yet published.
Army Research Institute for the Behavioral and Social Sciences	85 FR 76038.
Combat Capabilities Development Command Armaments Center	76 FR 3744.
Combat Capabilities Development Command Army Research Laboratory.	63 FR 10680.
Combat Capabilities Development Command Aviation and Missile Center.	62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged together).
Combat Capabilities Development Command Chemical Biological Center.	74 FR 68936.
Combat Capabilities Development Command Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center.	66 FR 54872.
Combat Capabilities Development Command Ground Vehicle Systems Center.	76 FR 12508.
Combat Capabilities Development Command Soldier Center	74 FR 68448.
Engineer Research and Development Center	63 FR 14580 amended by 65 FR 32135.
Medical Research and Development Command	63 FR 10440.
Technical Center, U.S. Army Space and Missile Defense Command	85 FR 3339.
Naval Air Systems Command Warfare Centers	76 FR 8530.
Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center.	86 FR 14084.
Naval Information Warfare Centers, Atlantic and Pacific	76 FR 1924.
Naval Medical Research Center	Not yet published.
Naval Research Laboratory	64 FR 33970.
Naval Sea Systems Command Warfare Centers	62 FR 64050.
Office of Naval Research	75 FR 77380.

Appendix C—Sample Retention Registers

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Sample 1: Based on Rating of Record, Tenure, Average Score Calculation, Veterans' Preference, and DoD SCD-RIF Retention Factors, as Determined by the STRL

Name	Average Rating of Record	Tenure	Average Score Calculation	Veterans' Preference	DoD SCD-RIF
Maddie	5	I	4.8	AD	17-Dec-1979
Eleanor	5	I	4.8	A	3-Nov-1990
Ian	5	I	4.5	B	6-May-2013
Dylan	5	II	4.8	B	28-Feb-2015
Rich	5	II	4.3	A	10-Jul-2012
Thomas	5	II	4.3	A	18-Jun-2015
Susan	4	I	4.2	B	12-June-1995
Valerie	4	I	3.5	A	9-Jul-1995
Sherri	4	I	3.5	B	6-Aug-1996
Peter	4	II	4.3	B	5-Sep-2015
Paul	4	II	3.5	B	12-Dec-2015
Paula	3	I	4.2	B	25-Mar-1987
Jason	3	I	3.9	A	13-Aug-2013
Regina	3	I	3.8	A	19-Aug-1984
Garrett	3	I	3	B	5-Sep-2011
Vicki	3	II	3.7	B	27-Mar-2015
Brandon	3	II	3	A	3-Jan-2015
Justin	2	I	2	AD	10-Jan-2010
Joe	1	I	0	AD	11-Jan-2010
Sally	NR	I	NR	AD	11-Jan-2010

Joe has an unacceptable rating. Sally has no rating and is therefore at the bottom of the retention register.

Sample 2: Based on Average Rating of Record, Veterans' Preference, Tenure, DoD SCD-RIF Retention Factors, as Determined by the STRL

(STRL Does Not Use an Average Score Calculation)

Name	Average Rating of Record	Veterans' Preference	Tenure	DoD SCD-RIF
Maddie	5	AD	I	17-Dec-1979
Eleanor	5	A	I	3-Nov-1990
Rich	5	A	II	10-Jul-2012
Thomas	5	A	II	18-Jun-2015
Ian	5	B	I	6-May-2013
Dylan	5	B	II	28-Feb-2015
Valerie	4	A	I	9-Jul-1995
Susan	4	B	I	I 2-June-1995
Sherri	4	B	I	6-Aug-1996
Peter	4	B	II	5-Sep-2015
Paul	4	B	II	12-Dec-2015
Jason	3	A	I	13-Aug-2013
Regina	3	A	I	19-Aug-1984
Brandon	3	A	II	3-Jan-2015
Paula	3	B	I	25-Mar-1987
Garrett	3	B	I	5-Sep-2011
Vicki	3	B	II	27-Mar-2015
Justin	2	AD	I	10-Jan-2010
Joe	1	AD	I	11-Jan-2010
Sally	NR	AD	I	11-Jan-2010

Joe has an unacceptable rating. Sally has no rating and is therefore at the bottom of the retention register.

Sample 3: Based on Pass/Fail Rating of Record, Average Score, Veterans' Preference, Tenure, and DoD SCD RIF Retention Factors, as Determined by the STRL

Name	Rating of Record (Pass or Fail)	Average Score	Veterans' Preference	Tenure	DoD SCD-RIF
Maddie	P	4.8	AD	I	17-Dec-1979
Eleanor	P	4.8	A	I	3-Nov-1990
Rich	P	4.5	A	II	10-Jul-2012
Thomas	P	4.3	A	II	18-Jun-2015
Ian	P	4.3	B	I	6-May-2013
Dylan	P	4.2	B	II	28-Feb-2015
Valerie	P	4.2	A	I	9-Jul-1995
Susan	P	3.9	B	I	12-June-1995
Sherri	P	3.8	B	I	6-Aug-1996
Peter	P	3.7	B	II	5-Sep-2015
Paul	P	3.5	B	II	12-Dec-2015
Jason	P	3.3	A	I	13-Aug-2013
Regina	P	3	A	I	19-Aug-1984
Brandon	P	3	A	II	3-Jan-2015
Paula	P	2	B	I	25-Mar-1987
Garrett	P	2	B	I	5-Sep-2011
Vicki	P	2	B	II	27-Mar-2015
Justin	P	2	AD	I	10-Jan-2010
Joe	F	0	AD	I	11-Jan-2010
Sally	NR	NR	AD	I	11-Jan-2010

Ian was released from his competitive level in the first round of RIF. Ian does not qualify for any position encumbered by an employee with a lower retention standing than Paul, but formerly held the identical position currently occupied by Paul. Ian will retreat to the position held by Paul because Paul is lower in retention standing than Ian. RIF placement will then be sought for Paul.

Dated: September 21, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20774 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Federal Advisory Committee Closed Meeting

AGENCY: Office of the Chairman Joint Chiefs of Staff, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee closed meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group will take place.

DATES: Day 1—Closed to the public Wednesday, October 19, 2022, from 9:00 a.m. to 5:00 p.m. and Day 2—Closed to

the public Thursday, October 20, 2022, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: 900 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Mark J. Olson, Designated Federal Officer, (402) 912–0322 (Voice), *mark.j.olson.civ@mail.mil* (Email). Mailing address is 900 SAC Boulevard, Suite N3.170, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140. This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C. appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Stockpile Assessment, Dual Near-Peer Threat Assessment and Integrated Deterrence, Technology Assessment for Improved Warning, Mission Surety of Current, Legacy TRIAD Systems, Relationship Between the Intelligence Community (IC) and USSTRATCOM, and Nuclear Command, Control, and Communications (NC3) Next Generation Technology Survey.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the DoD has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, Admiral Charles A. Richard, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.140(c), the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: September 21, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20770 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2021–HQ–0011]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 26, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Naval Academy Information Program Blue and Gold Officer Application; USNA Form 1531/1; OMB Control Number 0703–BGOA.

Type of Request: Existing collection in use without an OMB Control Number.

Number of Respondents: 250.

Responses per Respondent: 1.

Annual Responses: 250.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 125.

Needs and Uses: This information requirement is needed to determine the eligibility and leadership potential of respondents applying to represent the United States Naval Academy (USNA) as volunteer Blue and Gold Officers. Prior military service, current and past military performance, and prior affiliation with the USNA has been found to be an excellent predictor of success as a Blue and Gold Officer. Without this information, the ability for the USNA to recruit qualified Blue and Gold Officers would be impacted and would negatively affect the Naval Academy's ability to recruit qualified candidates.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20702 Filed 9–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0158]

Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection

AGENCY: Office for Civil Rights (OCR), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision to of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before October 26, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0158. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of Strategic Collections and Clearance, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to the collection activities, please contact Rosa Olmeda at *Rosa.Olmeda@ed.gov* or (202) 453–5968.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Mandatory Civil Rights Data Collection.

OMB Control Number: 1870–0504.

Type of Review: A revision of a currently approved information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 17,884.

Total Estimated Number of Annual Burden Hours: 2,191,180.

Abstract: The collection, use, and reporting of education data is an integral component of the mission of the U.S. Department of Education. The Department has collected civil rights data about the nation's public schools via the Civil Rights Data Collection (CRDC) since 1968. For school years 2009–10 and 2011–12, the Office of Management and Budget (OMB) approved the CRDC as part of the EDFacts information collection (1875–0240). EDFacts, a Department initiative to put performance data at the center of ED's policy, management, and budget decision-making processes for all preschool-grade 12 education programs, has transformed the way in which ED collects and uses data. For school years 2013–14, 2015–16, 2017–18, and 2020–21, the Office for Civil Rights cleared the CRDC as a separate collection from EDFacts while maintaining its transformative data collection policies and practices. As with previous CRDC collections, the purpose of the 2021–22 and 2023–24 CRDCs is to obtain vital data related to the civil rights laws' requirement that public local educational agencies (LEAs) and elementary and secondary schools provide equal educational opportunity. ED has analyzed the uses of many data elements collected in the 2015–16 and 2017–18 CRDCs and sought advice from experts across ED to refine, improve, and where appropriate, add or remove data elements from the collection. ED also made the CRDC data definitions and metrics consistent with other mandatory collections across ED wherever possible. The Department seeks OMB approval under the Paperwork Reduction Act to collect from LEAs the elementary and secondary education data described in the sections of Attachment A. ED requests that LEAs and other stakeholders review and comment on the proposed changes (detailed in Supporting Statement A, Attachments A–1, A–2, A–3, and A–4, and Attachment B), and respond to the directed questions found in Attachment A–5.

Dated: September 21, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–20754 Filed 9–23–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0096]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Guaranty Agencies Security Self-Assessment and Attestation

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 26, 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: Guaranty Agencies Security Self-assessment and Attestation.

OMB Control Number: 1845–0134.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 19.

Total Estimated Number of Annual Burden Hours: 6,954.

Abstract: This is a request for a revision of the approved information collection used by Federal Student Aid (FSA) to ensure that all data collected and managed by Guaranty Agencies (GAs) in support federal student financial aid programs is secure. FSA continues to use a formal assessment program that ensures the GAs have security protocols in place to protect the confidentiality and integrity of data entrusted to FSA by students and families. This assessment will identify security deficiencies based on the federal standards described in the National Institute of Standards and Technology (NIST) publications. The increasing number of hours is to account for the revision from NIST 800–53 R4 to R5. There is an increase of the number of controls that need to be assessed for each of the 19 GAs (~70 controls and 2 new control families).

Dated: September 21, 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. 2022–20765 Filed 9–23–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0116]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Grants Under the Student Support Services Program (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), 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 26, 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 Lavelle Wright, 202–453–7739.

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: Application for Grants Under the Student Support Services Program (1894–0001).

OMB Control Number: 1840–0017.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 2,000.

Total Estimated Number of Annual Burden Hours: 67,104.

Abstract: The application is needed for future competitions for new awards under the Student Support Services Program. The program provides grants to institutions of higher education and combinations of institutions of higher education for projects designed to increase the retention and graduation rates of eligible students; increase the transfer rate of eligible students from two-year to four-year institutions; and foster an institutional climate supportive of the success of low-income and first generation students and individuals with disabilities through the provision of support services.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Dated: September 20, 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. 2022–20719 Filed 9–23–22; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0063; FRL–10229–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Industrial/Commercial/Institutional Steam Generating Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Industrial/Commercial/Institutional Steam Generating Units (EPA ICR Number 1088.16, OMB Control Number 2060–0072), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2022. Public comments were previously requested, via the **Federal Register** on April 8, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

DATES: Additional comments may be submitted on or before October 26, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0063, online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards for Industrial/Commercial/Institutional Steam Generating Units (40 CFR part 60, subpart Db) apply to existing and new industrial/commercial/institutional steam generating units (boilers) that have a heat input capacity from fuels combusted in the unit of greater than 29 megawatts (MW) (100 million British thermal units per hour (MMBtu/hr)). In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Owners and operators of commercial, industrial, or institutional steam generating units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Db).

Estimated number of respondents: 2,068 (total).

Frequency of response: Quarterly, semiannually.

Total estimated burden: 1,890,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $265,000,000 (per year), which includes $37,900,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The increase in burden from the most-recently approved ICR is due to an adjustment. This increase is not due to any program changes. The increase is based on an increase in the number of sources subject to the NSPS due to continued growth in the industry. There is no increase in capital costs, but there is an increase in O&M costs because the number of existing respondents conducting O&M has increased.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–20544 Filed 9–23–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0331, OMB 3060–0341, OMB 3060–0347, OMB 3060–1045; FR ID 106100]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 25, 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: 3060–0331.

Title: Aeronautical Frequency Notification, FCC Form 321.

Form Number: FCC Form 321.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents: 1,886 respondents, 1,886 responses.

Estimated Time per Response: 0.67 hours.

Frequency of Response: One time and on occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 301, 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,264 hours.

Total Annual Cost: $169,740.

Needs and Uses: Multichannel Video Programming Distributors (MVPDs) provide their programming over a closed system and, thus, may use all frequencies to do so. They must, however, prevent leakage of those signals from the system and guard against and minimize any harm to aeronautical communications should leak occur. Part of the regime for protecting aeronautical frequencies from interference and resolving interference is notification of the Commission of use of those frequencies and that proper frequency offsets and other precautions are taken. Form 321 is used for this purpose.

The Commission seeks to modify this submission to reflect that the Commission adopted a rule, 47 CFR 76.1804, which a new trigger for filing FCC Form 321 (see FCC 17–120, adopted on September 22, 2017). Under 47 CFR 76.1804, an MVPD shall notify the Commission before transmitting any digital signal with average power exceeding 10^{-5} watts across a 30 kHz bandwidth in a 2.5 millisecond time period, or for other signal types, any carrier of other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands (108–137 MHz, 225–400 MHz). The notification shall be made on FCC Form 321.

OMB Control Number: 3060–0341.

Title: Section 73.1680, Emergency Antennas.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 142 respondents; 142 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 142 hours.

Total Annual Costs: $42,600.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1680 require that licensees of AM, FM or TV stations submit an informal request to the FCC (within 24 hours of commencement of use) to continue operation with an emergency antenna. An emergency antenna is one that is erected for temporary use after the authorized main and auxiliary antennas are damaged and cannot be used. FCC staff uses the data to ensure that interference is not caused to other existing stations.

OMB Control No.: 3060–0347.

Title: Section 97.311, Spread Spectrum (SS) Emission Types.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: .017 hours (1 minute).

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain and retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154, 303, 151–155 and 301–609.

Total Annual Burden: 1 hour.

Annual Cost Burden: No cost.

Needs and Uses: The recordkeeping requirement in Section 97.311 is necessary to document all spread spectrum (ss) transmissions by amateur radio operators. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended. The information is used by FCC staff during inspections and investigations to ensure compliance with applicable rules, statutes, and treaties. In the absence of this recordkeeping requirement, field inspections and investigations related to the solution of cases of harmful interference would be severely hampered and needlessly prolonged due to the inability to quickly obtain vital information used to demodulate spread spectrum transmissions.

OMB Control Number: 3060–1045.

Title: Section 76.1610, Change of Operational Information; FCC Form 324, Operator, Mail Address, and Operational Status Changes.

Form Number: FCC Form 324.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 325 respondents; 325 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 154(i), 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Total Annual Burden: 163 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1610 require that operators shall inform the Commission on FCC Form

324 whenever there is a change of cable television system operator; change of legal name, change of the operator's mailing address or FCC Registration Number (FRN); or change in the operational status of a cable television system. Notification must be done within 30 days from the date the change occurs and must include the following information, as appropriate: (a) The legal name of the operator and whether the operator is an individual, private association, partnership, corporation, or government entity. See Section 76.5(cc). If the operator is a partnership, the legal name of the partner responsible for communications with the Commission shall be supplied; (b) The assumed name (if any) used for doing business in each community; (c) The physical address, including zip code, and email address, if applicable, to which all communications are to be directed; (d) The nature of the operational status change (*e.g.,* operation terminated, merged with another system, inactive, deleted, etc.); (e) The names and FCC identifiers (*e.g.,* CA 0001) of the system communities affected.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20791 Filed 9–23–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 22–950; FR ID 105108]

Meeting of the North American Numbering Council on October 4, 2022 is Cancelled

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces the cancellation of the meeting of the North American Numbering Council (NANC) previously scheduled for Tuesday, October 4, 2022 from 2:00 p.m. until 4:00 p.m. EDT.

DATES: October 4, 2022.

ADDRESSES: The meeting was scheduled to be conducted via video conference and available to the public via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: You may also contact Christi Shewman, Designated Federal Officer, at *christi.shewman@fcc.gov* or 202–418–0646. More information about the NANC is available at *https://www.fcc.gov/about-fcc/advisory-committees/general/north-american-numbering-council.*

SUPPLEMENTARY INFORMATION: Consistent with the Federal Advisory Committee Act, 5 U.S.C. App. 2., the Commission announces that the meeting of the NANC previously scheduled for Tuesday, October 4, 2022 from 2:00 p.m. until 4:00 p.m. EDT has been cancelled. The Commission will announce the next meeting of the NANC at a later date. Notice of the next meeting will be published in the **Federal Register**. This is a summary of the Commission's document in CC Docket No. 92–237, DA 22–950, released September 13, 2022. (5 U.S.C. App 2 § 10(a)(2))

Federal Communications Commission.

Pamela Arluk,

Division Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2022–20708 Filed 9–23–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0126, OMB 3060–0419, OMB 3060–0433, OMB 3060–0674; FR ID 106101]

Information Collections 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 25, 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: 3060–0126.

Title: Section 73.1820, Station Log.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,095 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1820 require that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

OMB Control Number: 3060–0419.

Title: Network Non-duplication Protection and Syndication Exclusivity: Sections 76.94, Notification; 76.95, Exceptions; 76.105, Notifications; 76.106, Exceptions; 76.107, Exclusivity

Contracts; and 76.1609, Non-Duplication and Syndicated Exclusivity.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,511 respondents; 238,008 responses.

Estimated Time per Response: 0.5 to 2 hours.

Frequency of Response: On occasion reporting requirement; One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this Information collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 221,644 hours.

Total Annual Cost: No cost.

Needs and Uses: The purpose of the various notification and disclosure requirements accounted for in this collection are to protect broadcasters who purchase the exclusive rights to transmit network or syndicated programming in their recognized market areas. The Commission's network non-duplication and syndicated exclusivity rules permit, but do not require broadcasters and program distributors to obtain the same enforceable exclusive distribution rights for network and syndicated programming that all other video programming distributors possess.

OMB Control Number: 3060–0433.

Title: Basic Signal Leakage Performance Report.

Form Number: FCC Form 320.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,038 respondents and 2,423 responses.

Frequency of Response: Recordkeeping requirement, Annual reporting requirement.

Estimated Time per Hours: 20 hours.

Total Annual Burden: 48,460 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 302 and 303 of the Communications Act of 1934, as amended.

Needs and Uses: Cable television system operators and Multichannel Video Programming Distributors (MPVDs) who use frequencies in the bands 108–137 and 225–400 MHz (aeronautical frequencies) are required to file a Cumulative Signal Leakage Index (CLI) derived under 47 CFR 76.611(a)(1) or the results of airspace measurements derived under 47 CFR 76.611(a)(2). This filing must include a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This yearly filing of FCC Form 320 is done in accordance with 47 CFR 76.1803. The records must be retained by cable operators.

OMB Control Number: 3060–0674.

Title: Section 76.1618, Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,139 respondents; 4,139 responses.

Estimated Time per Response: 2.25 hours.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 4(i) and Section 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 9,313 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1618 state that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–20798 Filed 9–23–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, September 29, 2022 at 10:00 a.m.

PLACE: Hybrid Meeting: 1050 First Street NE, Washington, DC (12th Floor) and Virtual.

Note: For those attending the meeting in person, current COVID–19 safety protocols for visitors, which are based on the CDC COVID–19 community level in Washington, DC, will be updated on the commission's contact page by the Monday before the meeting. See the contact page at *https://www.fec.gov/contact/.* If you would like to virtually access the meeting, see the instructions below.

STATUS: This meeting will be open to the public, subject to the above-referenced guidance regarding the COVID–19 community level and corresponding health and safety procedures. To access the meeting virtually, go to the commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Draft Advisory Opinion 2022–12: Ready for Ron

Draft Advisory Opinion 2022–20: Maggie for NH

Audit Division Recommendation Memorandum on Anibal Comisionado 2020 (A21–03)

Proposed Final Audit Report on the Kentucky State Democratic Central Executive Committee (A19–13)

Proposed Final Audit Report on the Democratic Party of Arkansas (A19–15)

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2022–20903 Filed 9–22–22; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or

bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than October 24, 2022.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291, or electronically to *MA@mpls.frb.org:*

1. *Highland Bancshares, Inc., Saint Michael, Minnesota;* to acquire Boundary Waters Bank, Ely, Minnesota.

B. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Vavane, Inc., San Antonio, Texas;* to become a bank holding company by acquiring San Diego Bancshares, Inc., and thereby indirectly acquiring First State Bank of San Diego, both of San Diego, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–20742 Filed 9–23–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 11, 2022.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Stanley L. Clifton Family Trust, Benjamin Clifton, Andrew Clifton, all of Orchard, Nebraska; and Jennifer Frey, Norfolk, Nebraska;* all individually and as co-trustees, to join the Clifton Family Group, a group acting in concert, to retain voting shares of Orchard Bancorp, and thereby indirectly retain voting shares of Orchard Bank, both of Orchard, Nebraska.

B. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Lynn Ann Stovall, Louise, Texas; Eric Martin Stovall, Marathon, Texas; Megan Lynn Stovall, El Campo, Texas; and Guy F. Stovall, IV, Louise, Texas; all individually, and as trustee and/or co-trustee of the following trusts: The Lynn Ann Stovall and Guy F. Stovall, III Family Trust, Lynn Ann Stovall, Megan Lynn Stovall, and Guy F. Stovall, IV, as co-trustees; The Linda Joy Stovall Family Trust, and The Guy F. Stovall, Jr. and Kay Stovall Trust, Louise, Texas; Guy F. Stovall, IV, Eric Martin Stovall, and Guy F. Stovall, III, El Campo, Texas; as co-trustees of both trusts; The David Wesley Stovall Irrevocable Trust and The Eric Martin Stovall Irrevocable Trust, Louise, Texas; Guy F. Stovall, III, and Guy F. Stovall, IV, as co-trustees of both trusts; The Megan Lynn Stovall Trust No. 1 and The Guy F. Stovall, IV Trust No. 1, El Campo, Texas; Megan Lynn Stovall, as trustee of both trusts; The Guy F. Stovall, III and Lynn Ann Stovall Family Trust, Louise, Texas; Guy F. Stovall, III, as trustee; and The Mark Stovall Reifslager Irrevocable Trust, Louise, Texas; Megan Lynn Stovall, and Guy F. Stovall, IV, as co-trustees of both trusts;* to join the Stovall Control Group, a group acting in concert, to retain voting shares of NewFirst Financial Group, Inc., and thereby indirectly retain voting shares of NewFirst National Bank, both of El Campo, Texas.

2. *The Brian D. Campbell Family Trust, Brian D. Campbell, individually and as trustee, the BDC 2021 Family Trust No. 1, Brian Douglas Campbell, Jr., and Donna Miramon Campbell, individually and as co-trustees, and Anna Kathryne Kronenberger, all of Baton Rouge, Louisiana; Catherine Campbell Niemi, Covington, Louisiana; Judith L. Campbell, St. Francisville, Louisiana; Christen Campbell Siegel, Stephen Siegel, Elizabeth Gentry Brann, all of Houston, Texas; Sarah Lauren Campbell Hughey, Judith Campbell Jones, both of Vestavia, Alabama; Richard A. Campbell III, Pelham, Alabama; Dale C. Fairbanks Family Trust, Dale C. Fairbanks, individually and as trustee, both of Anacortes, Washington; Alma Dale Campbell Brown, New York, New York; Helene Meredith St. Clair, Hood River, Oregon; and the Central Louisiana Capital Corporation ESOP, Vidalia, Louisiana; William Gilmore Fairbanks, Pensacola, Florida; and Brian D. Campbell, as co-trustees;* as the Campbell/Campbell Jr.,/Fairbanks Control Group, a group acting in concert, to retain voting shares of Central Louisiana Capital Corporation, and thereby indirectly retain voting shares of Delta Bank, both of Vidalia, Louisiana.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–20740 Filed 9–23–22; 8:45 am]

BILLING CODE P

GOVERNMENT PUBLISHING OFFICE

Request for Feedback To Assist the Task Force on a Digital Federal Depository Library Program

AGENCY: U.S. Government Publishing Office.

ACTION: Notice and request for feedback.

SUMMARY: The U.S. Government Publishing Office (GPO) is seeking comments and input from interested parties to assist the Task Force on a Digital Federal Depository Library Program (FDLP). To contribute to the continued evolution of the FDLP, in FY

2021, in response to a recommendation of the Depository Library Council (DLC), GPO Director Hugh N. Halpern established a Task Force to study the feasibility of an all-digital FDLP. The 23-member Task Force has representation from the DLC, Federal depository libraries (FDLs) of different types and sizes, library association representatives, Federal agencies, and GPO. The Task Force has been working throughout 2022–10 investigate whether an all-digital FDLP is possible, and if so, to define the scope of an all-digital depository program and make recommendations as to how to implement and operate such a program. The Task Force's purview included an examination of the current landscape in FDLs, of FDLP-related operations at the GPO, and of the dissemination of publications by Federal agencies. The draft report of the Task Force is now available for public comment at *https://www.fdlp.gov/.*

DATES: Comments must be received by October 14, 2022.

ADDRESSES: You may submit comments via the comment form available at *https://www.fdlp.gov/.*

FOR FURTHER INFORMATION CONTACT: Kristene Blake, (202) 262–3397, or *FDLPtaskforce@gpo.gov.*

Hugh Nathanial Halpern,

Director, U.S. Government Publishing Office.

[FR Doc. 2022–20383 Filed 9–23–22; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Challenge Competition: Announcement of AHRQ Challenge on Integrating Healthcare System Data With Systematic Review Findings

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is announcing a challenge competition to explore the resources and infrastructure needed to integrate real-world data from healthcare systems into systematic review findings. This healthcare systems data can augment study findings synthesized in systematic reviews in a number of ways, including by filling evidence gaps identified in the systematic review to strengthen the available evidence, and by examining the applicability of systematic review findings to real-world populations, including population subgroups not examined in published studies. Ultimately, this work will help AHRQ understand if and how sources of data and information outside of traditional systematic reviews, particularly from healthcare systems themselves, could be used alongside systematic reviews to improve healthcare decision making, healthcare delivery and potentially patient outcomes. This challenge competition will start on (September 26, 2022) and will be completed in two phases, with cash prizes awarded at the end of Phase 2 to all of those proceeding to Phase 2 and to the winners of Phase 2. The winner and runner-up from Phase 2 will be posted on the AHRQ website.

DATES: *Phase 1 Submission Deadline* on January 9, 2023 and *Phase 2 Submission Deadline* on July 10, 2023.

ADDRESSES: Submit your responses electronically via: *https://www.challenge.gov/?challenge=ahrq-challenge-on-integrating-healthcare-system-data-with-systematic-review-findings.*

FOR FURTHER INFORMATION CONTACT: Suchitra Iyer, Director, Technology Assessment Program; Email: *AHRQChallenges@ahrq.hhs.gov,* Telephone: 301–427–1550.

SUPPLEMENTARY INFORMATION:

Problem Statement

The Agency for Healthcare Research and Quality (AHRQ), U.S. Department of Health and Human Services (HHS), is announcing a challenge competition to explore the feasibility, resources and infrastructure needed to integrate real world data from healthcare systems into systematic review findings. The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010.

AHRQ's Evidence-based Practice Center (EPC) Program produces systematic reviews which synthesize information from the peer reviewed literature and provide the state of the science on available healthcare technologies (such as pharmaceuticals and medical devices) as well as healthcare delivery strategies. The process of creating these reviews is stakeholder driven, methodologically rigorous, and transparent. Reviews are used to inform healthcare decisions, including recommendations in clinical practice guidelines as well as national coverage determinations by Medicare. AHRQ also supports healthcare systems in their efforts to improve the quality of care and optimize patient outcomes; systematic reviews are scoped to address issues of priority to healthcare systems. Yet, due to limitations in the literature base, EPC systematic reviews may be inconclusive or only represent a narrow patient population, making it difficult to generalize or implement the findings within heterogeneous healthcare systems.

Systematic reviews may also lack contextual details that can inform successful implementation. Improving healthcare delivery (and thus patient outcomes) often entails addressing issues beyond the benefits or harms of an intervention, traditionally the objective of a systematic review. Traditional reviews may not explain gaps in uptake or use of a clinical service and questions about how best to implement a given clinical service (*e.g.,* details around implementation of a service or intervention).

A recent EPC Program methods report (*https://effectivehealthcare.ahrq.gov/products/unpublished-health-data/methods-report*) articulates specific scenarios with examples of where healthcare system data may most effectively complement systematic reviews (*i.e.,* to improve the strength, applicability, and implementation of evidence). In one example, investigators at the Mayo Clinic found that published evidence on outcomes following total pancreatectomy was sparse, so they supplemented a meta-analysis of published studies with their own unpublished healthcare system data, which more than doubled the sample size and improved the strength of evidence available (*https://pubmed.ncbi.nlm.nih.gov/20681992/*).

In another instance, secondary analyses of Veterans Affairs (VA) data (*https://pubmed.ncbi.nlm.nih.gov/35810550/*) confirmed the applicability to the VA of findings from a published systematic review (*https://www.hsrd.research.va.gov/publications/esp/robot-gen-surg.cfm*).

The recent EPC methods report also outlines important limitations and considerations when using unpublished healthcare system data alongside systematic reviews, such as relevant limitations in data quality. However, the report did not address the necessary resources, skills, partnerships, and processes required to utilize healthcare system data alongside systematic reviews to strengthen the actionability of systematic reviews.

This Challenge therefore invites applicants to conduct an analyses of healthcare system data to supplement an existing AHRQ EPC Program systematic review. This will help AHRQ understand if and how sources of data

and information outside of traditional systematic reviews, particularly from healthcare systems themselves, could be used alongside systematic reviews to improve decision making, healthcare delivery, and potentially patient outcomes.

Challenge Goal

The AHRQ EPC Program is interested in learning how analysis of real-world data collected by healthcare systems can be used in conjunction with findings from an AHRQ systematic review to inform healthcare decision-making in the context of a specific local setting.

The goal of this challenge is to explore and determine the feasibility, resources, and infrastructure needed to incorporate unpublished healthcare system data into systematic review findings. Ideally, these data will enable the healthcare system to make decisions about which practices to incorporate locally and how to overcome barriers to implement the evidence to improve clinical practice, healthcare system operations and, potentially, health outcomes. The winner and runner-up from Phase 2 will be posted on the AHRQ website.

Challenge Design

- All evidence reports (systematic reviews, rapid reviews, and technical briefs) published on the AHRQ website since January 2018 (*https://effectivehealthcare.ahrq.gov/about*) may be considered for this Challenge.
- Healthcare systems and other provider groups interested in implementing evidence into practice at their sites may apply.
- An organization may choose to address no more than 2 systematic reviews, submitting a separate proposal for each review.
- Teams should have expertise in the clinical topic, evidence-based practice, data analysis, and quality improvement.

This Challenge consists of two phases:

Phase 1: Proposal

Elicit written proposals on a topic for which an AHRQ evidence report (systematic review, rapid review or technical brief) has been published since January 2018 (*https://effectivehealthcare.ahrq.gov/about*) and that is relevant to a dilemma in the applicant's healthcare system. Each proposal is to be written in the form of a narrative that:

1. Explicitly states the rationale (*i.e.,* addressing evidence gaps to strengthen available evidence, examining applicability of findings to real-world patients) to complement findings from an EPC report with analysis of health system data, including a discussion of possible limitations of the analysis.

2. Develops and describes an analytic plan for use of healthcare system data [EHR data from an individual healthcare system or networks of healthcare systems (for example, PCORnet, Epic's Cosmos, etc.)].

3. Provides an approach for decision-making based on the results of the data analysis and the evidence report, and an evaluation of the decision-making process and results.

4. Describes potential challenges, barriers, and strategies to successfully complete the analysis.

5. Lists team members, their role, area of expertise and hours on project.

A total of 5 proposals will be selected as winners for Phase 1.

Phase 2: Analyses

Healthcare systems selected as winners in Phase 1 will be invited to provide a written narrative that:

1. Includes a complete analysis of internal real-world data and appraisal of the analysis for risk of bias using a formal tool such as the ROBINS I (*https://www.bmj.com/content/355/bmj.i4919*).

2. Specifies how the findings from unpublished data support, refute, and/or otherwise complement findings from the published evidence examined in the systematic review. If the unpublished data conflicts with the AHRQ review's conclusions, discuss possible reasons for the discrepancy [*e.g.,* challenges with internal validity of healthcare system data analysis related to study design and methods used, or challenges with external validity with respect to population sub-groups (gender, race/ethnicity, multimorbidity) examined in the healthcare system data].

3. Describes how the unpublished data informed decision-making (*e.g.,* adapt, adopt, abandon, prioritize).

4. Reports on solutions to any barriers encountered to using healthcare system data alongside a published evidence review, including barriers with access to healthcare system data, interoperability of data sources, and data analysis.

5. Briefly describes potential approaches to implement or deimplement the evidence, including use of clinical advisories, clinical pathways, clinical decision support, or any other method. The plan should describe anticipated risks and barriers and strategies for successful implementation. Decisions made against uptake should be justified.

Timeline and Prize Amounts

AHRQ is hosting this challenge as a two-phase competition. All costs associated with developing and submitting proposals as well as conducting the analysis of real-world data will be the responsibility of the Challenge participant. Cash prizes will be awarded only after the projects are evaluated and determined acceptable at the end of Phase 2.

Timeline

- September 26, 2022—Challenge launch.
- January 9, 2023—Submissions for Phase 1 (written proposals) are due. AHRQ will complete the review of the proposals within 6–8 weeks of closing the announcement.
- March 10, 2023—AHRQ will announce the Phase 1 winners. Phase 2 of the Challenge will commence once the Phase 1 winners are announced and notified by March 10, 2023. The AHRQ team will schedule a live, virtual technical assistance webinar with all winners of Phase 1 to discuss scope of content, accessibility/compliance with Section 508, and address questions that the winners may have.
- March 10, 2023—Phase 2 participants will have at least 120 calendar days from notification to conduct and submit their analyses as described in their proposal(s). The deadline to submit the analysis is July 10, 2023.
- Fall 2023—The final winners of Phase 2 of the competition will be announced in October 2023.

Prize Amounts

The top five entries in phase one will be invited to participate in Phase 2. Upon completion of Phase 2, each of the top five entries will each receive cash awards of $50,000. Additionally, the first-place winner from Phase 2 will be awarded an additional $150,000 and the runner-up will be awarded an additional $100,000. The winner and runner-up from Phase 2 will be posted on the AHRQ website.

How To Enter the Challenge

Participants can register by visiting the *Challenge.gov* website (*https://www.challenge.gov*). Participants should carefully review challenge information and submission requirements on the website, including the intellectual property rules and assessment criteria. Participants are encouraged to follow the Challenge on *Challenge.gov* to obtain any updates and reminders of upcoming deadlines.

Submission Requirements

Phase 1

The submitted proposals must be written in US English and submitted

using *Challenge.gov* no later than January 9, 2023. Applicants or applicant organizations shall submit no more than 2 proposals, and no proposal shall describe more than one topic. Each proposal will be no more than 2,000 words, double spaced, 11-point type size, with 1-inch margins. Include in proposals plans for meeting Section 508 accessibility standards.

Phase 2

Analyses shall be a journal article-style written narrative in U.S. English in no more than 4,000 words and submitted using the *Challenge.gov* website no later than July 10, 2023.

Review Process

All submissions will be reviewed by at least two subject matter experts from within or outside the federal government who will score the proposals based on the assessment criteria and provide a brief comment about the submission. The scores/comments on Phase 1 and Phase 2 submissions will be compiled, and a ranked summary provided to AHRQ staff. AHRQ will select winners based on quantitative and qualitative assessments.

Evaluation Criteria for Selecting Winning Applications

Assessment Criteria for Phase 1

1. Approach (40 points)

Does the proposal sufficiently describe:

a. the context and rationale for why the EPC report has been chosen, and how the analyses of unpublished data will complement the findings from the systematic review?

b. the data source and the analytic approach? Does the described analytic approach provide the right balance of feasibility, rigor, and innovation for the project?

2. Impact (40 points)

Does the proposal clearly and concisely describe:

a. potential routes for uptake of evidence within the healthcare system?

b. method to measure whether the uptake will have an impact on healthcare delivery, quality of care or patient outcomes?

c. anticipated risks, barriers, and strategies to successfully complete the project?

3. Team (20 points)

Does the team have the right combination of expertise to support the proposed technical approach?

Compliance (pass/fail)—Does the Phase 1 proposal adequately address required accessibility standards (Section 508)?

Assessment Criteria for Phase 2

Participants in Phase 2 may be disqualified if their submitted analyses deviate from their Phase 1winning proposals.

1. Analysis (40 points)

a. Are the description and discussion of the findings from the analysis comprehensive?

b. To what degree is the alignment/nonalignment between healthcare system data, the AHRQ systematic review, and the healthcare system's decision-making explained?

2. Description of the Process (40 points)

a. Are the risks, barriers, challenges encountered, solutions, and required infrastructure well described?

3. Future Plans (20 points)

a. Is the preliminary plan for implementation and evaluation appropriate and feasible?

Compliance (pass/fail)—Does the Phase 1 proposal adequately address required accessibility standards (Section 508)?

Eligibility Rules for Participating in the Challenge

To be eligible under this Challenge, an individual (whether participating singly or in a group) or entity:

1. Shall have registered (*Challenge.gov*) to participate in the Challenge.

2. Shall have complied with the rules set forth in this announcement for participation in this Challenge.

3. Shall be incorporated and maintain a primary place of business in the United States (in the case of a private entity), and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States.

4. May not be a Federal entity or Federal employee acting within the scope of their employment. (All Federal employees should consult with their agency Ethics Official to determine whether the federal ethics rules will limit or prohibit the acceptance of a prize).

5. May not be an employee of AHRQ or any other company, organization, or individual involved with the design, production, execution, judging, or distribution of the Challenge, or their immediate family (spouse, parents and step-parents, siblings and step-siblings, and children and step-children), or household members (people who share the same residence at least 3 months out of the year).

6. May not use Federal funds from a grant to develop Challenge applications unless consistent with the purpose of the grant award.

7. May not use Federal funds from a contract to develop Challenge applications or to fund efforts in support of a Challenge submission.

8. Shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made equitably available to all individuals and entities participating in the competition.

9. Shall not be required to purchase liability insurance as a condition of participation in this competition.

Additional Rules of Participation

By participating in this Challenge, each individual (whether participating singly or in a group) or entity:

1. Agrees to follow all applicable Federal, State, and local laws, regulations, and policies.

2. Agrees to comply with all terms and conditions of participation in this Challenge.

3. Agrees that the submission will not use HHS or AHRQ logos or official seals, except as authorized by HHS or AHRQ. Notwithstanding this authorized use of AHRQ/HHS branding, participants will not claim endorsement by AHRQ/HHS.

4. Understands that all materials submitted to AHRQ as part of a submission become AHRQ records. Any confidential commercial or financial information contained in a submission must be clearly designated as such at the time of submission.

5. Agrees that a winning submission may only be announced by AHRQ and in a time, place, and manner determined by AHRQ in its sole discretion. Winners will be permitted to publicize and publish their winning submissions in accordance with instructions provided by AHRQ. The winner and runner-up from Phase 2 will be posted on the AHRQ website.

6. Agrees that the submission must not infringe upon copyright or any other rights of any third party.

7. Agrees to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise.

8. Agrees to indemnify the Federal Government against third-party claims

for damages arising from or related to Challenge activities.

9. Understands that circulation of findings could be worldwide, and that the Federal Government will not compensate the participants for any use; winners shall receive a one-time cash prize as set forth in this announcement. The winner and runner-up from Phase 2 will be posted on the AHRQ website.

10. Understands that AHRQ reserves the right to cancel, suspend, and/or modify this prize contest, or any part of it, for any reason, in AHRQ's sole discretion. AHRQ also reserves the right not to award any prizes if no entries are deemed worthy.

11. Understands that AHRQ will not select a winner that is named on the Excluded Parties List System (EPLS).

Intellectual Property (IP) Rights

1. Each participant retains title and full ownership in and to their submission. Participants expressly reserve all intellectual property rights not expressly granted.

2. By participating in the Challenge, each participant (whether participating singly or in a group) acknowledges that he or she is the sole author or owner of, or has a right to use, any copyrightable works that the submission comprises, that the works are wholly original with the participant (or is an improved version of an existing work that the participant has sufficient rights to use and improve), and that the submission does not infringe any copyright or any other rights of any third party of which participant is aware.

3. In addition, each participant (whether participating singly or in a group) grants to the U.S. Government a paid-up, nonexclusive, royalty-free, irrevocable worldwide license in perpetuity, and the right to reproduce, publish, post, link to, share, display publicly (on the web or elsewhere) and prepare derivative works, including the right to authorize others to do so on behalf of the U.S. Government.

4. Each participant must clearly delineate any intellectual property and/or confidential commercial information contained in a submission that the participant wishes to protect as proprietary data, in accordance with Additional Rules of Participation No. 4.

5. If the submission includes any third-party works (such as third-party content or open-source code), the participant must be able to provide, upon request, documentation of all appropriate licenses and releases for use of such third-party works. If the participant cannot provide documentation of all required licenses and releases, AHRQ reserves the right, in its sole discretion, to disqualify the submission.

Dated: September 20, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–20703 Filed 9–23–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; ORR Services for Survivors of Torture Program Data Points and Performance Progress Reports (New Collection)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families' (ACF) Office of Refugee Resettlement (ORR) intends to collect demographic, programmatic, and outcome data on Services for Survivors of Torture (SOT) grant recipients and the clients they serve. This data collection will allow ORR to learn more about the populations served; the types and effectiveness of services provided; methods, challenges, and facilitators of implementing services; and grant recipients' progress towards programmatic goals. ORR will collect these data on the new cohort of Services for SOT grant recipients; ORR collected information from the previous grantee cohort under the Generic Performance Progress Report (OMB #0970–0490). ORR has made changes to the data collection instruments for use in the new cohort.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

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. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ORR proposes to use the Program Data Points Form (PDPs) and Performance Progress Reports (PPRs) to collect data on the Services for SOT grant recipients and their clients. In 2019, ORR began requiring the Services for SOT grant recipients to collect and report their PDPs through the ORR Refugee Arrivals Data System (RADS), an information technology platform used for enhanced data collection and record keeping. The new cohort of Services for SOT grant recipients, who will receive 5-year awards in September 2022, will also provide these data points to ORR using RADS. Grant recipients will provide aggregated data on new and continuing clients annually, including demographic information, characteristics related to experiences of torture, services received, and well-being across six outcome domains. Grant recipients will also provide information about community attendance at trainings and pro-bono services donated to the program. In the PPRs, grant recipients will provide primarily narrative information on grant-funded activities and progress towards grant goals biannually.

Information collected will be used in aggregate by ORR to provide reports to stakeholders, including a required report to Congress, and responses to funding requests.

Respondents: Services for SOT grant programs (this may include non-profit social service, health, and higher education organizations, states, municipalities, and for-profit organizations).

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Program Data Points Form (PDPs)	35	1	6	210

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Performance Progress Reports (PPRs)—Parts A and B	35	2	6	420

Estimated Total Annual Burden Hours: 630.

Authority: Section 5(a) of the ''Torture Victims Relief Act of 1998,'' Public Law 105–320 (22 U.S.C. 2152 note) Assistance for Treatment of Torture Victims.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–20746 Filed 9–23–22; 8:45 am]

BILLING CODE 4184–46–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Proposed Collection; Public Comment Request of the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs) OMB Control Number 0985–0030

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This Information Collection (IC) Revision solicits comments on the information collection requirements relating to the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs).

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by November 25, 2022.

ADDRESSES: Submit electronic comments on the collection of information to Pamela O'Brien at *pamela.obrien@acl.hhs.gov*. Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Pamela O'Brien.

FOR FURTHER INFORMATION CONTACT: Pamela O'Brien, 202–795–7417 or *pamela.obrien@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the collection of information described below, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Section 104 (a) (42 U.S.C. 15004) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) directs the Secretary of Health and Human Services to develop and implement a system of program accountability to monitor the grantees funded under the DD Act, including the UCEDDs. Section 154 (e) (42 U.S.C. 15064) of the DD Act includes requirements for the UCEDD Annual Report. The UCEDD Annual Report should contain information on progress made in achieving the projected goals of the Center for the previous year, including:

(1) The extent of goal achievement;

(2) A description of the strategies that contributed to achieving the goals;

(3) The extent goals were not achieved, a description of factors that impeded the achievement;

(4) An accounting of the manner in which funds paid to the Center . . . for a fiscal year were expended;

(5) Information on proposed revisions to the goals; and

(6) A description of successful efforts to leverage funds, other than funds made available under the DD Act.

The DD Act also states grantees must report on consumer satisfaction with:

(1) The advocacy, capacity building, and systemic change activities initiated by the UCEDD;

(2) The extent to which the UCEDD's advocacy, capacity building, and systemic change activities provided results through improvements; and

(3) The extent to which collaboration was achieved in the areas of advocacy, capacity building, and systemic change.

In addition to collecting the information required in the DD Act, this IC will also include elements needed to account for the activities supported by funding from the Centers for Disease Control and Prevention (CDC) to support access to vaccines for people with disabilities as well as the funds awarded under the American Rescue Plan Act to increase the Public Health Workforce (PHWF).

Finally, to ensure the UCEDD PPR is consistent with the Executive order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and the Executive order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, ACL intends to determine whether the sexual orientation and gender identity (SOGI) data elements need to be adapted to ensure accessibility of the questions for

individuals with intellectual and developmental disabilities.

The information collected from the UCEDDs is used for multiple purposes:

(1) To develop and submit at least every two years a report to the President, Congress, and the National Council on Disability that describes the goals and outcomes of programs supported under the DD Act.

(2) As a tool for UCEDD grantees to measure and report on progress in reaching goals and identify areas for which revisions are indicated;

(3) To enhance the Federal project officers' monitoring of UCEDD progress in reaching projected outcomes;

(4) As a set of performance measures that will yield a national portrait of UCEDD program impact; and

(5) For Congress and the Administration in making funding and appropriation decisions with regard to the UCEDD program.

ACL collects data via the National Information Reporting System (NIRS) a web-based system developed by the Association for University Centers on Disabilities (AUCD). The instrument guides the development of items to be included in NIRS for reporting purposes. The data collected in the PPR and submitted to ACL is also used to comply with the GPRA Modernization Act of 2010 (GPRAMA). Performance measure results are reported to Congress under GPRAMA.

The proposed data collection tools may be found on the ACL website for review at: *https://www.acl.gov/about-acl/public-input*.

Estimated Program Burden

Based on UCEDD reporting experience, current data and reporting efforts constitute approximately 1,556 burden hours per grantee for a total of 104,252 hours. The table below outlines the estimate for the hours of burden associated with the collection of information.

Estimated Total Annual Burden Hours: 104,252.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
UCEDD Annual Report	67	1	1,462	97,954
UCEDD CDC Report	67	1	76	5,092
UCEDD PHWF Report	67	1	18	1,206
Total	67	1	1,556	104,252

The estimates in the following three tables were calculated using the mode for the hourly rate paid to individuals performing each task, a mean cost by task across UCEDDs, and a fringe rate of 100%. The three tables outline the estimated annual cost associated with the burden.

Updated to reflect 2021 Bureau of Labor Statistics—Occupational Employment and Wage Statistics.

1. CURRENT UCEDD PPR REPORT

Current annual effort	# Hours dedicated to task		Hourly rate of task		Totals	
	Mean	Range	Mean	Range	Average effort per center	Across the network (average effort × 67 centers)
Design—data collect tools Computer Systems Analyst	23	1–50	$49.10	$24–75	1,129.30	75,663.10
Staff training on data collection and entry Training & Development Manager	60	20–110	$57.56	$29–71	3,453.6	231,391.2
Data gathering & verifying Computer User Support Specialist	759	200–2,184	27.72	$16–43	$21,039.48	1,409,645.16
Data entry & cleaning Computer User Support Specialist	630	380–820	27.72	$16–43	17,463.60	$1,170,061.2
Subtotal	1,462	728–2,706	$162.10		$43,085.98	$2,886,760.66
Fringe Rate 100%					$43,085.98	$2,886,760.66
Total Current Burden	1462				$82,845.56	$5,773,521.20

2. SUPPLEMENTAL CENTERS FOR DISEASE CONTROL (CDC)

Current annual effort	# Hours dedicated to task		Hourly rate of task		Totals	
	Mean	Range	Mean	Range	Average effort per center	Across the network (average effort × 67 centers)
Design of data tools Computer Systems Analyst	20	1–50	$49.10	$24–75	982	65,794
Staff train-data collection Training & Development Manager	26	20–40	$57.56	$29–71	1,496.56	$100,269.52
Data gathering & verifying Computer User Support Specialist	15	200–2,184	$27.72	$16–43	415.8	$27,858.6

2. SUPPLEMENTAL CENTERS FOR DISEASE CONTROL (CDC)—Continued

Current annual effort	# Hours dedicated to task		Hourly rate of task		Totals	
	Mean	Range	Mean	Range	Average effort per center	Across the network (average effort × 67 centers)
Data entry & cleaning Computer User Support Specialist	15	380–820	27.72	$16–43	415.8	$27,858.6
Subtotal	76	728–2,706	$162.10		$3,310.16	221,778.72
Fringe Rate 100%					$3,310.16	221,778.72
Total Current Burden	76					

3. SUPPLEMENTAL PUBLIC HEALTH WORKFORCE

Current annual effort	# Hours dedicated to task		Hourly rate of task		Totals	
	Mean	Range	Mean	Range	Average effort per center	Across the network (average effort × 67 centers)
Design of data tools Computer Systems Analyst	4	1–50	$49.10	$24–75	196.4	13,158.80
Staff train-data collection Training & Development Manager	6	20–40	$57.56	$29–71	345.36	23,139.12
Data gathering & verifying Computer User Support Specialist	4	200–2,184	$27.72	$16–43	110.88	$7,428.96
Data entry & cleaning Computer User Support Specialist	4	380–820	27.72	$16–43	110.88	$7,428.96
Subtotal	18	728–2,706	162.10		$763.52	$51,155.84
Fringe Rate 100%					$763.52	$51,155.84
Total Current Burden	18					

The above figures related to the percentage of hours dedicated to different tasks were developed from information gathered by the UCEDD technical assistance provider for the previous data information collection request.

Date: September 20, 2022.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2022–20797 Filed 9–23–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Proposed Collection; Public Comment Request of the State Councils on Developmental Disabilities (Councils) OMB Control Number 0985–0033

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This Information Collection (IC) Revision solicits comments on the information collection requirements relating to the State Councils on Developmental Disabilities (Councils) OMB control number 0985–0033.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by November 25, 2022.

ADDRESSES: Submit electronic comments on the collection of information to Sara Newell-Perez at *Sara.Newell-Perez@acl.hhs.gov.* Submit electronic comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Sara Newell-Perez.

FOR FURTHER INFORMATION CONTACT: Sara Newell-Perez, 202–795–7413 or *Sara.Newell-Perez@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the collection of information described below, ACL invites comments on our burden

estimates or any other aspect of this collection of information, including:

(1) whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The State Councils on Developmental Disabilities (Councils) are authorized by Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), as amended, [42 U.S.C. 15001 *et seq.*] (The DD Act). The DD Act requires Councils to submit an annual Program Performance Report. Section 125(c)(7) (42 U.S.C. 15025), states that: *Beginning in fiscal year 2002, the Council shall annually prepare and transmit to the Secretary a report. Each report shall be in a form prescribed by the Secretary by regulation under section 104(b). Each report shall contain information about the progress made by the Council in achieving the goals of the Council as specified in section 124(c)(4)).*

The Council is responsible for the development and submission of the PPR, and for reporting on performance measure data related to its progress in carrying out the goals and objectives of the State Plan. The data collected in the PPR and submitted to ACL is also used to comply with the GPRA Modernization Act of 2010 (GPRAMA). Performance measure results are reported to Congress under GPRAMA.

This is a revision of a currently approved information collection that expires in 2023. To ensure the DD Council PPR is consistent with the Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and the Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, ACL intends to determine whether the sexual orientation and gender identity (SOGI) data elements need to be adapted prior to adding them to ensure accessibility of the questions for individuals with intellectual and developmental disabilities.

This IC will also include elements needed to account for the activities supported by funding from the Centers for Disease Control and Prevention (CDC) to support access to vaccines for people with disabilities as well as the funds awarded under the American Rescue Plan to increase the Public Health Workforce (PHWF). All other elements of the template remain consistent with previously approved performance measures and corresponds to requirements in the DD Act.

The information collected from the DD Councils is used for multiple purposes:

(1) To develop and submit at least every two years a report to the President, Congress, and the National Council on Disability that describes the goals and outcomes of programs supported under the DD Act.

(2) As a tool for DD Councils to measure and report on progress in reaching goals and identify areas for which revisions are indicated;

(3) To enhance the Federal project officers' monitoring of DD Council progress in reaching projected outcomes;

(4) As a set of performance measures that will yield a national portrait of DD Council program impact; and

(5) For Congress and the Administration in making funding and appropriation decisions with regard to the DD Council program.

The proposed data collection tools may be found on the ACL website for review at: *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: Based on DD Council reporting experience, current data and reporting efforts constitute approximately 238 burden hours per grantee for a total of 1,556 hours. The table below outlines the estimate for the hours of burden associated with the collection of information. Estimated Total Annual Burden Hours: 13,328.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Total annual burden hours
State Councils on Developmental Disabilities, Annual Program Performance Report (PPR)	56	1	172	9,632
DDC CDC Report	56	1	52	2,912
DDC PHWF Report	56	1	14	784
Total	56		238	13,328

Date: September 20, 2022.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2022–20796 Filed 9–23–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–0738]

Ethical Considerations for Clinical Investigations of Medical Products Involving Children; Draft Guidance for Industry, Sponsors, and Institutional Review Boards; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry, sponsors, and institutional review boards (IRBs) entitled ''Ethical Considerations for Clinical Investigations of Medical Products Involving Children.'' This draft guidance describes FDA's current thinking regarding ethical considerations for clinical investigations of drugs, biological products, and medical devices (collectively referred to as ''medical products'' in this notice) involving children. The draft guidance is intended to assist industry, sponsors,

and IRBs when considering the enrollment of children in clinical investigations of medical products.

DATES: Submit either electronic or written comments on the draft guidance by December 27, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–0738 for ''Ethical Considerations for Clinical Investigations of Medical Products Involving Children.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Pediatric Therapeutics, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5126, Silver Spring, MD 20993–0002; the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling the Center for Biologics Evaluation and Research at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Donna Snyder, Office of Pediatric Therapeutics, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5121, Silver Spring, MD 20993–0002, 301–796–1397; or John J. Alexander, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5490, Silver Spring, MD 20993–0002, 301–796–0665; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911; or Ouided Rouabhi, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G221, Silver Spring, MD 20993–0002, 240–402–2672.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry, sponsors, and IRBs entitled ''Ethical Considerations for Clinical Investigations of Medical Products Involving Children.'' This draft guidance describes FDA's current thinking regarding ethical considerations for clinical investigations of drugs, biological products, and medical devices (collectively referred to as ''medical products'' herein) involving children.

Clinical investigations involving children are essential for obtaining data on the safety and effectiveness of medical products in children and to protect children from the risks associated with exposure to medical products that may be unsafe or ineffective. Children are a vulnerable population who cannot consent for themselves and who therefore are afforded additional safeguards when

participating in a clinical investigation. Such safeguards are an essential requirement for the initiation and conduct of pediatric investigations as part of a medical product development program.

This draft guidance describes the ethical framework in FDA's regulations, including the principle of scientific necessity, the risk categories for interventions or procedures without the prospect of direct benefit, considerations regarding the prospect of direct benefit, the assessment of risk for interventions or procedures with a prospect of direct benefit, evaluations for the different components of a clinical investigation using component analysis of risk, the potential for review of a protocol under 21 CFR 50.54, and the necessity of obtaining parental/guardian permission and child assent. The draft guidance also describes the application of 21 CFR part 50, subpart D to pediatric clinical investigations, including the data to support conducting pediatric clinical investigations, design considerations for clinical investigations, and study procedures in pediatric clinical investigations.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Ethical Considerations for Clinical Investigations of Medical Products Involving Children.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130, the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014, and the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: September 20, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20720 Filed 9–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Bureau of Health Workforce Program Specific Form OMB No. 0915–XXXX–New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than October 26, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer, at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information collection request title for reference.

Information Collection Request Title: Bureau of Health Workforce (BHW) Program Specific Form OMB No. 0915–XXXX–New.

Abstract: HRSA seeks to collect disparity related data on two forms, the BHW Program Specific Form and the Scholarships for Disadvantaged Students (SDS) Application Program Specific Form. This clearance request is for approval of both forms. The SDS Application Program Specific Form is currently approved under OMB Approval No. 0915–0149 with the expiration date of November 30, 2022. For programmatic efficiency, HRSA is consolidating this previous separate ICR with this new ICR and will be discontinuing OMB No. 0915–0149.

A 60-day notice published in the **Federal Register** on May 25, 2022 (87 FR 31893). There were no public comments.

Need and Proposed Use of the Information: Historically, only the SDS Program collects disparity related data from applicants. In addition to the SDS data, HRSA seeks to obtain general demographic data for its other health workforce programs to assess the experience and performance of applicants in strengthening the health workforce and the populations in which they serve. Examples of this data include but are not limited to:

- Demographic Information: Students/trainees gender, race, and ethnicity;
- Class Enrollment Information: Student/trainees from disadvantaged backgrounds; and
- Graduate Service Information: Graduates or program completers serving in Medically Underserved Communities, rural communities and in primary care.

Collecting disparity related data from BHW applicants would close a data gap in program performance.

The Public Health Service (PHS) Act authorizes the Secretary to collect data for workforce information and analysis activities for BHW's Title VII and VIII programs in sections 799(c) and 806(b) and (f) (42 U.S.C. 295o–1(c); 42 U.S.C 296e(b) and (f)). PHS Act section 799(c) specifically authorizes the Secretary to ensure that such data collection takes

into account age, sex, race, and ethnicity and sections 806(b) and (f) specifically provide the Secretary with authority to collect information and carry out workforce analytical activities. Collecting these data in the HRSA Electronic Handbook will help grant reviewers, policy makers and HRSA staff make decisions that expand the workforce and help increase access to health care.

The SDS Application Program Specific Form seeks to assist HRSA in assessing applicants for the SDS Program, which is to make grant awards to eligible schools to provide scholarships to full-time, financially needy students from disadvantaged backgrounds enrolled in health professions programs. To qualify for participation in the SDS program, a school must be carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups, as required by section 737(d)(1)(B) of the PHS Act (42 U.S.C 293a(d)(1)(B)). To meet this requirement, a school must provide data via the SDS Application Program Specific Form that at least 20 percent of the school's full-time enrolled students and graduates are from a disadvantaged background.

The SDS Application Program Specific form previously approved under OMB Control No. 0915–0149 does not include substantive changes. Both forms will be used to collect three years of student and participant data from BHW program applicants only.

Likely Respondents: Respondents vary by the specific program and are determined by each program's eligibility, to include but are not limited to the following: Accredited schools of nursing with advanced education nursing programs; accredited allopathic schools of medicine; accredited schools of osteopathic medicine, dentistry, pharmacy, and graduate programs in behavioral or mental health; schools of nursing; nurse managed health clinics/centers; academic health centers; state or local governments; public or private nonprofit entities determined appropriate by the Secretary; and consortiums and partnerships of eligible entities when applicable.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
BHW Program Specific Form	2,069	1	2,069	14	28,966
SDS Application Program Specific Form	323	1	323	31	10,013
Total	2,392	.....	2,392	.....	38,979

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–20717 Filed 9–23–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier 0945–0002]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before October 26, 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: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 264–0041. When submitting comments or requesting information, please include the document identifier 0945–0002–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Complaint Forms for Discrimination; Health Information Privacy Complaints and Civil Rights Discrimination.

Type of Collection: Extension.

OMB No.: 0945–0002.

Abstract: The Office for Civil Rights (OCR) is requesting an extension of the previously approved collection 0945–0002 that is expiring in November 2022, titled: Complaint Forms for Discrimination; Health Information Privacy Complaints and Civil Rights Discrimination. This request revises the OCR Civil Rights Discrimination

Complaint Form and the Privacy Discrimination Complaint Form as currently approved and will remain in compliance with the Paperwork Reduction Act. We are requesting a 3year extension.

Type of respondent: Individuals or households, Not-for-profit institutions and Individuals or households annually.

ESTIMATED ANNUALIZED BURDEN TABLE

Written forms/electronic forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Civil Rights/Conscience Discrimination Complaint.	Individuals or households, Not-for-profit institutions.	15,446	1	45/60	11,585
Health Information Privacy Complaint.	Individuals or households, Not-for-profit institutions.	30,392	1	45/60	22,794
Total		45,838		45/60	34,379

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–20713 Filed 9–23–22; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Invitation To Become a Healthy People 2030 Champion

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services' (HHS) Office of Disease Prevention and Health Promotion (ODPHP) invites public and private sector organizations that support Healthy People 2030, the nation's disease prevention and health promotion plan, to become a Healthy People 2030 Champion. The selected Healthy People 2030 Champions will be recognized for their commitment and work toward achieving Healthy People 2030's vision of a society in which all people can achieve their full potential for health and well-being across the lifespan.

DATES: Online applications will be accepted starting on September 21, 2022 and will be reviewed on a rolling basis.

ADDRESSES: Interested organizations are invited to submit an online Healthy People 2030 Champion application, which can be found at *https://health.gov/healthypeople/about/healthy-people-2030-champion-program.* Questions about the Healthy People 2030 Champions may be emailed to *HP2030Partners@hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services; 1101 Wootton Parkway, Suite 420, Rockville, MD 20852; Telephone: (240) 453–8280. Email: *HP2030Partners@hhs.gov.*

SUPPLEMENTARY INFORMATION:

Requirements of Interested Organizations. Organizations that support Healthy People 2030, disease prevention, health promotion, and well-being and that demonstrate efforts toward addressing social determinants of health (SDOH) and health literacy, eliminating health disparities, and achieving health equity in the United States may submit an application online to become a Healthy People 2030 Champion. The online application is available at *https://health.gov/healthypeople/about/healthy-people-2030-champion-program.*

Eligibility for Interested Organizations. To be eligible to become a Healthy People 2030 Champion, an organization shall: (1) have a demonstrated interest in, understanding of, and experience with disease prevention, heath promotion, SDOH, health disparities, health equity, health literacy, and/or well-being or (2) have an organizational or corporate mission that is aligned with the Healthy People 2030 vision, mission, overarching goals, foundational principles, or objectives; and (3) agree to sign a letter of understanding (LOU) with ODPHP, which will set forth the details of how the organization is supporting the vision of the Healthy People 2030. Individuals are not eligible to be Healthy People 2030 Champions.

Healthy People 2030 Champions. Healthy People 2030 Champions can be public and private organizations such as those at the state, local, county, and tribal levels, non-governmental organizations, non-profit organizations, businesses, academic organizations, organizations that impact health outcomes, philanthropic organizations, and tribal organizations that identify themselves as being aligned with or promoting Healthy People 2030, including the Healthy People 2030 vision and overarching goals. All organizations may apply. Applicants for Healthy People 2030 Champions shall complete an online application (located at *https://health.gov/healthypeople/about/healthy-people-2030-champion-program*) and identify in the application how they address or support health promotion, disease prevention, SDOH, health disparities, health equity, health literacy, and/or well-being and how they work in alignment with Healthy People 2030 through activities, philanthropy, or other means. Applicants for Healthy People 2030 Champions will be evaluated according to the organization's demonstrated commitment to support the overarching goals of Healthy People 2030 and the Healthy People 2030 objectives.

The following activities may be considered as an organization's demonstrated commitment to Healthy People 2030's overarching goals and objectives (*https://health.gov/healthypeople/about/healthy-people-2030-framework*):

- Promoting and increasing access to disease prevention and health promotion activities;
- Providing access to training or certification programs for disease prevention and health promotion;
- Addressing SDOH, eliminating disparities, achieving health equity, promoting health literacy, and/or promoting well-being using evidence-based interventions;
- Providing training and other necessary resources to adapt or modify disease prevention and health promotion activities to meet the needs of diverse populations, address SDOH, promote health literacy, eliminate disparities, achieve health equity, and/or promote well-being;
- Developing partnerships across a variety of sectors, including business, community, academia, education, faith-

based, government, health care, media, public health, and technology;

- Working across sectors to address SDOH, promote health literacy and well-being, eliminate disparities and achieve health equity;
- Evaluating health promotion and disease prevention programs or partnering with academic institutions or public health organizations to evaluate health promotion and disease prevention activities;
- Including information in public facing materials about programs for disease prevention, health promotion, addressing SDOH, eliminating disparities, achieving health equity, and/or promoting health literacy or well-being in community needs assessments;
- Adopting or implementing the Healthy People 2030 framework (*i.e.,* vision, mission, overarching goals, foundational principles), Leading Health Indicators (LHIs), Overall Health and Well-Being Measures (OHMs) and/or Healthy People 2030 objectives in their strategic plan;
- Promoting Healthy People 2030 and providing opportunities and venues for disease prevention and health promotion activities;
- Partnering with national, state, tribal, or local volunteer organizations to provide education, training, or programs regarding health promotion, disease prevention, SDOH, health disparities, health equity, health literacy, and well-being;
- Supporting an entity with the responsibility to organize and coordinate efforts within and across sectors to foster health promotion and well-being;
- Promoting collaboration across all levels, including neighborhoods, communities, tribes, cities, states, counties, and localities, to increase and expand participation in health promotion and disease prevention activities;
- Disseminating through a variety of platforms messaging about the benefits of and resources available to promote disease prevention, health promotion, well-being and the importance of addressing SDOH, health literacy, health disparities, and health equity;
- Supporting the coordination and standardization of data to enable comparisons across national, state, local, county, and/or tribal levels;
- Providing grants, funding opportunities, and other resources to programs that address disease prevention, health promotion, well-being, SDOH, health literacy, health equity, and health disparities.

Funds: None. Neither HHS nor ODPHP will provide funds to support Healthy People 2030 Champions. Applicants and Healthy People 2030 Champions will not be expected to contribute funds.

Application Requirements: Organizations may apply to be a Healthy People 2030 Champion. Organizations should complete a Healthy People 2030 Champion application located at *https://health.gov/healthypeople/about/healthy-people-2030-champion-program* and describe in their application their support of the Healthy People 2030 vision of *a society in which all people can achieve their full potential for health and well-being across the lifespan.* Each Healthy People 2030 Champion applicant shall provide the following information via the Healthy People 2030 Champion online application: (1) Organization name, location, website, and submitter's contact information; (2) a brief description of the organization's mission and/or values; (3) the communities, clients, or constituents the organization strive to assist, support, or serve; (4) a description of activities that demonstrate the organization's commitment to Healthy People 2030's vision (*i.e., a society in which all people can achieve their full potential for health and well-being across the lifespan)* and how the organization supports or plans to support the Healthy People 2030 vision and address disease prevention, health promotion, SDOH, health disparities, health equity, health literacy, or well-being, such as prioritizing underserved populations, philanthropy, or alignment with specific Healthy People 2030 objectives, LHIs, or OHMs. Submission of an application does not guarantee acceptance as a Healthy People 2030 Champion. ODPHP will review and evaluate applications for alignment with the Healthy People 2030 vision.

Organizations selected by ODPHP to be Healthy People 2030 Champions will sign a letter of understanding (LOU) with ODPHP outlining the terms and parameters of their support for Healthy People 2030. Organizations that are selected to participate in the Healthy People 2030 Champion program, maintain an active LOU, and work in alignment with the Healthy People 2030 will be recognized as Healthy People 2030 Champions on *Health.gov/healthypeople2030* and provided with a digital Healthy People 2030 Champion badge for their website in addition to Healthy People 2030 information, tools, and resources for dissemination. Use of the Healthy People 2030 Champion badge does not imply any federal endorsement of the collaborating organization's general policies, activities, or products.

Background: Each decade since 1980, the Healthy People initiative has established and monitored national health objectives with 10-year targets to meet a broad range of health needs, encourage collaborations across sectors, guide individuals toward making informed health decisions, and measure the impact of disease prevention and health promotion activities. Launched August 2020, the current iteration—Healthy People 2030—leverages scientific insights and lessons from the past decade, along with the new knowledge of current data, trends, and innovations. Healthy People 2030 provides science- and evidence-based, 10-year national objectives for promoting health and preventing disease and sets targets to be achieved by the year 2030. It identifies public health priorities that address the major risks to health and well-being and serves as a resource for preventing disease, promoting health, addressing SDOH and health literacy, eliminating health disparities, and achieving health equity. Healthy People 2030 reflects input from the Secretary's Advisory Committee on National Health Promotion and Disease Prevention; the National Academies of Sciences, Engineering, and Medicine; a technical expert panel; subject matter experts from across HHS and other federal agencies; and members of the public via multiple public comment periods. ODPHP leads and manages the development and implementation of Healthy People 2030 on behalf of HHS.

The Healthy People 2030 framework and objectives outline the nation's plan for achieving the Healthy People 2030 vision of *a society in which all people can achieve their full potential for health and well-being across the lifespan.* Healthy People 2030's framework includes its vision, mission, overarching goals, guiding foundational principles, and is supported by over 350 specific measurable objectives with targets, LHIs, and OHMs. Healthy People 2030 serves as a resource and provides user-centered tools for disease prevention and health promotion, including science-based objectives, national and population-level data, evidence-based resources, and SDOH literature summaries. Detailed information about Healthy People 2030 is available at *https://health.gov/healthypeople.*

Authority: 42 U.S.C. 300u(a).

Dated: September 9, 2022.

Paul Reed,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion).

[FR Doc. 2022–20693 Filed 9–23–22; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Administration for Strategic Preparedness and Response; Delegation of Authority

Notice is hereby given that I have delegated to the Assistant Secretary for Preparedness and Response (ASPR), or their successor, the priorities authority under Section 101 of the Defense Production Act (DPA) of 1950, as amended (50 U.S.C. 4501, *et seq.*), as delegated to the Secretary of the U.S. Department of Health and Human Services (HHS) by section 201 of Executive Order 13603, dated March 16, 2012 (77 FR 16651; 3 CFR, 2012, Comp., p. 225), subject to the limitation stated herein. The delegation authorizes the ASPR, on behalf of the Secretary, to approve DO–HR [1] priority rating requests for health resources that promote the national defense. The delegation excludes the authority to approve all priorities provisions for health resources that require DX–HR priority ratings. This delegation does not confer authority to issue regulations.

FOR FURTHER INFORMATION CONTACT: Paige Ezernack; Defense Production Act Office; Administration for Strategic Preparedness and Response; U.S. Department of Health and Human Services; phone: (202) 260–0365; email: *Paige.Ezernack@hhs.gov.*

Xavier Becerra,

Secretary.

[FR Doc. 2022–20737 Filed 9–23–22; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods Biennial Progress Report: 2020–2021; Availability of Report

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces availability of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Biennial Progress Report: 2020–2021. This report, prepared in accordance with requirements of the ICCVAM Authorization Act of 2000, describes activities and accomplishments from January 2020 through December 2021.

ADDRESSES: The report is available at *https://ntp.niehs.nih.gov/go/2021iccvamreport.*

FOR FURTHER INFORMATION CONTACT: Dr. Nicole Kleinstreuer, Acting Director, NICEATM, Division of Translational Toxicology, NIEHS, P.O. Box 12233, K2–17, Research Triangle Park, NC 27709. Phone: 984–287–3150, Email: *nicole.kleinstreuer@nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2032, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

The ICCVAM Authorization Act of 2000 established ICCVAM as a permanent interagency committee of the National Institute of Environmental Health Sciences (NIEHS) under NICEATM. ICCVAM's mission is to facilitate development, validation, and regulatory acceptance of new and revised regulatory test methods that reduce, refine, or replace the use of animals in testing while maintaining and promoting scientific quality and the protection of human health, animal health, and the environment.

A provision of the ICCVAM Authorization Act states that ICCVAM shall prepare ''reports to be made available to the public on its progress under this Act.'' The eleventh progress report describing ICCVAM activities and accomplishments from January 2020 through December 2021 is now available.

Summary of Report Contents: Key ICCVAM, ICCVAM agency, and NICEATM accomplishments summarized in the report include:

- Publication by the Organisation for Economic Co-operation and Development of Guideline 497, Defined Approaches on Skin Sensitisation, the first internationally harmonized guideline to describe a non-animal approach that can be used to replace an animal test to identify skin sensitizers. Guideline 497 was drafted and sponsored by ICCVAM agency scientists and international partners.
- Recommendations in March 2021 by the ICCVAM Metrics Workgroup on federal agency progress in promoting alternative toxicological methods. The workgroup recommended each agency develop its own metrics relevant and practical to their own situation.
- Establishment of the Workgroup on Microphysiological Systems for COVID Research, an international collaborative workgroup to coordinate use of microphysiological systems to reduce animal use in COVID–19 studies and future emerging infectious diseases. A key accomplishment of the workgroup was the establishment of a COVID–19 disease portal in an existing microphysiological systems database.
- Further development of the Collaborative Acute Toxicity Modeling Suite (CATMoS), an online resource for in silico screening of organic chemicals for acute oral toxicity. During 2020 and 2021, the utility of CATMoS for predicting acute oral toxicity in research and regulatory contexts was explored in projects conducted by ICCVAM agencies, including the U.S. Department of Defense and the U.S. Environmental Protection Agency.
- Updates of the Integrated Chemical Environment Search tool during 2020 and 2021 to enable search results to be sent to query other data resources. Updates also allowed users to explore similarities among chemicals, find information on chemical use categories, search for structurally similar chemicals, and view and interact with concentration-response curves from curated high-throughput screening data.

Availability of Report: The report is available at *https://ntp.niehs.nih.gov/go/2021iccvamreport.* Links to this report and all past ICCVAM annual and biennial reports are available at *http://ntp.niehs.nih.gov/go/iccvam-bien.*

Background Information on ICCVAM and NICEATM: ICCVAM is an interagency committee composed of representatives from 17 federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability. ICCVAM also promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine animal use.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of NIEHS and provides the authority for ICCVAM involvement in activities relevant to the development of

[1] Or another equivalent rating designation.

alternative test methods. Additional information about ICCVAM can be found at *http://ntp.niehs.nih.gov/go/iccvam.*

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts and publishes analyses and evaluations of data from new, revised, and alternative testing approaches. NICEATM and ICCVAM work collaboratively to evaluate new and improved testing approaches applicable to the needs of U.S. federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative testing approaches for validation studies and technical evaluations. Additional information about NICEATM can be found at *http://ntp.niehs.nih.gov/go/niceatm.*

Dated: September 21, 2022.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2022–20787 Filed 9–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Regular Clearance for Autism Spectrum Disorder (ASD) Research Portfolio Analysis, National Institute of Mental Health

AGENCY: National Institutes of Health, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Andrew Hooper, National Institute of Mental Health (NIMH) Project Clearance Liaison, Science Policy and Evaluation Branch, Office of Science Policy, Planning and Communications, NIMH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Bethesda, Maryland 20892, call (301) 480–8433, or email your request, including your mailing address, to *nimhprapubliccomments@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes 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 or other forms of information technology.

Proposed Collection Title: Autism Spectrum Disorder (ASD) Research Portfolio Analysis, NIMH, 0925–0682, expiration date 1/31/2023, EXTENSION, National Institute of Mental Health (NIMH), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of the ASD research portfolio analysis is to collect research funding data from U.S. and international ASD research funders, to assist the Interagency Autism Coordinating Committee (IACC) in fulfilling the requirements of the Combating Autism Act, and to inform the committee and interested stakeholders of the funding landscape and current directions for ASD research. Specifically, these analyses will continue to examine the extent to which current funding and research topics align with the *IACC Strategic Plan for ASD Research.* The findings will help guide future funding priorities by outlining current gaps and opportunities in ASD research as well as serving to highlight annual activities and research progress.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 408.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of projects per respondent	Average time per response (in hours)	Total burden hours
U.S. Federal	31	28	15/60	217
U.S. Private	15	45	15/60	169
International Government	1	61	15/60	15
International Private	2	13	15/60	7
Total	49	1,630	.....	408

Dated: September 20, 2022.

Andrew A. Hooper,

Project Clearance Liaison, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2022–20738 Filed 9–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Mentored Patient-Oriented Research Career Development Award (Parent K23 Independent Clinical Trial Not Allowed).

Date: October 19, 2022.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Vanitha S. Raman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45 Rockville, MD 20852, 301–761–7949, *vanitha.raman@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 20, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20764 Filed 9–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Developing Digital Therapeutics for Substance Use Disorders.

Date: October 19, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *jenny.browning@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Device-Based Treatments for Substance Use Disorders.

Date: October 26, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *jenny.browning@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Investigating Transposable Elements and Mobile DNA as Targets of Integration for Establishing HIV Reservoirs in the Brain.

Date: November 1, 2022.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Stefan Wolff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 480–1448, *brian.wolff@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Implementing Comprehensive HIV Services in Syringe Service Program Settings.

Date: November 1, 2022.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Trinh T. Tran, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–5843, *trinh.tran@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; BP Medtech Award (Clinical).

Date: November 2, 2022.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Preethy Nayar, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, 301–443–4577, *nayarp2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 20, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20762 Filed 9–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0026]

Agency Information Collection Activities: Reinstatement, Without Change, of a Previously Approved Collection: Information Relating to Beneficiary of Private Bill

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995, U.S. Immigration and Customs Enforcement (ICE), the Department of Homeland Security (DHS), will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** on April 26, 2022, allowing for a 60-day comment period. ICE received no comments in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ina Farka, ERO Policy Unit, (202) 732–3270, *eropolicy@ice.dhs.gov.* (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. ICE is adjusting the burden figures from the 60-day notice based on better estimates of the number of applications received.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, Without Change, of a Previously Approved Collection.

(2) *Title of the Form/Collection:* Information Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* G79–A; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. This form is used by ICE to obtain information from beneficiaries and/or interested parties in Private Bill cases when requested to report by the Committee on the Judiciary.

(5) *An estimate of the total number of respondents and the time to respond:* The estimated total number of respondents for the information collection is 35 and the estimated hour burden per response is 1.5 hours (90 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 52.5 annual burden hours.

Dated: September 20, 2022.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2022–20739 Filed 9–23–22; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement, Department of Homeland Security

[OMB Control Number 1653–0046]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Electronic Bonds Online (eBonds) Access

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** on July 19, 2022, allowing for a 60-day comment period. ICE received no comments in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of the 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: If you have questions related to this collection please contact: Carl Albritton, ERO Bond Management Unit, (202) 732–5918, *carl.a.albritton@ice.dhs.gov.* (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. ICE is adjusting the burden figures from the 60-day notice based on better estimates of the number of applications received.

Overview of This Information Collection

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

(2) *Title of the Form/Collection:* Electronic Bonds Online (eBonds) Access.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* I–352SA/I–352RA; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information collection is necessary for ICE to grant access to eBonds and to notify the public of the duties and responsibilities associated with accessing eBonds. The I–352SA and the I–352RA are the two instruments used to collect the information associated with this collection. The I–352SA is completed by a Surety that currently holds a Certificate of Authority to act as a Surety on Federal bonds and details the requirements for accessing eBonds as well as the documentation, in addition to the I–352SA and I–352RA, which the Surety must submit prior to being granted access to eBonds. The I–352RA provides notification that eBonds is a Federal government computer system and as such users must abide by certain conduct guidelines to access eBonds and the consequences if such guidelines are not followed.

(5) *An estimate of the total number of respondents and the time to respond:* The estimated total number of respondents for the information collection is 60 and the estimated hour burden per response is 30 minutes (.50 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 30 annual burden hours.

Dated: September 21, 2022.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2022–20763 Filed 9–23–22; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0067]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Asylum and for Withholding of Removal

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 25, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0067 in the body of the letter, the agency name and Docket ID USCIS–2007–0034. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0034.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0034 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–589; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–589 is necessary to determine whether an alien applying for asylum and/or withholding of removal in the United States is classified as refugee and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–589 is approximately 85,500 and the estimated hour burden per response is 12 hours per response; the estimated total number of respondents for the information collection I–589 (online filing) is approximately 28,500 and the estimated hour burden per response is 11 hours per response, and the estimated number of respondents providing biometrics is 110,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,468,200 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $46,968,000.

Dated: September 20, 2022.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–20741 Filed 9–23–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–50; OMB Control No. 2502–0623]

30-Day Notice of Proposed Information Collection: Equity in Housing Counseling Survey

AGENCY: Office of Policy Development and Research, Chief Data Officer, 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 an additional 30 days of public comment.

DATES: *Comments Due Date:* October 26, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *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: Colette Pollard, Reports Management Officer, 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 Federal Relay Service at 800–877–8339 (this is a toll-free number).

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.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 6, 2022, at 87 FR 27177.

A. Overview of Information Collection

Title of Information Collection: Equity in Housing Counseling Survey.

OMB Approval Number: 2502–0623.

OMB Expiration Date: September 30, 2022.

Type of Request: Revision of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: The purpose of the survey and the listening session is to collect information from HUD Participating Housing Counseling agencies that will be used to identify and develop innovative programming and best practices for the Department's Housing Counselling Program under Section 106 of the Housing and Community Development Act of 1974.

Respondents: Not-For-Profit Institutions.

Estimated Number of Respondents: 1,244.

Estimated Number of Responses: 1,244.

Frequency of Response: 1.

Average Hours per Response: 3.25.

Information collection/affected public	Form name/form No. collection tool	Number of respondents	Frequency of response	Responses per year	Average burden hours per response	Annual burden hours	Hourly cost per response (hourly wage rate)	Total annual respondent cost
Not for-profits Institutions.	Equity in Housing Counseling Survey.	1,219	1	1,219	.25	304.75	$50.71	$15,453.87
Not for-profits Institutions.	Equity in Housing Counseling Listening Sessions.	25	1	25	3	75	50.71	3803.25
Totals	.....	1,244	.....	1,244	.....	380	.....	19,257.12

Total Estimated Burden: 380 hours.

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.

(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.

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. 3507.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2022–20790 Filed 9–23–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900; OMB Control Number 1076–0021]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Electric Power Service Application

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA), are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before October 26, 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 Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; or by email to *comments@bia.gov.* Please reference OMB Control Number 1076–0021 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Steven Mullen, Information Collection Clearance Officer, *comments@bia.gov,* (202) 924–2650. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 10, 2021 (86 FR 50737). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BIA owns, operates, and maintains three electric power utilities that provide a service to the end user, pursuant to 25 CFR 175 (Indian Electric Power Utilities). The BIA must collect customer information to identify the individual responsible for repaying the government its costs for delivering the service and bill for those costs. The BIA must also collect information to identify the location of the service delivery (*i.e.,* electrical hook-up). In addition, the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701–3733 requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt.

Proposed Revisions to This Information Collection

BIA proposes to revise the ''Electric Service Application'' form to expand electronic access and improve customer experience and delivery. The revised form introduces an opt-in checkbox for paperless billing and a new field for email address. The revised form also proposes clarifying text regarding the option for a letter from medical services provider. Customers that need essential medical equipment in their home to sustain life should obtain a letter from their medical services provider and contact respective utility. A letter on file from customer's medical services provider does not guarantee customer's service will not be disconnected for unpaid electric bills. Accounts with a letter on file from customer's medical services provider are subject to the same bill payment terms as other accounts.

Title of Collection: Electric Power Service Application.

OMB Control Number: 1076–0021.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individual Indians and Indian Tribes.

Total Estimated Number of Annual Respondents: 1,315.

Total Estimated Number of Annual Responses: 1,315.

Estimated Completion Time per Response: 30 minutes to 1 hour.

Total Estimated Number of Annual Burden Hours: 665.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Steven Mullen,

Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2022–20747 Filed 9–23–22; 8:45 am]

BILLING CODE 4337–15–P

NATIONAL INDIAN GAMING COMMISSION

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of St. Regis Mohawk Tribe Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710(d)(2)(B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register** is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On July 11, 2022, the Chairman of the National Indian Gaming Commission approved St. Regis Mohawk Tribe Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov.*

National Indian Gaming Commission.

Dated: September 20, 2022.

Michael Hoenig,

General Counsel.

July 11, 2022

Beverly Cook Michael Conners
Ronald LaFrance Jr. Tribal Chiefs
Saint Regis Mohawk Tribe
71 Margaret Terrance Memorial Way
Akwesasne, NY 13655

Re: Saint Regis Mohawk Tribal Gaming Ordinance amendments, Resolution 2022–14

Dear Chiefs Cook, Conners, and LaFrance:

This letter responds to your request dated May 3, 2022, on behalf of the Saint Regis Mohawk Tribe for the National Indian Gaming Commission Chairman to review and approve amendments to the Tribe's gaming ordinance. Resolution 2022–14 replaces the Tribe's current gaming ordinance, TCR 1993–102, with a wholly revised and updated version. This newly amended ordinance reflects recent amendments to NIGC background and licensing provisions, the Tribe's intent to allow only tribally owned gaming on its lands, and other updates deemed necessary by the Tribe in the twenty years since the last amendment.

The amendments are consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations and are hereby approved. If you have any questions concerning this letter or the ordinance review process, please contact Jennifer Lawson at *jennifer_lawson@nigc.gov.*

Sincerely,

E. Sequoyah Simermeyer Chairman.

[FR Doc. 2022–20744 Filed 9–23–22; 8:45 am]

BILLING CODE 7565–01–P

NATIONAL INDIAN GAMING COMMISSION

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Cocopah Indian Tribe Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710(d)(2)(B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal**

Register is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On July 11, 2022, the Chairman of the National Indian Gaming Commission approved Cocopah Indian Tribe Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov.*

National Indian Gaming Commission.

Dated: September 20, 2022.

Michael Hoenig,

General Counsel.

July 11, 2022
VIA EMAIL
Sherry Cordova, Chairwoman
Cocopah Indian Tribe
14515 S Veterans Drive
Somerton, AZ 85350
Re: Cocopah's Amended Gaming Ordinance
Dear Chairwoman Cordova,

This letter is in response to the Cocopah Indian Tribe's request, dated May 13, 2022, to the National Indian Gaming Commission (''NIGC'') Chairman for review and approval of amendments to the Tribe's gaming ordinance.

Resolution CT–2022–11 replaces the Tribe's current gaming ordinance, CTO–2016–2, with a wholly revised and updated version. This newly amended ordinance reflects recent amendments to the Arizona State-Tribal Gaming Compact and NIGC regulation changes, and other updates deemed necessary by the Tribe in the 7 years since the last amendment.

The amendments are consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations and are hereby approved. If you have any questions concerning this letter or the ordinance review process, please contact Mandy Cisneros at *mandy.cisneros@nigc.gov.*

Sincerely,
E. Sequoyah Simermeyer Chairman
cc: Judy Graham, Gaming Commission Chair, via email: *sherry@cocopah.com*
Glenn Feldman, Attorney, via email: *glenn.feldman@procopi.com*
Bonnie Atwell, Executive Director of Gaming, via email: *batwell@cocopah-casino.com*

[FR Doc. 2022–20743 Filed 9–23–22; 8:45 am]

BILLING CODE 7565–01–P

INTERNATIONAL TRADE COMMISSION

Notice of Appointment of Individuals To Serve as Members of the Performance Review Board

AGENCY: United States International Trade Commission.

ACTION: Appointment of Individuals to Serve as Members of Performance Review Board.

DATES: *Applicable Date:* September 20, 2022.

FOR FURTHER INFORMATION CONTACT: Eric Mozie, Director of Human Resources, or Ronald Johnson, U.S. International Trade Commission (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB):

Chair of the PRB: Commissioner Amy Karpel
Vice-Chair of the PRB: Commissioner Randolph Stayin
Member—John Ascienzo
Member—Dominic Bianchi
Member—Nannette Christ
Member—Catherine DeFilippo
Member—Margaret Macdonald
Member—William Powers
Member—Keith Vaughn

This notice is published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4). Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Chairman.

Issued: September 20, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20722 Filed 9–23–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1575 and 1577 (Final)]

Emulsion Styrene-Butadiene Rubber From Czechia and Russia; Hearing Update for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202–708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On July 15, 2022, the Commission established a schedule for the conduct of the final phase of the antidumping duty investigations (87 FR 42498). The Commission hereby gives notice that the hearing in connection with the investigations will be held in-person at the U.S. International Trade Commission Building beginning at 9:30am on November 8, 2022.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 1, 2022. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear as a witness via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigations, may at their discretion for good cause shown, grant such requests. Requests to appear as a witness via videoconference due to illness or a positive COVID–19 test result may be submitted by 3 p.m. the business day prior to the hearing.

Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4 p.m. on November 7, 2022. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

For further information concerning this proceeding see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 20, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20690 Filed 9–23–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number: 1121–0235]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Currently Approved Collection

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Justice Assistance, Office of Justice Programs, Department of Justice is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.
2. *The Title of the Form/Collection:* Patrick Leahy Bulletproof Vest Program Application.
3. *The agency form number:* None. The program application can be found at the Bureau of Justice Assistance, United States Department of Justice's website at *https://grants.ojp.usdoj.gov/bvp/login/externalAccess.jsp.*
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Jurisdictions and law enforcement agencies with armor vest needs.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that no more than 4,500 respondents will apply each year. Each application takes approximately 1 hour to complete.
6. *An estimate of the total public burden (in hours) associated with the collection:* Approximately 4,500 hours.

If additional information is required contact: Robert Houser, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 21, 2022.

Robert Houser,

Department Clearance Officer for PRA, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–20771 Filed 9–23–22; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Numbers: 1121–0341 and 1121–0342]

Agency Information Collection Activities; Proposed eCollection eComments; Extension With Change of a Currently Approved Collection: Office for Victims of Crime Training and Technical Assistance Center (OVC TTAC) Feedback Form Package

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Justice Assistance, Office of Justice Programs, Department of Justice is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension with change of a currently approved collection.
2. *The Title of the Form/Collection:* OVC TTAC Feedback Form Package.
3. *The agency form number:* N/A. Office for Victims of Crime, Office of Justice Programs, Department of Justice.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal agencies/organizations. Other: Federal Government; Individuals or households; Not-for-profit institutions; Businesses or other for-profit. Abstract: The Office for Victims of Crime Training and

Technical Assistance Center (OVC TTAC) Feedback Form Package is designed to collect the data necessary to continuously assess the satisfaction and outcomes of assistance provided through OVC TTAC for both monitoring and accountability purposes to continuously meet the needs of the victim services field. OVC TTAC will give these forms to recipients of training and technical assistance, scholarship applicants, users of the website and call center, consultants/instructors providing training, agencies requesting services, and other professionals receiving assistance from OVC TTAC. The purpose of this data collection will be to capture important feedback on the respondents' satisfaction and outcomes of the resources provided. The data will then be used to advise OVC on ways to improve the support that it provides to the victim services field at-large.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 26,825 respondents who will require an average of 20 minutes (ranging from 5 to 20 minutes across all forms) to respond to a single form each year.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden hours for this information collection are estimated to be 6,409 hours.

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 21, 2022.

Robert Houser,

Department Clearance Officer for PRA, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–20777 Filed 9–23–22; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0369]

Agency Information Collection Activities; Proposed eCollection; eComments Requested Extension Without Change of a Previously Approved Collection; National Criminal Justice Reference Service (NCJRS) Online Subscription Center (1121–0369)

AGENCY: Office of Communications, Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of Communications (OCOM), Office of Justice Programs (OJP), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* National Criminal Justice Reference Service (NCJRS) online subscription center: *https://www.ncjrs.gov/App/Secure/Registration/Register.aspx/.*

3. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Agency form number: 1121–0369.

Sponsoring component: Office of Communications, Office of Justice Programs, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Currently, constituents can sign-up for communications, such as new publications, funding opportunities, events, and other news and announcements from NCJRS and the NCJRS federal sponsors, place online orders, and track their order status by creating a detailed profile on *NCJRS.gov.* Users can also subscribe to specific Bureau, Program Office, and shared email notification lists and newsletters when creating an NCJRS account. This action can also be accomplished on various Bureau, Program Office, or GovDelivery web pages.

The NCJRS online subscription center was revised in 2019 and approved by OMB on September 18, 2019.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* An estimated 75 constituents use the NCJRS online subscription center on a monthly basis to register. An average of 2–4 minutes per respondent is needed to complete form 1121–0369.

6. *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that respondents will take 2–4 minutes to complete their profile. The estimated public burden hours associated for users to subscribe is 5 hours per month (75 respondents × 4 minutes = 300 minutes/60 minutes = 5 hours) or 60 hours per year (5 hours × 12 months = 60 hours).

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, Suite 3E.206, Washington, DC 20530.

Dated: September 21, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–20788 Filed 9–23–22; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request; H–2A Frequently Asked Questions Guidance—Round 17: Temporary or Seasonal Need Assessments; Relevant Information or Factors Related to H–2A Labor Contractors Operating in an Area of Intended Employment Where Agricultural Production May Occur Year-Round

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor's (Department or DOL) Employment and Training Administration (ETA) invites employers and other interested parties to comment on draft guidance, in the form of Frequently Asked Questions (FAQs), pertaining to the Office of Foreign Labor Certification's (OFLC) assessment of the nature of an employer's need for agricultural labor or services during the review of an *H–2A Application for Temporary Employment Certification* (H–2A application). ETA's OFLC developed this guidance, and is publishing it for public comment, consistent with a directive from the Secretary of Labor (Secretary) for interpretive guidance clarifying how the Department assesses an H–2A employer's need for agricultural labor or services to determine whether the employer has demonstrated a need of a temporary or seasonal nature, as required for certification. ETA invites the public to review the draft FAQs presented in this notice and provide written comments to OFLC, which will further inform the Department's development of guidance regarding OFLC's assessment of temporary or seasonal need for the H–2A program. The Department will publish this final guidance in the **Federal Register**.

DATES: Submit written comments on or before October 26, 2022.

ADDRESSES: You may submit written comments electronically by email to *ETA.OFLC.H2ARound17@dol.gov,* or by submitting your comment(s) through *https://www.regulations.gov/* using the docket number ETA–2022–0007. OFLC will receive comments through both means, so there is no need to duplicate your comment submissions through both means.

Comments are invited only on: (1) the clarity of the agency's guidance; (2) whether aspects of the guidance require further explanation or detail; and (3) suggestions for ways to clarify the guidance or complexities of the subject matter. Comments must be made in writing and pertain to the guidance (*i.e.,* FAQs) accompanying this notice directly.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Under the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), the H–2A visa program permits U.S. employers to employ foreign workers on a temporary basis to perform agricultural labor or services. *See* 8 U.S.C. 1101(a)(15)(H)(ii)(a); *see also* 8 U.S.C. 1184(c)(1) and 1188.[1] The INA further authorizes the Secretary of the Department of Homeland Security (DHS) to permit employers to employ foreign workers to perform temporary agricultural labor or services of a temporary or seasonal nature if the Secretary of Labor certifies that: there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and the employment of H–2A workers in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. *See* 8 U.S.C. 1188(a)(1). The Secretary has delegated the authority to issue H–2A temporary labor certifications to the Assistant Secretary for ETA, who in turn has assigned that authority to ETA's OFLC. In addition, the Secretary has delegated to the Administrator, Wage and Hour Division (WHD), the responsibility under Section 218(g)(2) of the INA, 8 U.S.C. 1188(g)(2), to ensure employer compliance with the terms and conditions of employment under the H–2A program.[2]

OFLC receives H–2A application filings and reviews each filing for compliance with the Department's regulatory requirements at 20 CFR part 655, subpart B.[3] Once OFLC determines an H–2A application meets the requirements for H–2A certification, OFLC issues a temporary labor certification, and the employer may then petition DHS to employ a foreign worker in the United States in the H–2A visa classification. The Department's regulations at 20 CFR 655.161 provide that the criteria for certification include, among other things, ''whether the employer has established the need for the agricultural services or labor to be performed on a temporary or seasonal basis.'' Where temporary or seasonal need for agricultural labor or services cannot be established, the employer may apply for labor certification, if applicable, through another visa program appropriate to its need for labor or services.

Pursuant to these authorities, OFLC reviews H–2A applications on a case-by-case basis to determine whether the employer has established a need ''of a temporary or seasonal nature'' for the agricultural labor or services requested, as defined in the Department's regulations at 20 CFR 655.103(d). The Department's definition of a ''temporary or seasonal nature'' has largely remained unchanged for the H–2A program since the 1987 regulations, notwithstanding the H–2A provision for herding and the open range production of livestock.[4] *See Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States,* 52 FR 20496, 20498 (June 1, 1987); United States Citizenship and Immigration Services (USCIS) interpretive guidance: Policy Memorandum 602–0176.1, *Updated Guidance on Temporary or Seasonal Need for H–2A Petitions Seeking Workers for Range Sheep and/or Goat Herding or Production,* dated February

[1] For ease of reference, sections of the INA are referred to by their corresponding section in the United States Code.

[2] *See* Secretary's Order 06–2010 (Oct. 20, 2010), 75 FR 66268 (Oct. 27, 2010); *see also* Secretary's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014).

[3] The information collection for H–2A applications, as well as related forms, instructions, appendices, and addenda for the H–2A program, and their associated burdens, are approved under OMB Control Number 1205–0466.

[4] On December 16, 2021, the Department published a final rule to rescind 20 CFR 655.215(b)(2), a regulatory provision which permitted employers of range sheep and goat herders to apply for a temporary agricultural labor certification for a period of up to 364 days. *See Adjudication of Temporary and Seasonal Need for Herding and Production of Livestock on the Range Applications Under the H–2A Program,* 86 FR 71373 (Dec. 16, 2021). Consistent with a court-approved settlement agreement, the final rule rescinded the regulatory provision to ensure the Department's adjudication of temporary or seasonal need is conducted in the same manner for all applications for temporary agricultural labor certification.

28, 2020 (USCIS PM–602–0176.1); *see also Temporary Workers Under § 301 of the Immigration and Reform Act,* 11 Op. O.L.C. 39, 40 (1987) (*Temporary Workers*). When promulgating the 2010 H–2A Final Rule,[5] the Department's current regulatory framework, the Department adopted DHS's definition of ''temporary or seasonal nature'' at 20 CFR 655.103(d), in order to promote greater consistency between the two departments' definitions of these terms and to reduce stakeholder confusion concerning the definition of temporary or seasonal need, which both DHS and DOL assess; however, this alignment of definitions did not create any substantive change in how DOL assesses ''temporary'' or ''seasonal'' need for the H–2A program. *See* Final Rule, *Temporary Agricultural Employment of H–2A Aliens in the United States,* 75 FR 6884, 6890 (Feb. 12, 2010) (2010 H–2A Final Rule); *compare* 20 CFR 655.103(d) *with* 8 CFR 214.2(h)(5)(iv)(A); *see also* USCIS PM–602–0176.1; *Temporary Workers.* Under this definition, employment is of a seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels far above those necessary for ongoing operations. 20 CFR 655.103(d). Employment is of a temporary nature where the employer's need to fill the position with a temporary, as opposed to seasonal, worker will, except in extraordinary circumstances, last no longer than one year. *See id.* As stated in the Department's 1987 rule, ''the longer the employer needs a 'temporary' worker, the more likely it would seem that the job has in fact become a permanent one.'' 52 FR 20496, 20498 (June 1, 1987).

[5] The Department's reference to ''the 2010 H–2A Final Rule'' herein includes the regulatory text adopted through that rulemaking, 75 FR 6884, and other minor revisions that took effect prior to the issuance of this draft guidance. 2019 H–2A Recruitment Final Rule, 84 FR 49439 (rescinding the requirement that an employer advertise its job opportunity in a print newspaper of general circulation in the area of intended employment; expanding and enhancing the Department's electronic job registry; and leveraging the expertise and existing outreach activities of SWAs to promote agricultural job opportunities); *see also* Final Rule, *Rules Concerning Discretionary Review by the Secretary,* 85 FR 30608 (establishing a system of discretionary secretarial review over cases pending before or decided by the BALCA and to make technical changes to Departmental regulations governing the timing and finality of decisions of the ARB and the BALCA); 2021 H–2A Herder Final Rule, 86 FR 71373 (amending the regulations regarding the adjudication of temporary need for employers seeking to employ nonimmigrant workers in job opportunities covering the herding or production of livestock on the range).

II. Need for Guidance

On August 4, 2021, OFLC's Certifying Officer issued a final determination on an application filed by an H–2A labor contractor (H–2ALC), denying certification because the employer did not establish a temporary or seasonal need for its H–2A application and the agricultural labor requested. The employer appealed the denial by requesting a *de novo* hearing before an Administrative Law Judge (ALJ). After the *de novo* hearing, the ALJ reversed OFLC's denial on September 9, 2021, and remanded the application to OFLC for further processing.[6] Under 29 CFR 18.95(b)(2) and (c)(2)(i), the Secretary has discretion to exercise review of H–2A decisions that have been decided by the Board of Alien Labor Certification (BALCA). Pursuant to this authority, following a recommendation from the Chair of BALCA, the Secretary exercised his authority of review and assumed jurisdiction over the decision.[7] Accordingly, on September 30, 2021, BALCA issued a *Notice of Secretarial Review,* notifying the public that the Secretary had exercised discretionary review authority over the decision.

On December 3, 2021, after careful consideration of the record on review, the Secretary issued a notice withdrawing jurisdiction over the decision and affirming that the ALJ's September 9, 2021, Decision and Order was the Department's final determination.[8] As explained in the notice of withdrawal of jurisdiction, the Secretary determined that ''a precedential decision in this case is not the best vehicle to resolve the complex factual and regulatory issues involved in assessing whether this, or any other, Employer has a temporary or seasonal need for agricultural labor or services.'' [9] Rather, the Secretary considered interpretive guidance to be the appropriate vehicle to provide clarification to both BALCA and the regulated community regarding the Department's assessment of an employer's temporary or seasonal need for agricultural labor or services in the H–2A program.

The Secretary directed ETA to engage stakeholders and issue interpretive guidance on this topic. In particular, the Secretary requested ETA provide guidance ''in the context of H–2A Labor Contractors (H–2ALCs) who operate in localities that can support agricultural activities year-round.'' [10] The Secretary requested the guidance include how the Department evaluates factors that frequently ''arise when determining whether an employer has met its burden to establish a temporary or seasonal need for agricultural labor or services . . . the types of evidence relevant to making this determination'' and how this evidence is assessed, ''including the impact and relevance of an employer's previous history of filing *Applications for Temporary Employment Certification.*'' [11]

[6] *See In the Matter of Overlook Harvesting Company, LLC* (thereafter *Overlook*), 2021–TLC–00205 (Sept. 9, 2021), *Sec'y assumed juris.* (Sept. 30, 2021), *Sec'y juris. withdrawn* (Dec. 3, 2021); *see https://www.oalj.dol.gov/DECISIONS/ALJ/TLC/2021/In_re_Overlook_Harvesting__2021TLC00205_(DEC_09_2021)_124914_ORDER_PD.PDF.*

[7] *See Overlook, supra* note 6 (Sept. 30, 2021).

[8] *See Overlook, supra* note 6 (Dec. 3, 2021).

[9] *Id.*

III. ETA's Guidance

At the Secretary's direction, ETA has drafted guidance in the form of Frequently Asked Questions (FAQs), *Round 17: Temporary or Seasonal Need Assessments; Relevant Information or Factors Related to H–2A Labor Contractors Operating in an Area of Intended Employment Where Agricultural Production May Occur Year-Round,* to clarify for the public the Department's assessment of temporary or seasonal need for the certification of H–2A applications. In the guidance, ETA discusses the considerations relevant to assessing temporary or seasonal need (*e.g.,* impact and relevance of an employer's previous filing history in the area of intended employment) for H–2A applications in a user-friendly FAQ format that employers can use to apply to their own situations and H–2A applications. ETA has developed this guidance to assist employers, and to further that effort, is providing the public with a draft of the guidance for review and an opportunity to submit written comments on the guidance before it is officially issued.

Request for Comments

ETA seeks comments on the FAQ guidance referenced in this notice. The FAQ guidance is available for review at *www.regulations.gov* [ETA–2022–0007] and on OFLC's website at *https://www.dol.gov/agencies/eta/foreign-labor/news.* Written comments may be sent by email to *ETA.OFLC.H2ARound17@dol.gov* until October 26, 2022, or by submitting your comment(s) through *https://www.regulations.gov/* using the docket number ETA–2022–0007. OFLC will receive comments through both means, so there is no need to duplicate your comment submissions through both means. ETA will review all written comments that are timely submitted in

[10] *Id.*

[11] *Id.*

the manner specified above and will modify the draft guidance, as appropriate. Once ETA reviews the comments, it will publish final FAQs through a future **Federal Register** notice and on the OFLC website at *https://www.dol.gov/agencies/eta/foreign-labor.*

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–20781 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Financial Report Form ETA–9130

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Financial reporting requirements for federal programs are prescribed by OMB under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200 *et seq.*), otherwise known as the Uniform Guidance. ETA utilizes the e-Grants Federal Reporting System, an online 9130 reporting system for recipients to enter and certify quarterly financial data. The data collected is used to assess the effectiveness of ETA programs and to monitor and analyze the financial activity of its recipients. This data collection format permits ETA to evaluate program effectiveness, monitor compliance with statutory limitations, and analyze financial activity, while complying with OMB efforts to streamline Federal financial reporting. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 28, 2022 (87 FR 25304).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Financial Report Form ETA–9130.

OMB Control Number: 1205–0461.

Affected Public: State, Local, and Tribal Governments; Private Sector—Not-for-profit institutions.

Total Estimated Number of Respondents: 5,400.

Total Estimated Number of Responses: 21,600.

Total Estimated Annual Time Burden: 16,200 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: September 16, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–20778 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Medical Support Notice—Part B

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 401(a) of the Child Support Performance and Incentive Act of 1998 (CSPIA), the Department of Labor (DOL) and HHS jointly promulgated the

National Medical Support Notice Final Rule (NMSN Regulation). The NMSN Regulation, codified at 29 CFR 2590.609–2, simplifies the issuance and processing of medical child support orders; standardizes communication between state agencies, employers, and Plan Administrators; and creates a uniform and streamlined process for enforcement of medical child support to ensure that all eligible children receive the health care coverage to which they are entitled. This ICR addresses the Plan Administrator's responsibilities under the NMSN Regulation to complete Part B of the NMSN. DOL is proposing to require that the addendum to Part B of the NMSN, previously only for those using e-NMSN, be included for all Part B notices. The changes proposed to the form itself are generally formatting changes and additional spaces intended to facilitate completion of the notice and conform to similar changes made to Part A. In this ICR submission, DOL is seeking approval of the current and revised notices to allow states time to transition to the new notices. There will be a one-year transition period where the currently approved version of the NMSN Part B notice (ICR Ref. No. 202102–1210–001) may still be used before respondents will be required to use the revised notice. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 20, 2022 (87 FR 23570).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: National Medical Support Notice—Part B.

OMB Control Number: 1210–0113.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 381,290.

Total Estimated Number of Responses: 19,352,287.

Total Estimated Annual Time Burden: 1,215,658 hours.

Total Estimated Annual Other Costs Burden: $6,400,769.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: September 16, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–20779 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2018–0006]

OSHA's Alliance Program; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the OSHA's Alliance Program OSHA's Alliance Program.

DATES: Comments must be submitted (postmarked, sent, or received) by November 25, 2022.

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.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket 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 through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2018–0006) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

OSHA created the Alliance Program in 2002 as a structure for working with groups that are committed to worker safety and health. The program enables OSHA to enter into a voluntary, cooperative relationship at the national, regional, or Area Office level with industry, labor, and other groups to improve workplace safety and health; prevent workplace fatalities, injuries, and illnesses; and reach employers and workers that OSHA may not otherwise reach through its traditional methods. These groups include trade or professional organizations, businesses,

unions, consulates, faith- and community-based organizations, and educational institutions. OSHA and the groups work together to share workplace safety and health information with workers and employers, encourage participation in OSHA agency initiatives, develop compliance assistance tools and resources, and educate workers and employers about their rights and responsibilities. Alliance Program participants do not receive exemptions from OSHA inspections or any other enforcement benefits.

OSHA collects information from organizations that are signatories to an Alliance agreement (known hereafter) as ''alliance participants.'' Information is collected from the participant through meetings, informal conversations and data forms to develop Alliance agreements and, to develop annual as well as program-wide reports.

Alliance participants work with OSHA to develop agreements with well-defined goals and specific objectives and activities. Agreements commonly identify specific hazard(s), operations, or other areas of concern; the targeted segment within the workforce and the planned activities to meet the agreement's overarching goals and objectives. OSHA provides templates for Alliance agreements and gathers the necessary information from Alliance participants through meetings, informal conversations, and review of a draft agreement.

Alliance participants also provide OSHA information about their Alliance-related activities, including dissemination of educational materials, outreach events and training for OSHA staff. This information is collected using a data form (bi-annually) or through routine meetings and includes an estimated number reached for each activity as well as the areas associated with those activities that OSHA emphasizes.

OSHA uses the information from the forms (National Alliances) and collaborative data gathering (Regional and Area Office Alliances) to compile annual evaluations for individual Alliances and assess the effectiveness of the individual Alliance in meeting agreement goals and objectives. OSHA uses aggregate data from active Alliances to assess the impact of the program as a whole in meeting the agency's strategic plan goals and strategies related to outreach and communication. The success experienced by these Alliances, when shared, can serve as a means to further promote improvement in worker safety and health.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful.
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

The agency is requesting an adjustment decrease in the number of burden hours from 14,122 hours to 13,928 hours, a difference of 194 hours. The decrease is due to a reduction in the number of field alliance agreement participants going from 70 to 25. OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: OSHA's Alliance Program.

OMB Control Number: 1218–0274.

Affected Public: Business or other for-profits.

Number of Respondents: 260.

Number of Responses: 4,913.

Frequency of Responses: Semi-annually, annually.

Average Time per Response: Varies.

Estimated Total Burden Hours: 13,928.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2018–0006). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC, on September 20, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–20783 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0007]

McNally/Kiewit Shoreline Storage Tunnel Joint Venture; Application for 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 the application of McNally/Kiewit Shoreline Storage Tunnel (SST) Joint Venture for a permanent variance and interim order from provisions of OSHA standards that regulate work in compressed air environments and presents the agency's preliminary finding on McNally/Kiewit's application and announces the granting of an interim order. OSHA invites the public to submit comments on the variance application to assist the agency in determining whether to grant the applicant a 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 26, 2022. The interim order described in this notice will become effective on September 26, 2022, and shall remain in effect until the completion of the SST project for Cleveland, Ohio or the interim order is modified or revoked.

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.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2022–0007, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2022–0007). 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 at the above address. 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. You may also contact Kevin Robinson, Director Office of Technical Programs and Coordination Activities (OTPCA) at the below address.

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 short and plain statement detailing how the proposed Variance 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

OSHA's standards in subpart S of 29 CFR part 1926 govern underground construction, caissons, cofferdams, and compressed air. On November 12, 2021, McNally/Kiewit SST Joint Venture (''McNally'' or ''the applicant''), 800 Westpoint Parkway, Suite 1130, Westlake, Ohio 44145, submitted under Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 655) and 29 CFR 1905.11 (variances and other relief under section 6(d)) an application for a permanent variance from several provisions of the OSHA standard that regulates work in compressed air, 1926.803 of 1926 Subpart S—Underground Construction, Caissons, Cofferdams, and Compressed Air, and an interim order allowing it to proceed while OSHA considers the request for a permanent variance (OSHA–2022–0007–0001). This notice addresses McNally's application for a permanent variance and interim order for construction of the SST Project in Cleveland, Ohio, only and is not applicable to future McNally or McNally-related joint venture tunneling projects.

Specifically, this notice addresses McNally's application for a permanent variance and interim order from the provisions of the standard 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 variance is appropriate, grants an interim order temporarily allowing the proposed activity, and seeks comment on the proposed variance.

[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 29 CFR 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

Background

The applicant is a contractor that works on complex underground 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 balanced micro-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.

McNally asserts that generally 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 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.

McNally's variance application indicated that the maximum pressure to which it is likely to expose workers during project interventions for the SST Project is 55 p.s.i. Therefore, to work effectively, McNally must perform hyperbaric interventions in compressed air at pressures 10 percent 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.g. except in emergency'' (see footnote 1).

McNally employs specially trained personnel for the construction of the tunnel. To keep the machinery working effectively, McNally 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 55 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.

McNally 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 caisson work.

In addition to the reduced exposures resulting from the innovations in tunnel-excavation methods, McNally 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 McNally, 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.

McNally 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, a better application of hyperbaric medicine, and the development of a project-specific Hyperbaric Operations Manual (HOM), (OSHA–2022–0007–0002) 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 McNally's application for a permanent variance and interim order for the construction of the SST Project in Cleveland, Ohio, OSHA has preliminarily determined that McNally has 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 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 informed its workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance 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. OSHA notes that it granted five subaqueous tunnel construction permanent variances from the same

[2] See the definition of ''Affected employee or worker'' in section V.D of this Notice.

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 has also granted interim orders to two applicants, Ballard Marine for the Suffolk County Outfall Tunnel project in West Babylon, New York (86 FR 5253, January 19, 2021) and Traylor Shea Joint Venture for the Alexandria RiverRenew Tunnel Project in Alexandria, Virginia and Washington, DC (87 FR 54536, September 6, 2022). The proposed alternate conditions in this notice are nearly identical to the alternate conditions of the previous permanent variances. OSHA is not aware of any 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.g. (See Footnote 1)

The applicant states that it may perform hyperbaric interventions at pressures up to 55 p.s.i.g. 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.

McNally 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 55 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 it has developed a project-specific HOM (OSHA–2022–0007–0002) 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.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 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).[3] The applicant asserts decompression protocols using the 1992 French Decompression Tables for air or oxygen as specified by the SST 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. McNally 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

[3] 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).

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 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

McNally 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 12 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.[4] 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.

III. Agency Preliminary Determinations

After reviewing the proposed alternatives, OSHA has preliminarily 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 document.

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)

McNally 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 engage in the construction of a subaqueous tunnel using advance shielded mechanical-excavation techniques in conjunction with the TBM. Prior to conducting interventions

[4] 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 percent 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.''

in the TBM's pressurized working chamber, McNally 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)

McNally 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 tunneling 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) McNally 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 proposed variance.

Some of the literature even indicates that it 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).[5] 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 percent compared to a previous incidence rate of 0.14 percent. 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.[6]

OSHA's experience with the five previous tunneling permanent 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[7] that either granted variances (Nevada, Oregon and Washington)[8] or promulgated a new standard (California)[9] 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)

McNally 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)

McNally 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 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 tunneling 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 previously granted interim order, or the conditions of the proposed 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.

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[5] Anderson HL (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine,* 29(3), pp. 172–188.

[6] 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).

[7] 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).

[8] 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).

[9] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

IV. Grant of Interim Order, Proposal for Permanent Variance, and Request for Comment

OSHA hereby announces the preliminary decision to grant an interim order allowing McNally's CAWs to perform interventions in hyperbaric conditions not exceeding 55 p.s.i.g. during the SST Project, subject to the conditions that follow in this document. This interim order will remain in effect until completion of the SST Project or until the agency modifies or revokes the interim order or makes a decision on McNally's application for a permanent variance. During the period starting with the publication of this notice until completion of the SST Project, or until the agency modifies or revokes the interim order or makes a decision on its application for a permanent variance, the applicant 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 (29 CFR 1926.803(g)(1)(xvii)).

In order to avail itself of the interim order, McNally 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 McNally's completion of the SST Project (or until the agency modifies or revokes the interim order or makes a decision on its application for a 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 permanent variance.

OSHA is also proposing that the same requirements (see above section III, parts A through D) would apply to a 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 permanent variance.

V. Description of the Specified Conditions of the Interim Order and the Application for a 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 McNally's application for an interim order and for a permanent variance. The conditions are listed in Section VI. For brevity, the discussion that follows refers only to the permanent variance, but the same conditions apply to the interim order.

Proposed Condition A: Scope

The scope of the proposed permanent variance would limit coverage to the work situations specified. Clearly defining the scope of the proposed permanent variance provides McNally, McNally's employees, potential future applicants, other stakeholders, the public, and OSHA with necessary information regarding the work situations in which the proposed permanent variance would apply. To the extent that McNally 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) [10] 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 permanent variance, it would apply to only the applicant, McNally/Kiewit SST Joint Venture and only the Shoreline Storage Tunnel Project. As a result, it is important to understand that if OSHA were to grant McNally a permanent variance, it would not apply to any other employers, such as other joint ventures the applicant may undertake in the future. However, 29 CFR 1905.13 contains provisions for future modification of permanent variances to add or include additional employers if future joint ventures are established.

Proposed Condition B: Duration

The interim order is only intended as a temporary measure pending OSHA's decision on the permanent variance, so this condition specifies the duration of the order. If OSHA approves a permanent variance, it would specify the duration of the permanent variance as the remainder of the SST Project.

Proposed Condition C: List of Abbreviations

Proposed condition C defines a number of abbreviations used in the proposed 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 permanent variance.

Proposed Condition D: Definitions

The proposed condition defines a series of terms, mostly technical terms, used in the proposed permanent variance to standardize and 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 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 SST 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 McNally 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

[10] 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.

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, McNally 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 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. [11]

Proposed Condition J would add additional reporting responsibilities, beyond those already required by the

[11] 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*).

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 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 Cleveland Ohio OSHA Area Office within 15 working days should the applicant need to revise the HOM to accommodate changes in its compressed-air operations that affect McNally's ability to comply with the conditions of the proposed permanent variance; and (6) provide OTPCA and the Cleveland Ohio Area Office, 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 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 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 permanent variance to a successor company. In addition, the condition specifies that the transfer of the 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 permanent variance, and expedite the agency's administration and enforcement of the 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 permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the proposed permanent variance.

VI. Specific Conditions of the Interim Order and the Proposed Permanent Variance

The following conditions apply to the interim order OSHA is granting to McNally/Kiewit SST Joint Venture for the Shoreline Storage 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 the requirements of paragraphs 29 CFR 1926.803 (e)(5),(f)(1), (g)(1)(iii), and (g)(1)(xvii) that OSHA is proposing for McNally's permanent variance. To simplify the presentation of the conditions, OSHA generally refers only to the conditions of the proposed permanent variance, but the same conditions apply to the interim order except where otherwise noted.[12]

The conditions would apply with respect to all employees of McNally exposed to hyperbaric conditions. These conditions are outlined in this Section:

A. Scope

The interim order applies, and the permanent variance would apply, only when McNally stops the tunnel-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 variance apply only to work:

1. That occurs in conjunction with construction of the SST 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 McNally will remain in effect until OSHA modifies or revokes this interim order or grants McNally's request for a permanent variance in accordance with 29 CFR 1905.13. The proposed permanent variance, if granted, would remain in effect until the completion of McNally's Shoreline Storage Tunnel Project.

C. List of Abbreviations

Abbreviations used throughout this proposed permanent variance would include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. DCI—Decompression Illness

[12] In these conditions, OSHA is using the future conditional form of the verb (*e.g.,* ''would''), which pertains to the application for a permanent variance (designated as ''permanent variance'') but the conditions are mandatory for purposes of the interim order.

4. DMT—Diver Medical Technician
5. TBM—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 permanent variance. These definitions would supplement the definitions in McNally's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this proposed 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 50 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.[13]

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).[14]

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 Micro 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.[15]

9. *Hyperbaric*—at a higher pressure than atmospheric pressure.

10. *Hyperbaric intervention*—a term that describes the process of stopping the TBM 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 McNally for working in compressed air during the SST 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 subject matter, the work, or the project.[16]

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. McNally would have to adhere to the project-specific HOM submitted to OSHA as part of the application (see OSHA–2022–0007–0002). 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. McNally 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. McNally 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. McNally would have to ensure that there are no exposures to pressures greater than 55 p.s.i.g.

5. McNally would have to ensure that air or oxygen is the only breathing gas in the working chamber.

6. McNally 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. McNally would have to equip man-locks used by employees with an air or oxygen delivery system, as specified by the HOM, for the project. McNally would be required not to store in the tunnel any oxygen or other compressed

[13] Adapted from 29 CFR 1926.32(f).

[14] 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.*

[15] Also see 29 CFR 1910.146(b).

[16] Adapted from 29 CFR 1926.32(m).

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, McNally would have to maintain an adequate fire-suppression system approved for hyperbaric work areas.

10. McNally 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 [17] indicates are essential to prevent injury or illness.

11. McNally would have to develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by the proposed 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.

McNally 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

McNally 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

McNally 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)(2)(b) 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 before the training takes place.

H. Inspections, Tests, and Accident Prevention

1. McNally 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. McNally would have to maintain records of all tests and inspections of the TBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

I. Compression and Decompression

McNally 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, McNally 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, McNally would have to:

(a) Notify the OTPCA and the Cleveland, Ohio Area Office of any recordable injury, illness, or fatality (by submitting the completed OSHA Form 301 Injuries and Illness Incident Report) [18] resulting from exposure of an employee to hyperbaric conditions, including those that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma),

[17] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[18] See footnote 12.

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 Cleveland Ohio Area Office within 15 working days of the incident that McNally 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 Cleveland Ohio Area Office within 15 working days and in writing, of any change in the compressed-air operations that affects McNally's ability to comply with the proposed conditions specified herein.

(d) Upon completion of the SST 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 Cleveland Ohio Area Office.

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 Cleveland Ohio Area Office 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 permanent variance by the same means required to inform them of its application for a Variance.

2. OSHA would have to approve the transfer of the proposed 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(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 September 16, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–20782 Filed 9–23–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–073)]

NASA Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee. This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, October 17, 2022, 9 a.m.–5 p.m., Tuesday, October 18, 2022, 9 a.m.–2 p.m., Eastern Time.

ADDRESSES: Due to current COVID–19 issues affecting NASA Headquarters occupancy, public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mrs. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, or *karshelia.kinard@nasa.gov*.

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Monday, October 17, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=mf79f5e8c2ce522a05c560caf505da802,* the meeting number is 2762 536 1104, and meeting password is Apac1017#.

To join by telephone, the toll numbers are: 1–415–527–5035 or 1–929–251–9612. Access code: 2762 536 1104.

On Tuesday, October 18, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m4de95daff639b0f4a500e61234f9cacf,* the meeting number is 2760 445 9382, and meeting password is Apac1018#.

To join by telephone, the toll numbers are: 1–415–527–5035 or 1–929–251–9612. Access code: 2760 445 9382.

The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Updates on Specific Astrophysics Missions
—Reports from the Program Analysis Groups

The agenda will be posted on the Astrophysics Advisory Committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac*.

The public may submit and upvote comments/questions ahead of the meeting through the website *https://forms.office.com/g/UYWeGpuawe* that will be opened for input on October 7, 2022.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–20806 Filed 9–23–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 26, 2022. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2023–014

1. Applicant

Kristin M. O'Brien, Institute of Arctic Biology, University of Alaska Fairbanks, Fairbanks, AK 99775.

Activity for Which Permit Is Requested

ASPA Entry, Import into the USA. This applicant would fish using benthic trawls and fish traps/pots in the Antarctic Peninsula region for capturing specimens to support studies of the physiology and biochemistry of Antarctic fishes with an emphasis on Channichthyid fishes. Collection of specimens would be carried out aboard the ARSV Laurence M. Gould and live specimens would be transported to aquarium facilities at Palmer Station for research purposes. Benthic Otter trawling will be restricted to areas with smooth bottom surfaces. The applicant plans to collect up to a total of 950 fish specimens from about 13 species. Frozen tissue samples would be imported to the home institution.

Location

APSA 152, Western Bransfield Strait; ASPA 153 Eastern Dallmann Bay.

Dates of Permitted Activities

March 1, 2023–September 1, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–20756 Filed 9–23–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 26, 2022. This application may be inspected by interested parties at the Permit Office, address below.

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Application Details

Permit Application: 2023–009

1. Applicant

Harry R. Anderson, PHYWAVE, 250 Eagle Place NE, Bainbridge Island, WA 98110.

Activity for Which Permit Is Requested

Waste Management. The applicant seeks an Antarctic Conservation Act permit for waste management activities associated with the operation of a yacht, to conduct shore excursions, and the operation of a remotely piloted aircraft system (RPAS) in the Antarctic Peninsula region. The RPAS would consist of a quadcopter equipped with a camera to obtain footage of the vessel at anchor. The RPAS would only be operated by a FAA-licensed pilot. Several measures would be taken to prevent loss of the RPAS including floatation devices, flying in fair weather, and the use of return-to-home safety features. Flights would not occur in the vicinity of wildlife.

Location

Antarctic Peninsula region.

Dates of Permitted Activities

January 1, 2023–March 31, 2023.

Permit Application: 2023–011

2. Applicant

Bill Davis, Vice President, Expeditions Operations and Development, Silversea Cruises, Ltd., Miami, FL 33132.

Activity for Which Permit Is Requested

Waste Management. The applicant seeks an Antarctic Conservation Act permit for waste management activities associated with the operation of a remotely piloted aircraft system (RPAS) and a remotely operated vehicle (ROV) in the Antarctic Peninsula Region. The applicant proposes to operate small, battery-operated RPAS consisting, in part, of a quadcopter equipped with cameras to collect commercial footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would only be operated by pilots with extensive experience, who are pre-

approved by the Expedition Leader. Several measures would be taken to prevent against loss of the quadcopter including painting the them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life; having prop guards on propeller tips, a flotation device if operated over water, and an ''auto go home'' feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and quadcopter does not exceed an operational range of 500 meters. The applicant also proposes to operate small, tethered ROVs equipped with cameras to collect educational footage of underwater environments. The ROV power is fed through the tether and contains a 1.5 liter oil filled compensator. The ROV would not be deployed under fast ice. The ROV would only be operator by a trained ROV pilot. ROVs would operate up to around 100m depth, and no more than 100m laterally from the ship. The ROV would not be operated within any protected areas or historic sites and monuments (HSMs).

Location

Antarctic Peninsula region.

Dates of Permitted Activities

November 7, 2022–March 30, 2027.

Permit Application: 2023–015

3. Applicant

Haley Shephard, Vice President of Expedition Operations, Polar Latitudes, Inc. White River Junction, VT 05001

Activity for Which Permit Is Requested

Waste Management. The applicant seeks an Antarctic Conservation Act permit for waste management activities associated with coastal camping and the operation of a remotely piloted aircraft system (RPAS) in the Antarctic Peninsula region. The applicant seeks permission for no more than 50 campers and 6 expedition staff to camp overnight at select locations for a maximum of 10 hours ashore. Camping would be away from vegetated sites and at least 150m from wildlife concentrations or lakes, protected areas, historical sites, and scientific stations. Tents would be pitched on snow, ice, or bare smooth rock, at least 15m from the high-water line. No food, other than emergency rations, would be brought onshore and all wastes, including human waste, would be collected and returned to the ship for proper disposal. For remotely piloted aircraft systems (RPAS) operation, the applicant proposes to operate small, battery-operated RPAS consisting, in part, of a quadcopter equipped with cameras to collect commercial and educational footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would only be operated by pilots with extensive experience, who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the quadcopter including painting the them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life, a flotation device if operated over water, and an ''auto go home'' feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and quadcopter does not exceed an operational range of 500 meters.

Location

Camping: possible locations include Damoy Point/Dorian Bay, Danco Island, Rongé Island, the Errera Channel, Paradise Bay (including Almirante Brown/Base Brown or Skontorp Cove), the Argentine Islands, Andvord Bay, Pleneau Island, Hovgaard Island, Orne Harbour, Leith Cove, Prospect Point and Portal Point. RPAS operations: Western Antarctic Peninsula region.

Dates of Permitted Activities

October 30, 2022–March 30, 2027.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–20757 Filed 9–23–22; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–120 and CP2022–124; MC2022–121 and CP2022–125; MC2022–122 and CP2022–126; MC2022–123 and CP2022–127; MC2022–124 and CP2022–128; MC2022–125 and CP2022–129]

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 27, 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)

[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).

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).:* MC2022–120 and CP2022–124; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 33 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Philip T. Abraham; *Comments Due:* September 27, 2022.

2. *Docket No(s).:* MC2022–121 and CP2022–125; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 34 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Philip T. Abraham; *Comments Due:* September 27, 2022.

3. *Docket No(s).:* MC2022–122 and CP2022–126; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 35 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Philip T. Abraham; *Comments Due:* September 27, 2022.

4. *Docket No(s).:* MC2022–123 and CP2022–127; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 36 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 27, 2022.

5. *Docket No(s).:* MC2022–124 and CP2022–128; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 37 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 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 27, 2022.

6. *Docket No(s).:* MC2022–125 and CP2022–129; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 38 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 19, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 27, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–20724 Filed 9–23–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–126 and CP2022–130; MC2022–127 and CP2022–131; MC2022–128 and CP2022–132]

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 28, 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:

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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).:* MC2022–126 and CP2022–130; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 39 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 28, 2022.

2. *Docket No(s).:* MC2022–127 and CP2022–131; *Filing Title:* USPS Request

[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).

to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 40 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 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 28, 2022.

3. *Docket No(s).:* MC2022–128 and CP2022–132; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 41 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 20, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 28, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–20802 Filed 9–23–22; 8:45 am]

BILLING CODE 7710–FW–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice–PCLOB–2022–03; Docket No. 2022–0009; Sequence No. 3]

Notice of the PCLOB Oversight Project Examining Section 702 of the Foreign Intelligence Surveillance Act (FISA)

AGENCY: Privacy and Civil Liberties Oversight Board (PCLOB).

ACTION: Notice; Request for public comment.

SUMMARY: The Board seeks public comments on the PCLOB's Oversight Project examining section 702 of the Foreign Intelligence Surveillance Act (FISA).

DATES: Public comments may be submitted any time prior to the closing of the docket at 11:59 p.m., EDT, on Monday, October 31, 2022.

ADDRESSES: You may submit comments responsive to notice PCLOB–2022–03 via *http://www.regulations.gov.* Please search by Notice PCLOB–2022–03 and follow the on-line instructions for submitting comments. Responsive comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov* approximately two-to-three business days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Alan Silverleib, Public and Legislative Affairs Officer, at 202–296–4190 or *pao@pclob.gov.*

SUPPLEMENTARY INFORMATION: The Board seeks public comments regarding questions it should explore, and recommendations it should consider making, in connection with its oversight project to examine the surveillance program operated pursuant to section 702 of FISA, in anticipation of the December 2023 sunset date for section 702 and the upcoming public and Congressional consideration of its reauthorization. The goals of the Oversight Project are to ensure that privacy and civil liberties are protected in the course of the Executive Branch's use of its Section 702 authorities, and to ensure that Congress and the public are able appropriately to assess and consider the program's value and efficacy in protecting the nation's security and producing useful intelligence.

The Board's review will include an examination of significant changes to the operation of the 702 program since the Board's *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act* (July 2, 2014) (''2014 Report''), investigation of U.S. Person queries of information collected under section 702, investigation of 'Upstream' collection conducted pursuant to section 702, and review of the program's past and projected value and efficacy, as well as the adequacy of existing privacy and civil liberties safeguards.

David Coscia,

Agency Liaison Officer, Office of Presidential & Congressional Agency Liaison Services, General Services Administration.

[FR Doc. 2022–20415 Filed 9–23–22; 8:45 am]

BILLING CODE 6820–B5–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95845; File No. SR–CboeEDGA–2022–013]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

September 20, 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 September 7, 2022, Cboe EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'' or ''EDGA Equities'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to adopt monthly fees assessed to Users [3] that elect to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''User'' of an Exchange Market Data product is a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data. *See* the EDGA Equities Exchange Fee Schedule at *https://www.cboe.com/us/equities/membership/fee_schedule/EDGA/.*

subscribe to the Short Volume Report, effective, August 24, 2022.[4]

On August 9, 2022, the Exchange introduced a new data product known as the Short Volume Report.[5] The Short Volume Report, which will be available on August 24, 2022, is an end-of-day report that provides certain equity trading activity on the Exchange, and includes trade date, total volume, sell short volume, and sell short exempt volume, by symbol.[6] In addition to the daily subscription, a Member [7] or non-Member may purchase the Short Volume Report on a historical monthly basis, which provides the end-of-day report for each day during a given calendar month.

The Exchange proposes to adopt fees applicable to Users that subscribe to the Short Volume Report. As proposed, the Exchange would assess a monthly [8] fee of $50 per month to an Internal Distributor [9] and a fee of $75 per month to an External Distributor [10] of the Short Volume Report. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. Some External Distributors incorporate short sale data into their own proprietary products, which they sell to downstream users. These distributors may not charge separately for data included in the Short Volume Report, but nevertheless gain value from the data by incorporating it into their product. The higher price for External Distributors reflects the additional value these distributors gain from the product.

The Exchange also proposes to adopt fees for the Short Volume Report provided on a historical basis. The Short Volume Report will be available for each calendar month dating back to January 2015, and Users of such data will be assessed a fee of $25 per month of data. Data provided via the historical Short Volume Report is for only display use redistribution (*e.g.,* the data may be provided on the User's platform). Therefore, Users of the historical data may not charge separately for data included in the Short Volume Report or incorporate such data into their product. Nonetheless, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for display use redistribution that reflects the value these distributors gain from the historical product.

The Exchange anticipates that a wide variety of market participants will purchase the proposed Short Volume Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Volume Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the proposed Short Volume Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange.

The Exchange notes that the Short Volume Report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[11]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Short Volume Report further broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Short Volume Report also promotes increased transparency through the dissemination of short volume data. The Short Volume Report benefits investors by providing access to the Short Volume Report data, which may promote better informed trading, as well as research and studies of the equities industry.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 16% of the equity market share.[14] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks

[4] The Exchange initially filed the proposed fee changes on August 24, 2022 (SR–CboeEDGA–2022–012). On September 7, 2022, the Exchange withdrew that filing and submitted this filing.

[5] *See* Securities and Exchange Act No. 95552 (August 18, 2022) 87 FR 52089 (August 24, 2022) (SR–CboeEDGA–2022–011).

[6] *See* Exchange Rule 13.8(h).

[7] *See* Exchange Rule 1.5(n).

[8] The monthly fees for the Short Volume Report end-of-day reports are assessed based on a 30-day period. For example, if a User subscribes to the Short Volume Report on September 15, 2022, the monthly fee will cover the period of September 15, 2022 through October 15, 2022. If the User cancels its subscription prior to October 15, 2022, the User will not be charged for (or have access to) Short Volume Reports for the remainder of October.

[9] An ''Internal Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity. *Supra* note 3.

[10] An ''External Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity. *Supra* note 3.

[11] *See* the ''Nasdaq Short Sale Volume Reports'' portion of the Nasdaq Fee Schedule at *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (September 6, 2022), available at *https://www.cboe.com/us/equities/market_statistics/.*

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

to adopt fees to attract purchasers of the recently introduced Short Volume Report.

The Exchange believes that the proposed fee for the Short Volume Report is consistent with the Act in that it is reasonable, equitable, and not unfairly discriminatory. In particular, the Exchange believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to Users that choose to subscribe to the Short Volume Report on the Exchange. As discussed above, the Short Volume Report may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. Therefore, the Exchange believes that it is reasonable to assess a modest fee to Users that subscribe to the Short Volume Report.

The Exchange further believes the proposed fee is reasonable because the amount assessed is less than the analogous fees charged by competitor exchanges. For example, the Nasdaq Stock Market LLC (''Nasdaq'') charges $750 to Internal Distributors and $1,250 to External Distributors of the Nasdaq Short Sale Volume Reports provided on both a daily and historical monthly basis. Additionally, the New York Stock Exchange LLC (''NYSE'') and its affiliated equity markets (the ''NYSE Group'') also charge for the TAQ NYSE Group Short Sales (Monthly File) and TAQ NYSE Group Short Volume (Daily File). Specifically, NYSE Group charges an access fee of $1,000 per month for an ongoing subscription that includes 12 months of back history, then additional back history charged at $500 per data content month. NYSE Group also charges a back history fee, of $1,000 per data content month for the first 12 months of history, then additional back history charged at $500 per data content month. The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different equities based on the included data points on any one exchange. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Short Volume Report and instead purchase another exchange's similar data product, which offers similar data points, albeit based on that other market's trading activity.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all Members and non-Members that choose to subscribe to the Short Volume Report equally. As stated, the Short Volume Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Short Volume Report available, and Users may choose to subscribe (and pay for) the report based on their own individual business needs. Potential subscribers may subscribe to the Short Volume Report at any time if they believe it to be valuable or may decline to purchase it.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an External Distributor of the Short Volume Report a higher fee than an Internal Distributor as an External Distributor will ordinarily charge a fee to its downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects products from the Short Volume Report to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a higher fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to Internal and External Distributors, respectively, that choose to distribute data from the Short Volume Report. Moreover, as described above, another Exchange similarly charges External Distributors higher fees as compared to Internal Distributors for a similar data product.[16]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Short Volume Report will be available equally to all Members and non-Members that choose to subscribe to the report. As stated, the Short Volume Report is optional and Members and non-Members may choose to subscribe to such report, or not, based on their view of the additional benefits and added value provided by utilizing the Short Volume Report. As such, the Exchange believes the proposed rule change imposes no burden on intramarket competition. Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products offered by Nasdaq and the NYSE Group are priced higher than the Short Volume Report. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[16] *See* Nasdaq Rule 7 Section 152.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2022–013 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CboeEDGA–2022–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the 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–CboeEDGA–2022–013, and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20734 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95846; File No. SR–CboeBZX–2022–048]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

September 20, 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 September 7, 2022, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'' or ''BZX Equities'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to adopt monthly fees assessed to ''Users'' [3] that elect to subscribe to the Short Volume Report, effective, August 24, 2022.[4]

First, under the Market Data Fees definitions section, the Exchange proposes to adopt the definition of ''User''. A User of an Exchange Market Data product is a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data. The proposed definition is identical to the term User defined on the Exchange's affiliate Cboe BYX Exchange, Inc. (''BYX'') Equities Exchange Fee Schedule. The Exchange believes the proposed definition will enhance transparency in the Exchange's fee schedule.

On August 9, 2022, the Exchange introduced a new data product known as the Short Volume Report.[5] The Short Volume Report, which will be available on August 24, 2022, is an end-of-day

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As discussed further below, the Exchange is proposing to adopt a definition of User in its Fee Schedule.

[4] The Exchange initially filed the proposed fee changes on August 24, 2022 (SRCboeBZX–2022–046). On September 7, 2022, the Exchange withdrew that filing and submitted this filing.

[5] *See* Securities Exchange Act No. 95546 (August 18, 2022) 87 FR 52099 (August 24, 2022) (SR–CboeBZX–2022–044).

report that provides certain equity trading activity on the Exchange, and includes trade date, total volume, sell short volume, and sell short exempt volume, by symbol.[6] In addition to the daily subscription, a Member [7] or non-Member may purchase the Short Volume Report on a historical monthly basis, which provides the end-of-day report for each day during a given calendar month.

The Exchange proposes to adopt fees applicable to Users that subscribe to the Short Volume Report. As proposed, the Exchange would assess a monthly [8] fee of $300 per month to an Internal Distributor [9] and a fee of $500 per month to an External Distributor [10] of the Short Volume Report. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. Some External Distributors incorporate short sale data into their own proprietary products, which they sell to downstream users. These distributors may not charge separately for data included in the Short Volume Report, but nevertheless gain value from the data by incorporating it into their product. The higher price for External Distributors reflects the additional value these distributors gain from the product.

The Exchange also proposes to adopt fees for the Short Volume Report provided on a historical basis. The Short Volume Report will be available for each calendar month dating back to January 2015, and Users of such data will be assessed a fee of $150 per month of data. Data provided via the historical Short Volume Report is for only display use redistribution (*e.g.,* the data may be provided on the User's platform). Therefore, Users of the historical data may not charge separately for data included in the Short Volume Report or incorporate such data into their product. Nonetheless, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for display use redistribution that reflects the value these distributors gain from the historical product.

The Exchange anticipates that a wide variety of market participants will purchase the proposed Short Volume Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Volume Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the proposed Short Volume Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange.

The Exchange notes that the Short Volume Report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[11]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Short Volume Report further broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Short Volume Report also promotes increased transparency through the dissemination of short volume data. The Short Volume Report benefits investors by providing access to the Short Volume Report data, which may promote better informed trading, as well as research and studies of the equities industry.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 16% of the equity market share.[14] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Short Volume Report.

The Exchange believes that the proposed fee for the Short Volume Report is consistent with the Act in that it is reasonable, equitable, and not unfairly discriminatory. In particular, the Exchange believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to Users that choose to subscribe to the Short Volume Report on

[6] *See* Exchange Rule 11.22(f).

[7] *See* Exchange Rule 1.5(n).

[8] The monthly fees for the Short Volume Report end-of-day reports are assessed based on a 30-day period. For example, if a User subscribes to the Short Volume Report on September 15, 2022, the monthly fee will cover the period of September 15, 2022 through October 15, 2022. If the User cancels its subscription prior to October 15, 2022, the User will not be charged for (or have access to) Short Volume Reports for the remainder of October.

[9] An ''Internal Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity. *Supra* note 3.

[10] An ''External Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity. *Supra* note 3.

[11] *See* Nasdaq Rule 7 Section 152. *See also* NYSE Group Summary Data products available at *https://www.nyse.com/publicdocs/nyse/data/NYSE_Historical_Market_Data_Pricing.pdf.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (September 6, 2022), available at *https://www.cboe.com/us/equities/market_statistics/.*

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

the Exchange. As discussed above, the Short Volume Report may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. Therefore, the Exchange believes that it is reasonable to assess a modest fee to Users that subscribe to the Short Volume Report.

The Exchange further believes the proposed fee is reasonable because the amount assessed is less than the analogous fees charged by competitor exchanges. For example, the Nasdaq Stock Market LLC (''Nasdaq'') charges $750 to Internal Distributors and $1,250 to External Distributors of the Nasdaq Short Sale Volume Reports provided on both a daily and historical monthly basis. Additionally, the New York Stock Exchange LLC (''NYSE'') and its affiliated equity markets (the ''NYSE Group'') also charge for the TAQ NYSE Group Short Sales (Monthly File) and TAQ NYSE Group Short Volume (Daily File). Specifically, NYSE Group charges an access fee of $1,000 per month for an ongoing subscription that includes 12 months of back history, then additional back history charged at $500 per data content month. NYSE Group also charges a back history fee, of $1,000 per data content month for the first 12 months of history, then additional back history charged at $500 per data content month. The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different equities based on the included data points on any one exchange. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Short Volume Report and instead purchase another exchange's similar data product, which offers similar data points, albeit based on that other market's trading activity.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all Members and non-Members that choose to subscribe to the Short Volume Report equally. As stated, the Short Volume Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Short Volume Report available, and Users may choose to subscribe (and pay for) the report based on their own individual business needs. Potential subscribers may subscribe to the Short Volume Report at any time if they believe it to be valuable or may decline to purchase it.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an External Distributor of the Short Volume Report a higher fee than an Internal Distributor as an External Distributor will ordinarily charge a fee to its downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects products from the Short Volume Report to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a higher fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to Internal and External Distributors, respectively, that choose to distribute data from the Short Volume Report. Moreover, as described above, another Exchange similarly charges External Distributors higher fees as compared to Internal Distributors for a similar data product.[16]

Finally, the Exchange believes the proposal to add the definition of User to its Fee Schedule is reasonable as it will enhance transparency in the Exchange's fee schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Short Volume Report will be available equally to all Members and non-Members that choose to subscribe to the report. As stated, the Short Volume Report is optional and Members and non-Members may choose to subscribe to such report, or not, based on their view of the additional benefits and added value provided by utilizing the Short Volume Report. As such, the Exchange believes the proposed rule change imposes no burden on intramarket competition. Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products offered by Nasdaq and the NYSE Group are priced higher than the Short Volume Report. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule

[16] *See* Nasdaq Rule 7 Section 152.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–048 on the subject line.

Paper Comment

- 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–CboeBZX–2022–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–048, and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20730 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95841; File No. SR–ISE–2022–18]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Amend the Short Term Option Series Program

September 20, 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 September 9, 2022, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Short Term Option Series Program within Options 4, Section 5, ''Series of Options Contracts Open for Trading.''

The Exchange also proposes to amend Options 1, Section 1(a)(49) which defines a Short Term Option Series.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .03 of Options 4, Section 5, ''Series of Options Contracts Open for Trading.'' Specifically, the Exchange proposes to amend the Short Term Option Series Rules to: (1) limit the number of Short Term Option Expiration Dates for options on SPDR S&P 500 ETF Trust (SPY), the INVESCO QQQ Trust℠, Series 1 (QQQ), and iShares Russell 2000 ETF (IWM) from five to two expirations for Monday and Wednesday expirations; and (2) expand the Short Term Option Series program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the same proposed limitation of two expirations.

The Exchange also proposes to amend Options 1, Section 1(a)(49) which defines a Short Term Option Series.

Curtail Short Term Option Expiration Dates

Currently, after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire (''Short Term Option Expiration Dates''). The Exchange may have no more than a total of five Short Term Option Expiration Dates not including any Monday or Wednesday SPY, QQQ, and IWM Expirations. Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

first business day immediately prior to that Friday.

Today, with respect to Wednesday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY, QQQ, and IWM to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (''Wednesday SPY Expirations,'' ''Wednesday QQQ Expirations,'' and ''Wednesday IWM Expirations''). With respect to Monday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY, QQQ, or IWM to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire (''Monday SPY Expirations,'' ''Monday QQQ Expirations,'' and ''Monday IWM Expirations''), provided that Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and five consecutive Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations at one time; the Exchange may have no more than a total of five each of Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and a total of five each of Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations. Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations will be subject to the provisions of Supplementary Material .03 to Options 4, Section 5.

Proposal

At this time, the Exchange proposes to curtail the number of Short Term Option Expiration Dates from five to two [3] for SPY, QQQ and IWM for Monday and Wednesday Expirations, as well as the proposed Tuesday and Thursday Expirations in SPY and QQQ (''Short Term Option Daily Expirations'').

The Exchange proposes to create a new category of Short Term Option Expirations Dates called ''Short Term Option Daily Expirations'' which will only permit two Short Term Option Expiration Dates for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time. The Exchange proposes to include a table, labelled ''Table 1'', within Supplementary Material .03 to Options 4, Section 5 which specifies each symbol that qualifies as a Short Term Option Daily Expiration. The table would note the number of expirations for each symbol as well as expiration days. The Exchange proposes to include Monday and Wednesday expirations for SPY, QQQ, and IWM and Tuesday and Thursday expirations for SPY and QQQ and list the number of expirations as ''2'' for these symbols. The Exchange's proposal to permit Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program is explained below in more detail. In the event Short Term Option Daily Expirations expire on the same day in the same class as a monthly options series or a Quarterly Options Series the Exchange would skip that week's listing and instead list the following week; the two weeks of Short Term Option Expiration Dates would therefore not be consecutive. Specifically, the Exchange proposes to state within Supplementary Material .03 to Options 4, Section 5,

> In addition to the above, the Exchange may open for trading series of options on the symbols provided in Table 1 below that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Short Term Option Daily Expirations''). The Exchange may have no more than a total of two Short Term Option Daily Expirations for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time. Short Term Option Daily Expirations would be subject to this Supplementary Material .03.

SPY, QQQ, and IWM Friday expirations and other option symbols expiring on a Friday that are not noted in Table 1 will continue to have a total of five Short Term Option Expiration Dates provided those Friday expirations are not Fridays in which monthly options series or Quarterly Options Series expire (''Friday Short Term Option Expiration Dates''). These expirations would be referred to as ''Short Term Option Weekly Expirations'' to distinguish them from the proposed expirations that would be subject to Short Term Option Daily Expirations. The Exchange proposes to add rule text to Supplementary Material .03 to Options 4, Section 5 which states that Monday Short Term Option Expiration Dates, Tuesday Short Term Option Expiration Dates, Wednesday Short Term Option Expiration Dates, and Thursday Short Term Option Expiration Dates, together with Friday Short Term Option Expiration Dates, are collectively ''Short Term Option Expiration Dates.'' [4]

Tuesday and Thursday Expirations

At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two consecutive Tuesday and Thursday ''Tuesday Short Term Option Daily Expirations'' and ''Thursday Short Term Option Daily Expirations'' each for SPY and QQQ at one time. Tuesday and Thursday Short Term Option Daily Expirations would be subject to Supplementary Material .03 of Options 4, Section 5.

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the following business week that is a business day, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

The Exchange proposes to amend this definition at Options 1, Section 1(a)(49) to accommodate the listing of options series that expire on Tuesdays and Thursdays. Specifically, the Exchange proposes to add Tuesday and Thursdays to the permitted expiration days, which currently include Monday, Wednesday, and Friday, that it may open for trading.

The Exchange also proposes corresponding changes within Supplementary Material .03 to Options 4, Section 5, which sets forth the requirements for SPY and QQQ options that are listed pursuant to the Short Term Option Series Program as Short Term Option Daily Expirations. Similar to Monday and Wednesday SPY, QQQ,

[3] The Exchange proposes to list the two front months for Short Term Option Daily Expirations.

[4] Defining the term ''Short Term Option Expiration Dates'' will make clear that this term includes expiration dates for each day Short Term Options are listed.

and IWM Short Term Option Daily Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange proposes that it may open for trading on any Monday or Tuesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Tuesday Short Term Option Expiration Date'').

Likewise, the Exchange proposes that it may open for trading on any Wednesday or Thursday that is a business day series of options on symbols provided in Table 1 that expire at the close of business on each of the next two Thursdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Thursday Short Term Option Expiration Date'').

In the event that options on SPY and QQQ expire on a Tuesday or Thursday and that Tuesday or Thursday is the same day that a monthly option series or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Options Series. Currently, there is no rule text provision that states that Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a monthly option series. Practically speaking, Monday and Wednesday Expirations in SPY, QQQ, and IWM would not expire on the same day as a monthly expiration.

The interval between strike prices for the proposed Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will be the same as those for the current Short Term Option Series for Monday, Wednesday and Friday expirations applicable to the Short Term Option Series Program.[5] Specifically, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will have a $0.50 strike interval minimum.[6] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to Options 1, Section 1(a)(49), with respect to the Short Term Option Series Program, a Tuesday or Thursday expiration series shall expire on the first business day immediately prior to that Tuesday or Thursday, *e.g.,* Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[7] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[8] This thirty (30) series restriction would apply to Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY and QQQ options expiring on Tuesdays and Thursdays with a limit of two Tuesday Short Term Daily Expirations and two Thursday Short Term Daily Expirations.

Finally, the Exchange is amending Supplementary Material .03(b) to Options 4, Section 5, to conform the rule text to the usage of the term ''Short Term Option Daily Expirations.'' Today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. With respect to monthly option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which monthly option series on the same class expire. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire.[9] Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire.

The Exchange proposes to amend Supplementary Material .03(e) of Options 4, Section 5 to remove the phrase ''on the Short Term Option Opening Date that expire on the Short Term Option Expiration Date'' within the second sentence of Supplementary Material .03(e). The phrase is being removed because a Short Term Option is defined in this paragraph as referring to the rules within Supplementary Material .03(e) of Options 4, Section 5 which define ''Short Term Option Opening Date'' and ''Short Term Option Expiration Date.'' The phrase is not necessary.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM.

Impact of Proposal

The Exchange notes that listings in the Short Term Option Series Program

[5] *See* ISE Supplementary Material .03(e) to Options 4, Section 5.

[6] *See* ISE Supplementary Material .03(e) to Options 4, Section 5.

[7] *See* ISE Supplementary Material .03(a) to Options 4, Section 5.

[8] *See* ISE Supplementary Material .03(a) to Options 4, Section 5.

[9] While the Exchange proposes to add rule text within Supplementary Material .03 of Options 4, Section 5 with respect to Monday Expirations, Tuesday Expirations, and Wednesdays Expirations stating that those expirations would not expire on business days that are business days in which monthly options series expire, practically speaking this would not occur.

comprise a significant part of the standard listing in options markets. The below diagrams demonstrate the percentage of weekly listings as compared to monthly, quarterly, and Long-Term Option Series in 2020 and 2022 in the options industry.[10] The weekly strikes decreased from 24% to 19% in these two years. The Exchange notes that during this timeframe all options exchanges mitigated weekly strike intervals.

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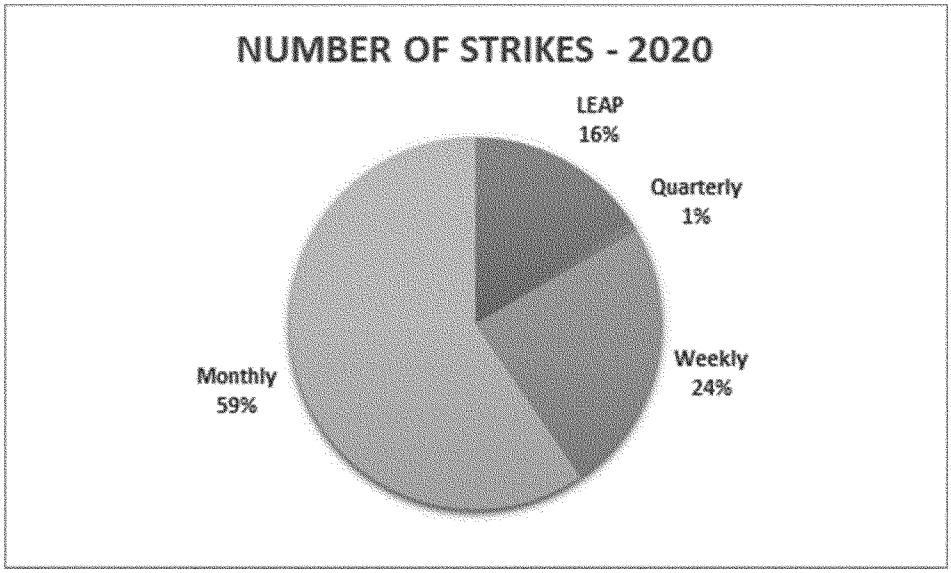

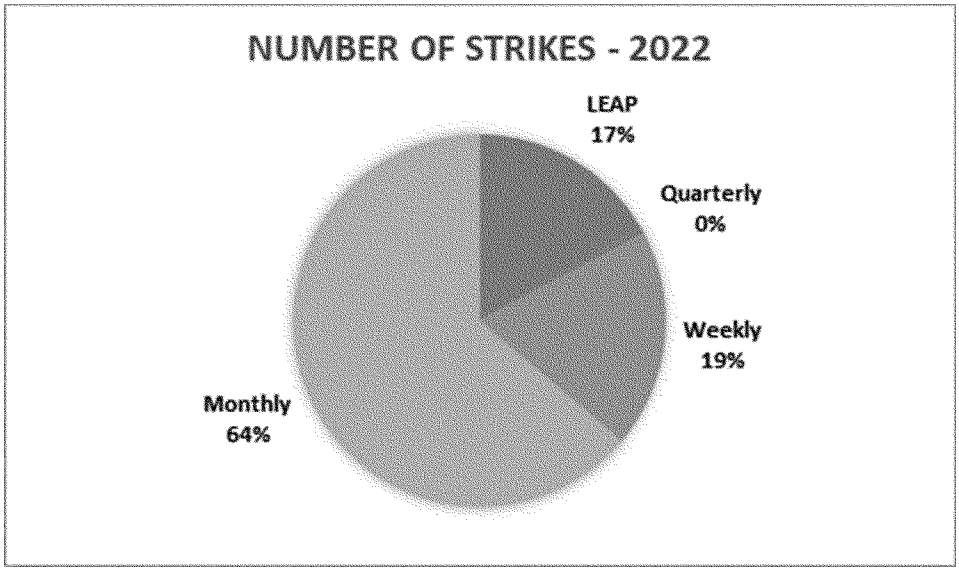

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By limiting the number of Short Term Option Daily Expirations for SPY, QQQ, and IWM to two expirations for Monday and Wednesday expirations, and expanding the Short Term Option Series Program to permit Tuesday, and Thursday expirations for SPY and QQQ, the Exchange anticipates that it would overall reduce the number of weekly expiration dates. With respect to SPY, the reduction from five to two expirations will reduce 11.80% of strikes on SPY with Monday and Wednesday expirations. With respect to QQQ, the reduction from five to two expirations will reduce 12.86% of strikes on QQQ with Monday and Wednesday expirations. With respect to IWM, the reduction from five to two expirations will reduce 11.86% of strikes on IWM with Monday and Wednesday expirations. Additionally, expanding the Short Term Option Series Program to permit the listing of Tuesday and Thursday expirations in SPY and QQQ will account for the addition of 7.86% of strikes in SPY and the addition of 8.57% of strikes in QQQ. Therefore, the total net reduction would be 3.94% for SPY and 4.29% for QQQ.[11]

The overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on

[10] The Exchange sourced this information from The Options Clearing Corporation (''OCC''). The information includes time averaged data for all 16 options markets up to August 18, 2022.

[11] The Exchange sourced this information, which are estimates, from LiveVol®. The information includes data for all 16 options markets as of August 18, 2022.

ISE and should encourage Market Makers to continue to deploy capital more efficiently and improve displayed market quality.[12] Also, the Exchange's proposal curtails the number of expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Members will continue to be able to expand hedging tools because all days of the week would be available to permit Members to tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

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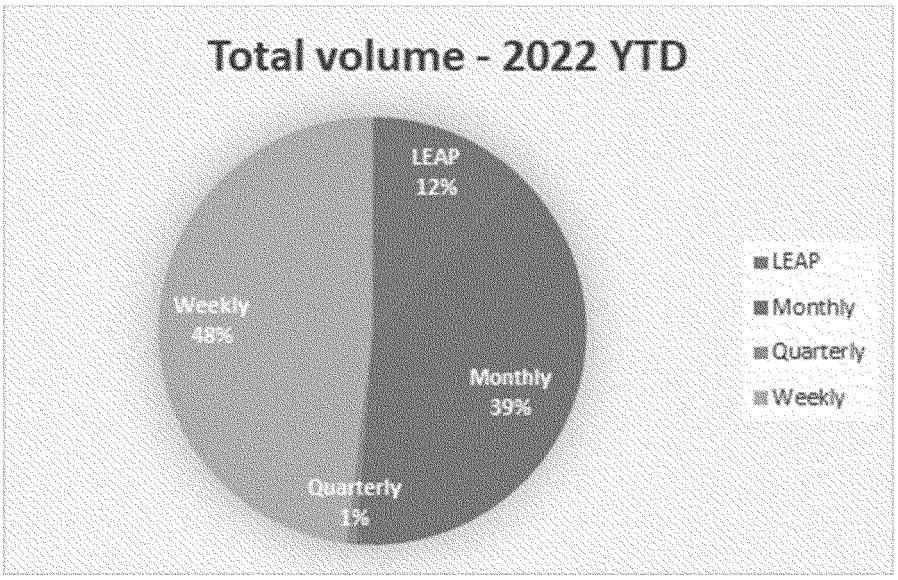

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Weeklies comprise 48% of the total volume of options listings.[13]

Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the introduction of SPY and QQQ Tuesday and Thursday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

Implementation

The Exchange proposes to implement this rule change on or before November 14, 2022. The Exchange will issue an Options Trader Alert to notify Members of the implementation date. Notwithstanding this implementation, Monday and Wednesday Expirations in SPY, QQQ, and IWM that were listed prior to the date of implementation will continue to be listed on the Exchange until those options expire pursuant to current Short Term Option Series rules within Supplementary Material .03 of Options 4, Section 5.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] 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.

The proposal is consistent with the Act as the overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on ISE. This reduction would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers to continue to deploy capital more efficiently and improve displayed market quality.[16] Also, the Exchange's proposal curtails the number of Monday, Tuesday, Wednesday, and Thursday expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Members will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ and IWM Monday and Wednesday Expirations (proposed to be SPY, QQQ and IWM Monday and Wednesday Short Term Daily Expirations), the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations (renamed SPY and QQQ Tuesday and Thursday Short Term Daily Expirations) will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program,

[12] Today, Primary Market Makers and Market Makers are required to quote a specified time in their assigned options series. *See* ISE Options 2, Section 5.

[13] The chart represents industry volume. Weeklies comprise 48% of volume while only being 19% of the strikes. The Exchange sourced this information from OCC. The information includes data for all 16 options markets as of August 18, 2022.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] Today, Primary Market Makers and Market Makers are required to quote a specified time in their assigned options series. *See* ISE Options 2, Section 5.

subject to the proposed limitation of two expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in SPY and QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. ISE currently lists Monday and Wednesday SPY, QQQ, and IWM Expirations (renamed SPY, QQQ, and IWM Monday and Wednesday Short Term Daily Expirations).[17]

Today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange believes that permitting Short Term Option Daily Expirations to expire in the same week that standard monthly options expire on Fridays is consistent with Act. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is consistent with the Act to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire similar to Monday and Wednesday SPY, QQQ, and IWM Expirations.

There are no material differences in the treatment of Wednesday SPY and QQQ expirations for Short Term Option Series as compared to the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations. Given the similarities between Wednesday SPY, QQQ and IWM Expirations and the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, the Exchange believes that applying the provisions in Supplementary Material .03 to Options 4, Section 5 that currently apply to Wednesday SPY, QQQ and IWM Expirations to Tuesday and Thursday SPY and QQQ Short Term Daily Expirations is justified.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposal will provide an overall reduction in the number of Short Term Option Expirations to be listed on ISE. The Exchange believes this reduction will not impose an undue burden on competition, rather, it should encourage Market Makers to continue to deploy capital more efficiently and improve displayed market quality.[18] Also, the Exchange's proposal curtails the number of weekly expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of weekly expirations, Members will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday SPY and QQQ expirations is not a novel proposal, as Wednesday SPY, QQQ and IWM Expirations are currently listed on ISE.[19]

Further, the Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange

[17] *See* ISE Supplementary Material .03 at Options 4, Section 5.

[18] Today, Primary Market Makers and Market Makers are required to quote a specified time in their assigned options series. *See* ISE Options 2, Section 5.

[19] *See* ISE Supplementary Material .03 at Options 4, Section 5.

consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2022–18 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–2022–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2022–18 and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20731 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95843; File No. SR–MEMX–2022–20]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Update Exchange Rule 13.4(a) Regarding the Exchange's Usage of Data Feeds

September 20, 2022.

On July 26, 2022, MEMX LLC (''MEMX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to update Exchange Rule 13.4(a) regarding the sources of data that the Exchange utilizes for the handling, execution and routing of orders, as well as for surveillance necessary to monitor compliance with applicable securities laws and Exchange rules, with respect to certain market centers. The filing was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The proposed rule change was published for comment in the **Federal Register** on August 4, 2022.[5] On September 19, 2022, MEMX withdrew the proposed rule change (SR–MEMX–2022–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20733 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[5] *See* Securities Exchange Act Release No. 95395 (July 29, 2022), 87 FR 47799.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–453, OMB Control No. 3235–0510]

Proposed Collection; Comment Request; Extension: Rule 302

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 302 (17 CFR 242.302) of Regulation ATS (17 CFR 242.300 *et seq.*) under the Securities and Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation ATS sets forth a regulatory regime for ''alternative trading systems'' (''ATSs''). An entity that meets the definition of an exchange must register, pursuant to Section 5 of the Exchange Act, as a national securities exchange under Section 6 of the Exchange Act [1] or operate pursuant to an appropriate exemption.[2] One of the available exemptions is for ATSs.[3] Exchange Act Rule 3a1–1(a)(2) exempts from the definition of ''exchange'' under Section 3(a)(1) an organization, association, or group of persons that complies with Regulation ATS.[4] Regulation ATS requires an ATS to, among other things, register as a broker-dealer with the Securities and Exchange Commission (''SEC''), file a Form ATS with the Commission to notice its operations, and establish written safeguards and procedures to protect subscribers' confidential trading information. An ATS that complies with Regulation ATS and operates pursuant to the Rule 3a1–

[1] *See* 15 U.S.C. 78e and 78f. A ''national securities exchange'' is an exchange registered as such under Section 6 of the Exchange Act.

[2] 15 U.S.C. 78a *et seq.*

[3] Rule 300(a) of Regulation ATS provides that an ATS is ''any organization, association, person, group of persons, or system: (1) [t]hat constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b–16]; and (2) [t]hat does not: (i) [s]et rules governing the conduct of subscribers other than the conduct of subscribers' trading on such [ATS]; or (ii) [d]iscipline subscribers other than by exclusion from trading.''

[4] *See* 17 CFR 240.3a1–1(a)(2).

1(a)(2) exemption would not be required by Section 5 to register as a national securities exchange.

Rule 302 of Regulation ATS (17 CFR 242.302) describes the recordkeeping requirements for ATSs. Under Rule 302, ATSs are required to, among other things, make a record of subscribers to the ATS, daily summaries of trading in the ATS, and time-sequenced records of order information in the ATS.

The information required to be collected under Rule 302 should increase the abilities of the Commission, state securities regulatory authorities, and the self-regulatory organizations to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. If the information is not collected or collected less frequently, the regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to operate pursuant to the exemption provided by Regulation ATS from registration as national securities exchanges. There are currently 101 respondents. These respondents will spend a total of approximately 4,545 hours per year (101 respondents at 45 burden hours/respondent) to comply with the recordkeeping requirements of Rule 302. At an average cost per burden hour of $83, the resultant total related total internal cost of compliance for these respondents is approximately $377,235 per year (4,545 burden hours multiplied by $83/hour).

Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by November 25, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comment to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 20, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20726 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95844; File No. SR–CboeBYX–2022–021]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

September 20, 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 September 7, 2022, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'' or ''BYX Equities'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to adopt monthly fees assessed to Users [3] that elect to subscribe to the Short Volume Report, effective, August 24, 2022.[4]

On August 9, 2022, the Exchange introduced a new data product known as the Short Volume Report.[5] The Short Volume Report, which will be available on August 24, 2022, is an end-of-day report that provides certain equity trading activity on the Exchange, and includes trade date, total volume, sell short volume, and sell short exempt volume, by symbol.[6] In addition to the daily subscription, a Member [7] or non-Member may purchase the Short Volume Report on a historical monthly basis, which provides the end-of-day report for each day during a given calendar month.

The Exchange proposes to adopt fees applicable to Users that subscribe to the Short Volume Report. As proposed, the Exchange would assess a monthly [8] fee of $50 per month to an Internal Distributor [9] and a fee of $75 per month

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''User'' of an Exchange Market Data product is a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data. *See* the BYX Equities Exchange Fee Schedule at *https://www.cboe.com/us/equities/membership/fee_schedule/byx/.*

[4] The Exchange initially filed the proposed fee changes on August 24, 2022 (SR–CboeBYX–2022–020). On September 7, 2022, the Exchange withdrew that filing and submitted this filing.

[5] *See* Securities Exchange Act No. 95548 (August 18, 2022) 87 FR 52087 (August 24, 2022) (SR–CboeBYX–2022–019).

[6] *See* Exchange Rule 11.22(f).

[7] *See* Exchange Rule 1.5(n).

[8] The monthly fees for the Short Volume Report end-of-day reports are assessed based on a 30-day period. For example, if a User subscribes to the Short Volume Report on September 15, 2022, the monthly fee will cover the period of September 15, 2022 through October 15, 2022. If the User cancels its subscription prior to October 15, 2022, the User will not be charged for (or have access to) Short Volume Reports for the remainder of October.

[9] An ''Internal Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity. *Supra* note 3.

to an External Distributor [10] of the Short Volume Report. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. Some External Distributors incorporate short sale data into their own proprietary products, which they sell to downstream users. These distributors may not charge separately for data included in the Short Volume Report, but nevertheless gain value from the data by incorporating it into their product. The higher price for External Distributors reflects the additional value these distributors gain from the product.

The Exchange also proposes to adopt fees for the Short Volume Report provided on a historical basis. The Short Volume Report will be available for each calendar month dating back to January 2015, and Users of such data will be assessed a fee of $25 per month of data. Data provided via the historical Short Volume Report is for only display use redistribution (*e.g.,* the data may be provided on the User's platform). Therefore, Users of the historical data may not charge separately for data included in the Short Volume Report or incorporate such data into their product. Nonetheless, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for display use redistribution that reflects the value these distributors gain from the historical product.

The Exchange anticipates that a wide variety of market participants will purchase the proposed Short Volume Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Volume Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the proposed Short Volume Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange.

The Exchange notes that the Short Volume Report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[11]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Short Volume Report further broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Short Volume Report also promotes increased transparency through the dissemination of short volume data. The Short Volume Report benefits investors by providing access to the Short Volume Report data, which may promote better informed trading, as well as research and studies of the equities industry.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 16% of the equity market share.[14] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Short Volume Report.

The Exchange believes that the proposed fee for the Short Volume Report is consistent with the Act in that it is reasonable, equitable, and not unfairly discriminatory. In particular, the Exchange believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to Users that choose to subscribe to the Short Volume Report on the Exchange. As discussed above, the Short Volume Report may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. Therefore, the Exchange believes that it is reasonable to assess a modest fee to Users that subscribe to the Short Volume Report.

The Exchange further believes the proposed fee is reasonable because the amount assessed is less than the analogous fees charged by competitor exchanges. For example, the Nasdaq Stock Market LLC (''Nasdaq'') charges $750 to Internal Distributors and $1,250 to External Distributors of the Nasdaq Short Sale Volume Reports provided on both a daily and historical monthly basis. Additionally, the New York Stock Exchange LLC (''NYSE'') and its affiliated equity markets (the ''NYSE Group'') also charge for the TAQ NYSE Group Short Sales (Monthly File) and

[10] An ''External Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity. *Supra* note 3.

[11] *See* the ''Nasdaq Short Sale Volume Reports'' portion of the Nasdaq Fee Schedule at *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (September 6, 2022), available at *https://www.cboe.com/us/equities/market_statistics/.*

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

TAQ NYSE Group Short Volume (Daily File). Specifically, NYSE Group charges an access fee of $1,000 per month for an ongoing subscription that includes 12 months of back history, then additional back history charged at $500 per data content month. NYSE Group also charges a back history fee, of $1,000 per data content month for the first 12 months of history, then additional back history charged at $500 per data content month. The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it's possible investors are still able to gauge overall investor sentiment across different equities based on the included data points on any one exchange. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Short Volume Report and instead purchase another exchange's similar data product, which offers similar data points, albeit based on that other market's trading activity.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all Members and non-Members that choose to subscribe to the Short Volume Report equally. As stated, the Short Volume Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Short Volume Report available, and Users may choose to subscribe (and pay for) the report based on their own individual business needs. Potential subscribers may subscribe to the Short Volume Report at any time if they believe it to be valuable or may decline to purchase it.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an External Distributor of the Short Volume Report a higher fee than an Internal Distributor as an External Distributor will ordinarily charge a fee to its downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects products from the Short Volume Report to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a higher fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to Internal and External Distributors, respectively, that choose to distribute data from the Short Volume Report. Moreover, as described above, another Exchange similarly charges External Distributors higher fees as compared to Internal Distributors for a similar data product.[16]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Short Volume Report will be available equally to all Members and non-Members that choose to subscribe to the report. As stated, the Short Volume Report is optional and Members and non-Members may choose to subscribe to such report, or not, based on their view of the additional benefits and added value provided by utilizing the Short Volume Report. As such, the Exchange believes the proposed rule change imposes no burden on intramarket competition.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products offered by Nasdaq and the NYSE Group are priced higher than the Short Volume Report. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4[18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2022–021 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.

[16] *See* Nasdaq Rule 7 Section 152.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–CboeBYX–2022–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2022–021, and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20727 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, September 29, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b)

Dated: September 22, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–20883 Filed 9–22–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95842; File No. SR–OCC–2022–010]

Self-Regulatory Organizations; the Options Clearing Corporation Notice of Filing of Proposed Rule Change by the Options Clearing Corporation Concerning a Risk Management Framework and Corporate Risk Management Policy

September 20, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 6, 2022, the Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

OCC files this proposed rule change to adopt a revised Risk Management Framework (''RMF'') as well as a new Corporate Risk Management Policy (''CRMP''). The RMF and CRMP are provided as in Exhibits 5A and 5B of File No. SR–OCC–2022–010. The RMF and CRMP would replace the current OCC Risk Management Framework Policy (''RMF Policy''). These documents are being submitted without marking to improve readability and are being submitted in their entirety as new rule text. The RMF Policy, provided as Exhibit 5C of File No. SR–OCC–2022–010, is submitted entirely in strikethrough text to indicate its retirement. In addition, OCC submits corresponding changes to its Clearing Fund Methodology Policy, Collateral Risk Management Policy, Default Management Policy, Margin Policy, Model Risk Management Policy, Recovery and Orderly Wind-Down Plan, and Third-Party Risk Management Framework (''TPRMF'') (collectively, the ''OCC Risk Policies'') to update any reference to the RMF Policy to refer instead to the proposed RMF. The OCC Risk Policies are provided as Exhibits 5D–5J of File SR–OCC–2022–010. OCC submitted Exhibits 5D through 5I subject to a confidential treatment request under SEC Rule 24b–2.[3]

The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.24b–2.

[4] OCC's By-Laws and Rules can be found on OCC's website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

OCC maintains various documents designed to define a comprehensive framework for managing OCC's various risks, including financial risks, legal, and operational risks. OCC's RMF Policy serves as an umbrella document describing OCC's framework for managing risk at a high level. As required by SEC Rule 17Ad.22(e)(3)(i), OCC routinely reviews its policies and procedures for potential improvements, such as providing more comprehensive descriptions and definitions as well as making the documents more clear, internally consistent, and well organized. Based on its routine review of the existing RMF Policy, OCC believes it should replace its current RMF Policy with two, more detailed documents. By making this change, described in detail below, OCC intends to enhance the clarity and transparency of its overall risk management framework. The change to OCC's documents will not affect OCC's members or other market participants. Rather, it is intended to better describe and strengthen OCC's internal risk management processes.

Background

OCC proposes to amend its existing RMF Policy [5] by establishing the RMF and CRMP. OCC believes the revised documents enhance the clarity and transparency of its overall risk management framework and once approved, OCC plans to make the RMF and CRMP publicly available on its website (*www.theocc.com*). OCC believes the proposed revised RMF would continue to provide a foundation to support and describe the risk management policies, procedures, and systems that make up OCC's sound risk management framework.

In undertaking this revision of the RMF Policy, OCC is seeking to present its approach to risk management more clearly. The RMF Policy presents detailed information about OCC's second line functions, while also summarizing information about other risk management functions at OCC. OCC believes that the proposed RMF presents a clear summary of OCC's overall approach to risk management across its three lines of defense and, if necessary, its planning for recovery and wind-down. Consistent with the presentation of OCC's risk management across its three lines of defense, the RMF would refer to the CRMP, which would contain the detail behind OCC's second line corporate risk management program. OCC believes this is consistent with its approach to providing detailed information about its various functions in documents that stand separate from, but support and provide detail about the risk management activities summarized in, its proposed RMF.[6]

The proposed RMF would provide an overview of risk management at OCC. The proposed RMF introduces the categories of risk OCC faces and then explains how OCC manages these risks. The proposed RMF includes an overview of OCC's risk universe, descriptions of risk management practices across OCC's three lines of defense model, a discussion of how OCC is also prepared, if necessary, with tools to manage both recovery and orderly wind-down, and the requirement to escalate exceptions to and deviations from OCC's risk management frameworks and policies to OCC's Corporate Risk Management and Compliance departments.

The proposed CRMP would support the proposed RMF by explaining in greater detail OCC's risk management activities related to the second line of defense corporate risk management program. The proposed CRMP would explain that the OCC Corporate Risk Management department (''Corporate Risk''), formerly referred to as the Enterprise Risk Management department (''ERM''),[7] evaluates risks that may affect OCC's ability to perform the functions detailed in the proposed RMF. As discussed below, the proposed CRMP would provide an overview of the activities overseen by Corporate Risk to identify, measure, monitor, manage, report, and escalate risks. Certain of this information is currently included in the RMF Policy, but OCC believes, consistent with other areas of risk managed by OCC, the details about its corporate risk management program should reside in the proposed CRMP. Other information would be new, including sections to describe Corporate Risk's risk monitoring, risk treatment, and risk escalation and training processes. Exhibit 3 to File No. SR–OCC–2022–010 summarizes the proposed reorganization of the RMF Policy into the RMF and CRMP.

Proposed Changes to Risk Management Framework Policy

The proposed revisions to the RMF Policy are designed to present OCC's approach to risk management more clearly. For example, the RMF Policy currently presents detailed information about both the financial and corporate risk management functions at OCC. OCC proposes to adopt a new RMF to more clearly describe its overall risk framework. OCC also proposes to adopt a new CRMP to describe its approach to corporate risk management in more detail. The proposed changes to the current RMF Policy are discussed in detail below.

Purpose Section

The purpose section of the RMF Policy would be replaced with purpose and introduction sections of the new RMF and CRMP, respectively. These sections would be revised to reflect the reorganization of content in the RMF Policy in the new RMF and CRMP, focusing on the purpose and intent of each of the newly proposed documents. For example, the purpose of the proposed RMF would be to: (i) describe how OCC manages risk while providing efficient and effective clearing and settlement services to the markets it serves; (ii) explain how OCC's governance model and three lines of defense facilitate risk management; and (iii) address OCC's ability to employ recovery tools and facilitate an orderly wind-down. The purpose of the proposed CRMP would be to describe OCC's corporate risk management approach, including activities to identify, measure, monitor, manage, report, and escalate risks to inform decision-making.

Context for Risk Management Framework and Risk Management Philosophy

OCC proposes to delete the Context for Risk Management Framework and Risk Management Philosophy sections of the RMF Policy from the proposed RMF. OCC believes these sections provide history and background

[5] *See* Exchange Act Release No. 34–82232 (Dec. 7, 2017), 82 FR 58662 (Dec. 13, 2017) (File No. SR–OCC–2017–005).

[6] For example, the RMF addresses risks managed by OCC's first line of defense through supporting policies and procedures, including, among other rule-filed policies, the Margin Policy, Collateral Risk Management Policy, Liquidity Risk Management Framework, and the Default Management Policy.

[7] As part of the proposed rule change, OCC would reflect that OCC has renamed its ERM department as Corporate Risk and make conforming changes throughout the OCC Risk Policies. In addition to functions specific to enterprise risk monitoring, Corporate Risk includes other functions such as Model Risk Management and Third-Party Risk Management.

information about OCC and its purpose in the financial markets, but do not contain rules of OCC. Additionally, OCC believes the information presented in the Risk Management Philosophy section serves as an additional purpose section and that all items highlighted in this section are covered in the proposed RMF or CRMP. For example, OCC's approach relative to risk appetite is mentioned in the Risk Management Philosophy section but is covered in more comprehensive detail in the CRMP.

Risk Appetite Framework and Tolerance

The RMF Policy describes OCC's risk appetite framework, including descriptions of OCC's use of a risk universe, risk appetites,[8] and risk tolerances.[9] The RMF Policy also describes the use of Key Risks [10] and Risk Sub-categories to define the universe of risks faced by OCC and the Risk Appetite Statements [11] assigned to such risks. OCC proposes to relocate this information to the Risk Governance section of the proposed CRMP. However, an overview of OCC's risk universe would be retained in the RMF, including a description of the main risk categories and that, pursuant to the CRMP, these categories are broken down to risk-subcategories and risk statements, as described below, which comprise OCC's risk universe that OCC manages through the three lines of defense model to maintain effective clearing and settlement operations.

The proposed CRMP would state that the establishment and maintenance of OCC's risk universe, risk appetites, risk tolerances, and risk rating scales is facilitated by Corporate Risk and used across OCC to create a transparent means to manage risk. The proposed CRMP would also state that Corporate Risk establishes the risk universe, which organizes OCC's risks into the following three layers to classify and aggregate risks:

- Risk categories, which are the highest-level groups of risk aggregation;
- Risk sub-categories, which further classify risks within risk categories into detailed groups; and
- Risk statements, which are descriptions of the drivers, events, and consequences of risks.

The terms ''risk categories,'' ''risk sub-categories,'' and ''risk statements'' essentially represent the Key Risks, Sub-categories, and Definitions that are discussed in the current RMF Policy. OCC believes the proposed terms better describe the elements that comprise OCC's risk universe and the relationship between them.

Risk categories, sub-categories, appetites, and tolerances would continue to be reviewed on at least an annual basis. Under the current RMF, Key Risks are approved by OCC's Board and risk appetites for Key Risks are set by the business departments responsible for those risk in cooperation with ERM. Under the proposed CRMP, the risk universe would be owned and approved by the Chief Risk Officer (''CRO'') and provided to the Management Committee. OCC believes the Chief Risk Officer, who is responsible for OCC's corporate risk management function, is the officer best situated to manage the risk universe. Changes to the RMF to reflect any changes to risk categories would continue to require Board approval. In addition, the Board or the Risk Committee, if the Board has delegated the Risk Committee such authority,[12] would ultimately be responsible for approving risk appetites, which establish the type and amount of risk OCC is willing to accept. OCC believes that the Board or Risk Committee are best positioned to approve risk appetites because of their oversight role with respect to OCC's risk management. Additionally, the Board or Risk Committee would continue to be responsible for approving risk tolerances.

The proposed CRMP would also provide additional details around the internal governance process for reviewing and approving risk categories, appetites, and tolerances and for monitoring risk tolerances. For example, the proposed CRMP would state that at least every twelve months, Corporate Risk determines whether updates to the risk universe are necessary to better align risk categories, sub-categories, and statements with OCC's clearance, settlement and risk management services. The proposed CRMP would require that risk category and sub-category updates are approved by the CRO while risk statements are approved by Corporate Risk management. The proposed CRMP would further provide that the Management Committee and Board are then notified of updates to risk categories and sub-categories.

The proposed CRMP would state that at least every twelve months, risk appetites are established at a risk sub-category level and presented by the CRO to the Management Committee for recommendation to the Board or Risk Committee for approval. The proposed CRMP would require that Risk Owners manage the level of risk exposure posed by a process against risk appetites.[13] The proposed CRMP would state that Corporate Risk monitors risks to identify breaches of risk appetite. The proposed CRMP would also provide that risk appetite breaches are escalated by the CRO to the Management Committee, Risk Committee, and Board. The proposed CRMP would state that Risk Owners, with input from relevant business areas, develop and execute risk treatment plans to reduce risks that exceed OCC's risk appetites.[14] The proposed CRMP would state that at least every twelve months, Corporate Risk and Risk Owners review risk appetites and, where necessary, make adjustments to align with OCC's clearance, settlement and risk management services. The proposed CRMP would state that the CRO reviews and presents changes to risk appetites to the Management Committee for recommendation to the Board for approval. OCC proposes to remove the more general risk appetite statement definitions (*i.e.,* no appetite, low appetite, moderate appetite, and high appetite), which are currently described in the RMF Policy, and would instead use more detailed qualitative risk appetite statements for each risk sub-category following the governance process described above.

With respect to risk tolerances, the proposed CRMP would state that Risk Owners are responsible for managing applicable risks within established tolerances and developing risk treatment plans to resolve breaches of risk tolerance. The proposed CRMP would require that risk tolerance breaches are escalated by the CRO to the Management Committee, Risk Committee, and Board. The proposed CRMP would state that at least every twelve months, Corporate Risk and Risk Owners review risk tolerances and, where necessary, make adjustments to align with OCC's services. The proposed

[8] Risk appetites are qualitative articulations of the amount of risk OCC is willing to accept and establish expectations for OCC's risk management.

[9] Risk tolerances are qualitative or quantitative measures that help inform whether risks are within risk appetites.

[10] The RMF Policy defines Key Risk to mean risk that is related to the foundational aspects of CCP clearing, settlement, and risk management services.

[11] The RMF Policy defines Risk Appetite Statement to mean a statement that expresses OCC's judgment, for each of OCC's Key Risks, regarding the level of risk OCC is willing to accept related to the provision of CCP services.

[12] The Board has approved such delegation of authority to the Risk Committee. *See* Exchange Act Release No. 94988 (May 26, 2022); 87 FR 33535 (June 2, 2022) (File No. SR–OCC–2022–002).

[13] The proposed CRMP defines ''Risk Owner'' to mean an employee with the accountability and authority to manage the risk.

[14] The proposed CRMP would state that risk treatment is the process to manage a risk through avoidance, mitigation, transference, or acceptance.

CRMP would state that the CRO reviews and presents changes to risk tolerances to the Management Committee for recommendation to the Board for approval. As discussed below in connection with the monitoring of key risk indicators, the CRO would also monitor and report risk, including risk tolerance breaches, to the Board at each regularly scheduled meeting. OCC notes that it also proposes to change the reporting cadence to align with the timing of Board meetings to reflect that Board meetings typically, but do not always, occur on a quarterly schedule.[15]

The proposed CRMP would also introduce the concept of risk rating scales, which provide an assessment of risk from an impact and likelihood perspective consistently across OCC. The proposed CRMP would state that OCC's risk rating scales rate the magnitude of impact an event will have on a process and the likelihood an event will occur. The proposed CRMP would state that the impact risk rating scale considers operational, internal financial, external financial, legal and regulatory, and reputational impacts. The proposed CRMP would state that the likelihood risk rating scale considers a 10-year financial cycle and yearly corporate planning activities. The proposed CRMP would state that these risk rating scales are used to measure inherent and residual risk at a risk statement level. The proposed CRMP would state that inherent risk is the level of risk exposure posed by a process absent any controls to reduce the likelihood or severity of an event. The proposed CRMP would state that residual risk is the level of risk exposure posed by a process or activity after the application of controls or other risk-mitigating factors. The proposed CRMP would state that at least every twelve months, Corporate Risk and Risk Owners perform a review of the risk rating scales. The proposed CRMP would state that the CRO reviews and approves changes to the risk scales. The proposed CRMP would state that the Management Committee and Board are notified of changes to the risk rating scales.

OCC believes the proposed CRMP would provide a more comprehensive overview of OCC's risk governance framework and would include changes intended to improve certain processes therein. The proposed CRMP would provide additional details around the internal governance process for reviewing and approving risk categories, appetites, and tolerances and for monitoring risk tolerances and would describe OCC's risk rating scale process. The proposed changes would also improve the governance process for the risk universe by allowing the CRO to modify risk categories as needed, with oversight of Management Committee, the Risk Committee and the Board, and provide the Board or Risk Committee with more direct responsibility for setting the appetites for those risks.

Risk Management Governance

OCC proposes to relocate the Risk Management Governance section of the current RMF Policy to a new Governance section of the proposed RMF with certain modifications. OCC proposes to update the description of the responsibilities of the Board, which are generally already addressed in the Board of Directors Charter and Corporate Governance Principles (''Board Charter''),[16] which is filed with the Commission as a rule of OCC.[17] The proposed RMF would state that the Board is responsible for advising and overseeing management. The proposed RMF would state that pursuant to the OCC Board of Directors Charter and Corporate Governance Principles, the CRO presents a review of the RMF to the Board for approval at least annually. The proposed RMF would state that the Board may delegate the oversight of specific risks to Board-level committees (''Committees'').[18] The proposed RMF would state that the Board may form or disband committees, including subcommittees to manage specific risks, as it from time to time deems appropriate, and may delegate authority to one or more designated members of such committees. The proposed RMF would state that the responsibilities of Board committees regarding managing risks are outlined in committee charters.

OCC also proposes to update the description of the responsibilities of the Management Committee and working groups in the new RMF. The proposed RMF would state that OCC's Management Committee supports the management and conduct of its business in accordance with policy directives from the Board. The proposed RMF would state that the Management Committee includes officers [19] responsible for ensuring that its actions and decisions are consistent with OCC's mission, Code of Conduct, Rules and By-Laws, policies, procedures, and general principles of sound corporate governance. The proposed RMF would state that the CRO is a member of the Management Committee and reports to the Risk Committee. The proposed RMF would state that the Management Committee may form and delegate authority to subcommittees and working groups of employees to conduct certain of its activities. The proposed RMF would state that subcommittees and working groups are responsible for reporting and escalating information as may be appropriate. This would replace the current description in the RMF Policy, which primarily relates to the committee's role and responsibilities in reviewing and recommending changes to OCC's risk universe, including risk appetites and tolerances, and escalating breaches of such to the Board. These responsibilities would now be addressed in the proposed CRMP (as discussed in the Risk Appetite Framework and Tolerance section above).

The Governance section of the proposed RMF would also be updated to include a description of the responsibilities of OCC employees. The proposed RMF would state that OCC considers risk management during employee recruitment, development, training, and succession planning. The proposed RMF would state that OCC recruits and retains personnel with appropriate risk management knowledge, skills, and competencies. The proposed RMF would state that OCC also identifies successors for designated officers based on knowledge and experience. The proposed RMF would state that OCC provides internal and external development opportunities including required training related to risk, compliance, security, conflicts of interest, escalation of concerns, and the OCC Code of Conduct. The proposed RMF would state that OCC provides outlets for employees to anonymously report concerns that are reviewed by

[15] *See, e.g.,* Exchange Act Release No. 94988, 87 FR at 33539 (updating cadence of certain Board reporting to reflect that such reporting occurs at regular Board meetings).

[16] The Board Charter can be found on OCC's public website: *https://www.theocc.com/about/corporate-information/board-charter.*

[17] *See, e.g.,* Exchange Act Release No. 84473 (Oct. 23, 2018), 83 FR 54385 (Oct. 29, 2018) (File No. SR–OCC–2018–012).

[18] The Board has delegated oversight of specific risks to Committees through the Committee Charters. For example, the Board has delegated oversight of OCC's financial, collateral, risk model and third-party risk management processes to the Risk Committee. *See* Exchange Act Release No. 94988, 87 FR at 33539 (File No. SR–OCC–2022–002).

[19] The proposed RMF would state that The Management Committee may include, but is not limited to the following officers: Executive Chairman, Chief Executive Officer, Chief Operating Officer, Chief Financial Risk Officer, Chief External Relations Officer, Chief Risk Officer, Chief Audit Executive, Chief Compliance Officer, Chief Financial Officer, Chief Human Resources Officer, Chief Information Officer, Chief Security Officer, Chief Legal Officer and General Counsel, Chief Clearing and Settlement Services Officer, and Chief Regulatory Counsel.

OCC's Compliance, Human Resources, and Legal departments.

Identification of Key Risks

The RMF Policy currently contains an Identification of Key Risks section that defines OCC's Key Risks and provides a brief description of OCC's policies and procedures for managing each of those Key Risk and their respective Risk Sub-Categories. OCC proposes to replace the Identification of Key Risks section with a new OCC Risk Management section of the proposed RMF, which would be reorganized to focus on the three lines of defense model currently described in the RMF Policy and describe the types of risks managed by each line of defense. The new OCC Risk Management section of the RMF would: (i) restate existing content of the RMF; (ii) introduce new content not currently contained in OCC's RMF Policy; and (iii) delete certain aspects of the RMF Policy. The changes are discussed in detail below.

The proposed RMF would state that OCC employs a three lines of defense model. The proposed RMF would state that the model clarifies ownership and accountability and enhances communication for expectations around risk management throughout the organization. The proposed RMF would state that the first line of defense maintains policies, procedures, processes, and controls established for day-to-day risk management. The proposed RMF would state that the second line of defense evaluates and provides effective challenge to the first line by executing critical analysis to identify process limitations and recommending changes to relevant policies, procedures, processes, systems, and controls. Lastly, the proposed RMF would state that the third line of defense is an internal audit function that reviews and provides objective assurance to the first and second lines. The proposed RMF would state that OCC employees report to members of the Management Committee. Consistent with the OCC Employee Code of Conduct, employees are expected to escalate risk information through their reporting line or to other members of management. The proposed RMF would state that risks identified at OCC are reported to the Management Committee and Board consistent with relevant charters and policies.

First Line of Defense

The proposed RMF would state that the risk inherent in OCC's clearing and settlement services is managed by the first line of defense, which is responsible for owning and managing risks by maintaining policies, procedures, processes, systems, and controls that manage relevant risks. The proposed RMF would state that the first line of defense is comprised of OCC's operational business units, including Financial Risk Management (''FRM''), Business Operations, Information Technology, and Corporate Finance, and also includes corporate functions such as human resources and project management. The proposed RMF would state that the first line of defense is also accountable for maintaining internal controls, control self-testing, and implementing corrective action to address control deficiencies. The proposed RMF would state that the first line of defense maintains policies and associated procedures that detail the processes and controls implemented across business units which are used to execute risk management related to the clearing and settlement services detailed below.

Membership Standards

The proposed RMF would state that Membership standards are established by the Board and risk managed by OCC's Business Operations, FRM and Information Technology in accordance with OCC's TPRMF. The proposed RMF would state that OCC has risk-based clearing membership standards to manage the risks arising from Clearing Members. The proposed RMF would state that these requirements include applicable registrations, net capital requirements, creditworthiness, adequate operational capabilities, and maintaining qualified personnel. The proposed RMF would state that the Risk Committee reviews these standards to ensure OCC provides fair and open access to clearing and settlement services. The proposed RMF would state that Clearing Members that fail to meet the membership standards face the possibility of consequences up to and including suspension.

Credit

The proposed RMF would state that OCC's credit risk is managed by Business Operations, FRM, and Corporate Finance. The proposed RMF would state that OCC is exposed to credit risk based on its role as guarantor of cleared contracts. The proposed RMF would state that OCC has credit risk related to Clearing Members and manages this exposure by collecting margin and Clearing Fund resources based on a Clearing Member's risk profile. The proposed RMF would state that OCC also faces credit risk from other financial institutions that facilitate payment, clearing, and settlement activities (*e.g.,* clearing banks, custodians, and linked financial market utilities). The proposed RMF would state that FRM monitors its credit risk related to Clearing Members and financial institutions consistent with the TPRMF. The proposed RMF would state that FRM analyzes the creditworthiness of each financial institution, in addition to other information that could impact the financial institution's ability to facilitate payment, clearing, and settlement services.

Clearing Fund

The proposed RMF would state that OCC's Clearing Fund is managed by FRM and Business Operations. The proposed RMF would state that OCC maintains a Clearing Fund comprised of high-quality liquid assets to cover its credit risk exposure from Clearing Members in accordance with OCC's confidential Clearing Fund Methodology Policy and Chapter X of OCC's Rules. The proposed RMF would state that FRM uses stress tests to project the Clearing Fund size necessary to maintain prefunded financial resources to cover losses arising from the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure to OCC in extreme but plausible market conditions. The proposed RMF would state that FRM also uses stress test results to determine the sufficiency of the Clearing Fund size and determine whether to issue calls for additional collateral or perform an intra-month Clearing Fund resizing. The proposed RMF would state that FRM reviews the adequacy of its Clearing Fund models through sensitivity analysis and an analysis of its parameters and assumptions. The proposed RMF would state that FRM reports the results of Clearing Fund model reviews to the Board.

Margin

The proposed RMF would state that OCC's margin is managed by FRM and Business Operations. The proposed RMF would state that FRM utilizes a risk-based margin methodology to calculate Clearing Member margin requirements in accordance with OCC's confidential Margin Policy and Chapter VI of OCC's Rules. The proposed RMF would state that FRM calculates margin daily for Clearing Member accounts. The proposed RMF would state that Intra-day margin calls may also be made for accounts incurring significant losses. The proposed RMF would state that FRM reviews the adequacy of its margin models through sensitivity analysis, backtests, and an analysis of its

parameters and assumptions. The proposed RMF would state that FRM reports the results of margin model reviews to the Board.

Collateral

The proposed RMF would state that OCC's collateral risk is managed by Business Operations, Corporate Finance, and FRM in accordance with OCC's confidential Collateral Risk Policy and OCC Rules 604 and 1002. The proposed RMF would state that OCC requires its Clearing Members to deposit collateral as margin and Clearing Fund. The proposed RMF would state that OCC limits acceptable assets to those with low credit, market, and liquidity risks, and employs other risk mitigation tools, including collateral concentration limits. The proposed RMF would state that FRM applies risk-based haircuts and Business Operations revalues collateral daily to ensure margin and Clearing Fund requirements are met.

Default Management

The proposed RMF would state that OCC's default management risk is managed by FRM in accordance with OCC's confidential Default Management Policy and Chapter XI of OCC's Rules. The proposed RMF would state that in the event of a Clearing Member default, OCC takes timely action to contain losses and liquidity pressures and continue to meet its obligations. The proposed RMF would state that OCC closes open positions in an orderly manner, which may include performing auctions, utilizing liquidation agents, or applying hedges. The proposed RMF would state that Margin and Clearing Fund deposits of the defaulting Clearing Member are used to offset these losses, followed by other financial resources. The proposed RMF would state that OCC performs default testing with the participation of designated Clearing Members and other stakeholders to evaluate its processes and systems, including close-out processes.

The newly proposed Membership Standards, Credit, Clearing Fund, Margin, Collateral, and Default Management sections of the RMF would effectively replace the Credit Risk Management Framework section of OCC's RMF Policy and refer to the same OCC Risk Policies currently maintained by OCC (and described in the RMF) to address such risks and which are currently filed with the Commission as rules of OCC (*e.g.,* the Margin Policy,[20] Clearing Fund Methodology Policy,[21] Collateral Risk Management Policy,[22] Default Management Policy,[23] and TPRMF [24]).

Liquidity

The proposed RMF would state that OCC's liquidity risk is managed by FRM and Corporate Finance. The proposed RMF would state that OCC manages its liquidity risk in accordance with its confidential Liquidity Risk Management Framework by maintaining a reliable and diverse set of committed resources and liquidity providers, establishing a contingent funding plan to collect additional resources, and performing stress testing that covers a wide range of scenarios that include the default of the Clearing Member Group that would generate the largest aggregate liquidity obligation in extreme but plausible market conditions. The proposed RMF would state that FRM also tests the sufficiency of its resources by forecasting daily settlement under normal and stressed market conditions and compares these results to the liquid resources maintained. The proposed RMF would state that FRM reports the results of these reviews to the Board. The new Liquidity section of the proposed RMF would replace the Liquidity Risk Management Framework section of the current RMF Policy and would summarize and refer to OCC's Liquidity Risk Management Framework as the governing document for managing OCC's liquidity risks while removing certain summary information that is more specifically addressed in the Liquidity Risk Management Framework.[25]

Settlement

The proposed RMF would add a new section specifically discussing settlement risk (which is currently addressed indirectly in the Operational Risk section of the RMF Policy). The proposed RMF would state that OCC's settlement risk is managed by Business Operations in accordance with Chapters V and IX of OCC's Rules. The proposed RMF would state that OCC uses clearing banks to facilitate settlements on at least a daily basis. The proposed RMF would state that OCC issues instructions to clearing banks to debit or credit the account of a Clearing Member, and correspondingly debit or credit OCC's account, with a specific dollar amount by a specified time. The proposed RMF would state that settlement finality occurs when a clearing bank confirms the settlement instruction or is silent past the applicable deadline.

Custody and Investment

The proposed RMF would state that OCC's custody and investment risk is managed by its Corporate Finance department, Business Operations, and FRM in accordance with OCC Rules 604 and 1002(b). The proposed RMF would state that OCC holds its own and its Clearing Members' assets at settlement and custodian banks, as well as at other financial market utilities. The proposed RMF would state that OCC requires settlement and custodian banks to meet minimum financial and operational requirements. The proposed RMF would state that OCC complies with applicable customer protection and segregation requirements for the handling of customer funds. The proposed RMF would state that OCC maintains working capital and non-invested Clearing Member cash in accounts that minimize delays in access to funds. The proposed RMF would state that OCC maintains accounts at the Federal Reserve to custody funds. The proposed RMF would state that OCC invests in instruments with minimal credit, market, and liquidity risks. The new Custody and Investment section of the proposed RMF would effectively replace the Investment Risk section of the RMF Policy, which also discusses OCC's use of Federal Reserve bank accounts and the investment of funds not held at the Federal Reserve.

General Business

The proposed RMF would state that OCC's general business risk is managed by Corporate Finance, Information Technology, Business Operations and Financial Risk Management. The proposed RMF would state that Corporate Finance performs financial planning and analysis, reviews operating budgets and fee structures, and reviews business performance. The proposed RMF would state that OCC maintains liquid net assets funded by equity sufficient to cover potential general business losses and comply with financial resource requirements in accordance with its confidential Capital

[20] *See, e.g.,* Exchange Act Release No. 82355 (Dec. 19, 2017), 82 FR 61058 (Dec. 26, 2017) (File No. SR–OCC–2017–007).

[21] *See, e.g.,* Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855 (Aug. 2, 2018) (File No. SR–OCC–2018–008).

[22] *See, e.g.,* Exchange Act Release No. 82311 (Dec. 13, 2017), 82 FR 60252 (Dec. 19, 2017) (File No. SR–OCC–2017–008).

[23] *See, e.g.,* Exchange Act Release No. 82310 (Dec. 13, 2017), 82 FR 60265 (Dec. 19, 2017) (File No. SR–OCC–2017–010).

[24] *See, e.g.,* Exchange Act Release No. 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (File No. SR–OCC–2020–014).

[25] *See, e.g.,* Exchange Act Release 89014 (June 4, 2020), 85 FR 35446 (June 10, 2020) (File No. SR–OCC–2020–003).

Management Policy.[26] Furthermore, the proposed RMF would state that Information Technology reviews OCC's ability to maintain its critical services under a range of scenarios, including adverse market conditions. The proposed RMF would state that Business Operations and Financial Risk Management also perform assessments to determine if potential new business opportunities fit within OCC's models and risk management systems. The new General Business section of the proposed RMF would replace the General Business Risk section (and in part, the Reputational Risk section) of the current RMF Policy, continue to refer to OCC's Capital Management Policy as the governing document for managing OCC's general business risks, and remove certain summary information that is more specifically addressed in OCC's Capital Management Policy.[27]

Technology

The proposed RMF would state that OCC's technology risk is managed by OCC's Information Technology. The proposed RMF would state that OCC uses technology solutions to manage risk and facilitate clearing and settlement by utilizing systems that have adequate levels of availability, security, resiliency, integrity, and adequate, scalable capacity based on their criticality. The proposed RMF would state that Information Technology manages technology risk by utilizing a structured technology delivery approach that provides for consistency and establishes responsibilities and requirements. The proposed RMF would state that Information Technology monitors and evaluates technology performance in part based on service levels related to data integrity, system availability, data timeliness, and data quality to manage technology risk. The proposed RMF would state that to achieve these service levels, Information Technology manages OCC's efforts across technology incidents, changes, configurations, system capacity, and evaluates system recoverability through disaster recovery testing. The Technology section of the proposed RMF, along with the Security section (discussed below), are intended to replace the Operational Risk—Information Technology section of the RMF Policy. These general details in the RMF would replace more specific information concerning OCC's quality standards program, cybersecurity program, and system functionality and capacity.[28]

Legal

The proposed RMF would state that OCC's legal risk is managed through efforts across OCC that are advised by OCC's Legal department (''Legal''). The proposed RMF would state that OCC manages its legal risk by establishing, implementing and enforcing written documents that are reasonably designed to provide a well-founded, clear, transparent, and enforceable legal basis for each aspect of OCC's activities in all relevant jurisdictions and comply with applicable legal and regulatory requirements. The proposed RMF would state that in order to manage legal risk across OCC, employees are required to consult with Legal on legal and regulatory matters, including but not limited to interpretation of laws and regulations applicable to OCC, including OCC's Rules and By-Laws, legal claims against OCC, government or regulatory requests or inspections, and matters that may be the subject of a proposed rule change filing. The Legal section of the proposed RMF would replace, in part, the Legal Risk section of the RMF Policy, including by replacing a specific sub-section discussing OCC's maintenance of contracts with more general requirements that OCC establish, implement, and enforce written documents, including legal agreements, and maintain documents that are reasonably designed to provide a well-founded, clear, transparent, and enforceable legal basis for each aspect of OCC's activities, which would include any contracts regarding the material aspects of OCC's clearing, settlement, and risk management activities as discussed in the RMF Policy.

Second Line of Defense

The proposed RMF would state that OCC's second line of defense includes compliance, corporate risk, third-party risk, model risk management, security, and business continuity. The proposed RMF would state that the second line has no operational authority or responsibility for the first line to prevent conflicts of interest. The proposed RMF would state that the second line provides objective analysis to identify potential enhancements and improvements to first line processes to help ensure compliance with applicable laws and regulations and prudent risk management. The proposed RMF would state that second line management reports to Board committees and has the authority to escalate information to the first line, Management Committee, and the Board. Additionally, the proposed RMF would state that second line management provides reports to the Board at least quarterly at its scheduled meetings.

Compliance

The proposed RMF would state that OCC's Compliance department (''Compliance'') oversees OCC's management of compliance risk by adhering to applicable rules and regulations, policies, procedures, processes, controls, and standards of conduct. The proposed RMF would state that Compliance manages compliance risk by establishing processes to prevent, detect, respond to, and report on compliance risk. The proposed RMF would state that Compliance supports and assesses the management of compliance risk through advising, monitoring, reporting, testing, and training activities and maintains mechanisms for reporting unethical or fraudulent behavior or misconduct. The Compliance section of the proposed RMF would replace the Regulatory Compliance section of the RMF Policy and reframe this section based on the Compliance department's role in helping OCC manage compliance risk.

Corporate Risk

The proposed RMF would state that Corporate Risk evaluates enterprise risk by identifying, measuring, monitoring, managing, reporting, and escalating risks to inform decision-making in accordance with the CRMP. The proposed RMF would state that Corporate Risk evaluates enterprise risk to provide an understanding of inherent and residual risks as compared against Board-approved levels.

Third-Party Risk

The proposed RMF would state that OCC's Third-Party Risk Management business unit evaluates risks posed to OCC by third parties by identifying, measuring, monitoring, managing, reporting, and escalating risks as described in the TPRMF. The proposed RMF would state that Third-Party Risk Management aggregates information about the risks presented by third parties based on their relationships to OCC. The new Third-Party Risk section of the proposed RMF would replace the Third-Party Monitoring Program section of the RMF Policy and remove certain

[26] *See, e.g.,* Exchange Act Release 88029 (Jan. 24, 2020), 85 FR 5500 (Jan. 30, 2020) (File No. SR–OCC–2019–007).

[27] *See id.*

[28] OCC intends to include a detailed discussion of these aspects of its operational risk management in a new Operational Risk Management Framework document, which is currently being finalized by OCC and will be filed with the Commission when it is complete.

details which are more comprehensively addressed in the TPRMF.[29]

Model Risk Management

The proposed RMF would state that Model Risk Management performs independent model validation, evaluates model parameters and assumptions, assesses mitigating factors, and provides effective and independent challenge throughout OCC's model lifecycle in accordance with its confidential Model Risk Management Policy. The proposed RMF would state that Models are governed and independently assessed and certified to determine adequate performance. The proposed RMF would state that this includes model testing and performance monitoring (*e.g.,* backtesting, sensitivity analysis). The new Model Risk Management section of the proposed RMF would replace the Model Risk section of the RMF Policy. This new section of the RMF would focus on Model Risk Management's role in helping OCC manage model risk and would remove certain details that are more comprehensively addressed in the Model Risk Management Policy.[30]

Security

The proposed RMF would include new rule text stating that OCC's Security department (''Security'') manages information, physical, and personnel security risk to safeguard the confidentiality, integrity, and availability of corporate information systems and data assets implemented and maintained by Information Technology. The proposed RMF would state that Security employs a risk-based methodology and controls to manage information governance, system resiliency, and cyber security. In addition, the proposed RMF would state that Security maintains policies and procedures that require appropriate protective controls and event detection via security monitoring. The proposed RMF would state that Security evaluates its processes and controls through internal and external testing, scanning for threats and vulnerabilities, and benchmarking against industry standards.

In addition, the proposed RMF would incorporate an existing portion of the RMF Policy concerning IT risk assessments conducted by Security prior to the procurement, development, installation and operation of IT services and systems, including the triggers that may change IT risks at OCC.[31] Cross-references found in the RMF Policy to procedures that outline IT risk assessments at a procedural level would be removed. OCC does not believe that identifying the underlying procedure is necessary for understanding the process at a policy level.

Business Continuity

The proposed RMF would state that Business Continuity maintains a business continuity program that establishes OCC's plan for maintaining backup and recovery capabilities that are sufficiently resilient and geographically diverse to address both internal and external events that could impact OCC's operations.[32]

Third Line of Defense

The proposed RMF would state that OCC's third line of defense consists of Internal Audit. Internal Audit is independent and reports directly to the Audit Committee of the Board (''Audit Committee'') to ensure this independence; the Audit Committee oversees the activities performed by Internal Audit in accordance with the Audit Committee Charter. The proposed RMF would state that Internal Audit has no responsibility for first- or second-line functions. The proposed RMF would state that Internal Audit designs, implements, and maintains an audit program that provides the Management Committee and Audit Committee independent and objective assurance related to the quality of OCC's risk management, governance, compliance, controls, and business processes in accordance with the confidential Internal Audit Policy. The proposed RMF would state that Internal Audit issues independent reports to the first and second line as well as the Audit Committee and Board. This section of the RMF would replace a discussion of the third line of defense in OCC's current RMF Policy and would remove certain details that are more comprehensively addressed in the Internal Audit Policy.[33]

Risk Management Practice

The RMF Policy currently contains a Risk Management Practice section that describes OCC's three lines of defense model and Enterprise Risk Assessment program. As discussed above, OCC would relocate the discussion of its three lines of defense model to the new RMF. In addition, OCC proposes to relocate the discussion of its Enterprise Risk Assessment program to the new CRMP. OCC also proposes to relocate the Risk Reporting section of the RMF Policy to the CRMP. Additionally, OCC would eliminate the specific Compliance Risk Assessment section of the RMF Policy.

Enterprise Risk Assessment and Scenario Analysis Program

The RMF Policy currently describes the Enterprise Risk Assessment process conducted by the first line and Corporate Risk. The RMF Policy provides that Enterprise Risk Assessments shall analyze Inherent Risk,[34] the quality of risk management, and Residual Risk [35] of the sub-categories of Key Risks and use analysis of Residual Risk in conjunction with metrics related to risk tolerances to develop a risk profile and determine whether a Key Risk is within its risk appetite. The RMF Policy also requires that Corporate Risk's analysis of Residual Risk be provided to the Management Committee and Board (or committee thereof) to inform them on the quantity of risk in a certain functional area or business area, and provide a mechanism to prioritize risk mitigation activities.

The proposed CRMP would revise this description to more accurately and completely describe the risk assessment, monitoring, and reporting processes conducted by Corporate Risk. The proposed CRMP would state that enterprise risk assessments are a quarterly activity where the control environment is evaluated to determine its effectiveness in preventing or mitigating inherent risks identified to arrive at a residual risk rating for each risk statement. The proposed CRMP would state that Corporate Risk (and not Compliance, as specified in the RMF Policy) maintains an inventory of all

[29] *See supra* note 24.

[30] *See, e.g.,* Exchange Act Release No. 82785 (Feb. 27, 2018), 83 FR 9345 (Mar. 5, 2018) (File No. SR–OCC–2017–011).

[31] This discussion would replace the IT Risk Assessment section of the current RMF Policy. OCC intends to include a detailed discussion of its IT risk assessment in a new Operational Risk Management Framework document, which is currently being finalized by OCC and will be filed with the Commission when it is complete.

[32] The Business Continuity section of the RMF would replace the Business Continuity Program section of the current RMF Policy. OCC intends to include a detailed discussion of its Business Continuity Program in a new Operational Risk Management Framework document, which is currently being finalized by OCC and will be filed with the Commission when it is complete.

[33] Such details include requirements related to the diversity and skills of Internal Audit personnel and the external standards of professionalism pursuant to which Internal Audit performs its functions.

[34] The RMF Policy defines ''Inherent Risk'' to mean the absolute level of risk exposure posed by a process or activity prior to the application of controls or other risk-mitigating factors.

[35] The RMF Policy defines ''Residual Risk'' to mean the level of risk exposure posed to a process or activity after the application of controls or other risk-mitigating factors.

business processes, risks, and associated controls in a database used by OCC to manage Enterprise Governance, Risk and Compliance. The CRMP would state that Corporate Risk uses data from a variety of sources (*e.g.,* risk events, Internal Audit findings, security risk assessments and observations, third-party observations, control design assessments, management control self-testing results, and business impact analyses) to rate the impact and likelihood of a risk and assess the quality of the control environment. The proposed CRMP would state that enterprise risk assessments are conducted through workshops across the first and second lines of defense and are supplemented by including information from emerging risk surveys (top-down), process-based risk assessments (bottom-up), and enterprise technology assessments. The proposed CRMP would state that quarterly, the results of the enterprise risk assessment (the levels of residual risk) are aggregated and provided to the CRO for approval and presented to the Management Committee and Board by the CRO. The CRMP would also elaborate on the use of residual risk, risk tolerances, and risk ratings and associated reporting as discussed in the Risk Governance section of the proposed CRMP and would also provide details on Corporate Risk's risk monitoring and risk treatment activities in new sections of the CRMP (as discussed further below).

The RMF Policy also describes OCC's Scenario Analysis Program, which is an industry-standard method of identifying operational risks that may not be otherwise captured by the Enterprise Risk Assessment program. Pursuant to the RMF Policy, Corporate Risk and the first line design simulations of potential business disruptions, and business unit staff shall use such simulations to identify risks that may not have been previously uncovered or identify weaknesses in current controls. Corporate Risk includes the potential risks identified through the Scenario Analysis Program in its analysis of, and reporting on, the quantity of risk within a certain Key Risk and whether the Key Risk is within its risk appetite.

OCC proposes to relocate the discussion of its Scenario Analysis Program to the CRMP with revisions designed to more accurately and completely describe the scenario analysis process. The proposed CRMP would state that operational scenario analysis is the process of leveraging OCC subject matter expertise to identify potential operational risks and assess the potential outcomes of stressed operations. The proposed CRMP would state that operational scenarios consider both internal and external scenarios that may impact OCC's ability to perform its clearance, settlement and risk management services. The proposed CRMP would state that Corporate Risk, through workshops with the first and second lines of defense, designs operational scenarios utilizing available information (*e.g.,* annual top-risk survey conducted by Corporate Risk, Management Committee recommendation, enterprise risk assessments). The proposed CRMP would state that the workshops are designed to identify risks that may not have been previously uncovered or weaknesses in current controls. The proposed CRMP would state that operational scenarios are used to assess the potential that future extreme but plausible business disruptions may impact OCC's clearance, settlement and risk management services and are inputs in OCC's target capital requirements and recovery and wind-down planning. The proposed CRMP would state that Risk Owners use scenarios to identify new and existing risks and identify weaknesses in current controls. The proposed CRMP would state that Corporate Risk includes potential risks identified through operational scenario analysis when analyzing and reporting across risk categories and sub-categories.

Risk Reporting

The proposed CRMP would contain a revised Risk Reporting section. The proposed CRMP would state that risk reporting provides a view of OCC's risks to facilitate risk management and inform decision-making. The proposed CRMP would state that Corporate Risk reports risks based on its risk identification, measurement, and monitoring activities to assist in the understanding of the risks OCC faces and whether these risks are being managed within OCC's risk tolerances and appetites. The proposed CRMP would state that quarterly, the CRO reports risks (*e.g.,* risk appetite or risk tolerance breaches, material operational risk events, summary of risk acceptances, and risk mitigation) to the Management Committee, Board, and relevant Board committees.

Compliance Risk Assessment

OCC proposes to remove a section of the RMF Policy specifically dedicated to the Compliance Risk Assessment program. This section currently provides a brief discussion of the Compliance department's program used to identify and measure the risks faced by OCC regarding regulatory compliance and prioritize the testing and training activities associated with such risks. OCC believes this section is appropriately addressed in the Compliance section of the proposed RMF (discussed in detail above), which provides that Compliance manages compliance risk by establishing processes to prevent, detect, respond to, and report on compliance risk and assesses the management of compliance risk through advising, monitoring, reporting, testing, and training activities and maintains mechanisms for reporting unethical or fraudulent behavior or misconduct. This would include the activities performed by Compliance in the Compliance Risk Assessment program.

Control Activities

OCC proposes to eliminate the Control Activities section of the RMF Policy, which describes certain activities performed by OCC's Compliance department relating to the maintenance of business process and control inventories and annual training of OCC staff. This would be replaced by more general descriptions of Compliance's responsibilities under the proposed RMF. As discussed above, the RMF would more generally describe the department's responsibilities for the management of compliance risk, including by: (i) establishing processes to prevent, detect, respond to, and report on compliance risk; (ii) assessing the management of compliance risk through advising, monitoring, reporting, testing, and training activities; and (iii) maintaining mechanisms for reporting unethical or fraudulent behavior or misconduct. Additionally, as noted above, the proposed CRMP would transfer responsibility for maintaining OCC's inventory of all business processes, risks, and associated controls from Compliance to Corporate Risk.

Policy Exceptions and Violations

OCC proposes to replace the Policy Exceptions and Violations sections in the current RMF Policy with a new Risk Acceptances and Deviations section in the RMF. The RMF would require that risk acceptances,[36] including exceptions to OCC's risk management frameworks and policies, shall be escalated to Corporate Risk in accordance with the CRMP. In addition, the RMF would

[36] As discussed in more detail below with respect to the proposed Risk Treatment section of the CRMP, acceptance is a risk treatment method that may be used to acknowledge when the cost or complexity of avoiding, mitigating, or transferring the risk exceeds the potential impact (*e.g.,* OCC accepts a risk temporarily and implements short-term mitigants, knowing that a long-term solution is planned).

require that deviations from OCC's risk management frameworks and policies shall be escalated to Compliance in accordance with the Policy Governance Policy (''PGP'').[37] By including this generally applicable provision in the RMF, OCC would no longer include this information in each individual policy and procedure. Policy exceptions would continue to be escalated as part of OCC's risk acceptance process and policy violations would be escalated as part of OCC's PGP document deviation risk event process. The proposed change would allow OCC to remain consistent with this practice in its policies and procedures without requiring each to have its own individual Policy Exceptions and Violations sections that would need to be updated as OCC's process for escalating exceptions and deviations develops and matures.

Other Deleted Sections of the RMF Policy

Project Management, Budgeting, and Training Changes

OCC proposes to delete from its rules certain sections of the RMF Policy related to project management, corporate planning and budgeting, and Human Resources and Compliance Training and Policies. OCC believes that these sections deal with policies and practices that are administrative in nature and do not constitute material aspects of the operation of the facilities of OCC.[38] OCC would not maintain these details in the RMF or CRMP; however, OCC would continue to maintain and update these details when necessary in other internal policies, procedures, or OCC documentation maintained for such purposes.

Risk Universe

Finally, OCC proposes to remove the RMF Policy's Appendix: OCC's Key Risks with CCA, PFMI, and Reg SCI Mapping. The proposed CRMP would require that Corporate Risk continue to maintain the risk universe, and OCC has included its risk categories in Section II of the proposed RMF but proposes that the additional detailed documentation and mapping be maintained internally by Corporate Risk. OCC believes it may need to update the mapping and risks, as well as how OCC defines them, dynamically based on business and market factors. OCC believes by following the governance outlined in the proposed CRMP, proper scrutiny will be given to any revisions to this information. Moreover, OCC believes that the policies and processes maintained by OCC to establish, maintain, review and update its risk universe, which reflects the universe of risks that OCC must monitor and manage, constitute material aspects of the operation of the facilities of OCC, but the risk universe itself is the output of those processes and simply lists those risks that OCC has identified pursuant to the requirements of the RMF Policy (and the proposed CRMP).

New Sections in the RMF and CRMP

OCC proposes to add new sections to its RMF and CRMP to describe certain aspects of its risk management framework and approach to enterprise risk management, which are discussed in detail below.

RMF: Recovery and Orderly Wind-Down Plan

The proposed RMF would include a new section discussing OCC's Recovery and Orderly Wind-Down Plan. The proposed RMF would state that in the event of extreme financial, operational, or general business stress, Corporate Risk maintains a confidential Recovery and Orderly Wind-Down Plan which details the departments responsible for executing the plan. The proposed RMF would state that OCC employs a set of recovery tools in the event of severe financial, operational, or general business stress, to continue to provide critical clearing and settlement services. The proposed RMF would state that should OCC's recovery efforts be unsuccessful or if, based on facts and circumstances, it is determined that its recovery tools would be insufficient, OCC has a wind-down plan that provides for the orderly resolution of the firm.

CRMP: Risk Monitoring

The CRMP would introduce a new section to describe Corporate Risk's Risk Monitoring process, including key risk indicator monitoring and operational risk even monitoring. The proposed CRMP would state that Corporate Risk and Risk Owners monitor internal and external risks to determine whether OCC's risk management practices continue to operate effectively. The proposed CRMP would state that the information gathered during this monitoring is used to inform enterprise risk assessments.

Key Risk Indicator Monitoring

The proposed CRMP would state that key risk indicators (''KRIs'') are qualitative or quantitative metrics designed to identify changes to risks. The proposed CRMP would state that Corporate Risk and Risk Owners utilize KRIs to measure and monitor levels of risk against risk appetite and risk tolerances. The proposed CRMP would state that KRIs are established at a risk sub-category level. KRIs include three thresholds: green, amber, and red. The proposed CRMP would state that green indicates a low risk of breaching tolerance, amber indicates a moderate risk of breaching tolerance, and red indicates a breach of tolerance. The proposed CRMP would state that amber and red thresholds are points of escalation to the CRO, Management Committee, and the Board.

The proposed CRMP would state that Risk Owners, in collaboration with Corporate Risk, develop KRIs by considering business (*e.g.,* process and controls) and regulatory requirements. The proposed CRMP would state that Corporate Risk facilitates identifying, modifying, and reviewing KRIs with a designated Management Committee member, including defining and reviewing the risk tolerance and risk thresholds for the KRI. The proposed CRMP would state that KRIs that breach the red threshold result in the development and execution of risk treatment plans by Risk Owners. The proposed CRMP would state that Corporate Risk reports against red, amber, and green thresholds to the CRO and Management Committee on a quarterly basis and to the Board at each regularly scheduled meeting.

Operational Risk Event Monitoring

The proposed CRMP would state that an operational risk event is an event which results in a financial loss or an adverse impact to OCC or its ability to deliver its services. The proposed CRMP would state that such events arise from

[37] OCC proposes to use the term ''deviation'' rather than ''violation'' as found in the current RMF Policy to align with the terminology used in the PGP.

[38] Section 19(b)(1) of the Exchange Act requires a self-regulatory organization (''SRO'') such as OCC to file with the Commission any proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO. *See* 15 U.S.C. 78s(b)(1). Section 3(a)(27) of the Exchange Act defines ''rules of a clearing agency'' to mean its (1) constitution, (2) articles of incorporation, (3) bylaws, (4) rules, (5) instruments corresponding to the foregoing and (6) such ''stated policies, practices and interpretations'' (''SPPI'') as the Commission may determine by rule. *See* 15 U.S.C. 78c(a)(27). Exchange Act Rule 19b–4(a)(6) defines the term ''SPPI'' to include (i) any material aspect of the operation of the facilities of an SRO and (ii) statements made generally available to membership of, to all participants in, or to persons having or seeking access to facilities of an SRO that establishes or changes certain standards, limits, or guidelines. *See* 17 CFR 240.19b–4(a)(6). Rule 19b–4(c) provides, however, that an SPPI may not be deemed to be a proposed rule change if it is: (i) reasonably and fairly implied by an existing rule of the SRO or (ii) concerned solely with the administration of the SRO and is not an SPPI with respect to the meaning, administration, or enforcement of an existing rule the SRO. *See* 17 CFR 240.19b–4(c).

failed or inadequate internal processes, people, systems, or exposure to external events. The proposed CRMP would state that Risk Owners are responsible for identifying, assessing, and escalating operational risk events. The proposed CRMP would provide that Corporate Risk is responsible for ensuring that material operational risk events, as well as identified trends, are reported to the CRO and Management Committee on a quarterly basis and to the Board at each regularly scheduled meeting. The proposed CRMP would state that Risk Owners perform root cause analysis and enhance or develop processes that would reduce the impact or likelihood of similar events occurring in the future. The proposed CRMP would state that Risk Owners are responsible for escalating operational risk events causing serious and extended disruptions in production operations. The proposed CRMP would state that risk events that have a major or extreme impact to OCC's ability to perform its clearance, settlement and risk management services are immediately reported to the Management Committee and Board.

CRMP: Risk Treatment

The CRMP would introduce a new section to describe OCC's risk treatment process, which is the process by which Risk Owners manage risk exposures by utilizing risk treatment methods to remain within risk appetites and tolerances. The proposed CRMP would state that risk treatment methods are implemented by Risk Owners and include the decision to mitigate, avoid, transfer, or accept an identified risk. The proposed CRMP would state that mitigation is a risk treatment method where controls including policies, procedures, processes, and systems can be implemented to manage a risk within established risk appetites and tolerances (*e.g.,* OCC creates a procedure to document a process including implementing controls to mitigate a risk).

The proposed CRMP would state that avoidance is a risk treatment method that may be used when controls are ineffective at preventing or mitigating a risk within approved risk appetites or tolerances (*e.g.,* OCC does not onboard a clearing member due to poor financial health). The proposed CRMP would state that transference is a risk treatment method where risks are moved to a third-party usually through the purchase of insurance (*e.g.,* fraud, general liability, and employment insurance). Insurance covered would be coordinated by the Corporate Finance team, with involvement from other first and second line stakeholders, and subject to review by the Management Committee and the Board.

The proposed CRMP would state that acceptance is a risk treatment method that may be used to acknowledge when the cost or complexity of avoiding, mitigating, or transferring the risk exceeds the potential impact (*e.g.,* OCC accepts a risk temporarily and implements short-term mitigants, knowing that a long-term solution is planned). The proposed CRMP would state that Corporate Risk evaluates risk acceptances submitted by Risk Owners. The proposed CRMP would state that any risks presented for acceptance that are outside of risk appetite or risk tolerance must be approved by the Management Committee annually. The proposed CRMP would state that Corporate Risk reports on risks accepted above approved risk appetite or risk tolerance to the CRO, Management Committee, and Board.

CRMP: Risk Escalation, and Training

The proposed CRMP would also describe Corporate Risk's process for escalating risks to the CRO, Management Committee, and Board and training employees about risk to support risk management and decision-making.

Escalation

The proposed CRMP would state that OCC employees are responsible for escalating risks through timely identification and reporting. The proposed CRMP would state that in accordance with OCC's Employee Handbook and Policy Governance Policy, OCC employees are expected to escalate risks through their reporting line, OCC's internal working groups, or to the Management Committee. The proposed CRMP would state that quarterly, Corporate Risk, through the CRO, escalates breaches of risk appetites and risk tolerances to the Management Committee, Board, and relevant Board committees. The proposed CRMP would state that escalation occurs (i) consistent with obligations established in the Management Committee Charter, Board Charter, Board Committee Charters, policies, and procedures, or (ii) anytime through the CRO directly to the Board.

Training

The proposed CRMP would state that OCC employees are trained to promote a culture of risk and control awareness. The proposed CRMP would state that Corporate Risk collaborates with other OCC departments to create and disseminate training to enable accountability, empower decision-making, promote risk awareness, and detail escalation. The proposed CRMP would state that this training promotes awareness of OCC's regulatory requirements, policies, procedures, processes, controls, and standards of conduct.

Conforming Changes to OCC Risk Policies

Finally, OCC proposes to update other OCC Risk Policies to be consistent with the proposed RMF. Specifically, OCC would update references to the RMF Policy, including the summary of the RMF Policy in the Recovery and Orderly Wind-Down Plan, to refer to the RMF and CRMP. References to the ''Enterprise Risk Management'' department or ''ERM'' would be changed to ''Corporate Risk Management'' or ''Corporate Risk'' to reflect that department's name. In the case of the Collateral Risk Management Policy, OCC would delete reference to the Enterprise Risk Management Policy's annual review of concentration limits because that review is conducted by the Model Risk Management, which is part of Corporate Risk. The OCC Risk Policies would be further conformed to reflect that what was formerly referred to as OCC's Model Validation Group is now referred to as Model Risk Management. OCC would also remove the Policy Exceptions and Violations sections of the applicable OCC Risk Policies as the exception and violation processes for all of the OCC Risk Policies would be covered by the new Risk Acceptances and Deviations section of the proposed RMF (as discussed above).

OCC also propose to make administrative updates to cross-references to other internal OCC policies and procedures and other administrative changes arising from OCC's annual review of its risk management frameworks and procedures. Specifically, OCC would also revise the TPRMF to:

- include General Business Risk as a type of risk that may be presented by third-party relationships;
- Revise the introduction of the on-boarding and off-boarding monitoring of counterparties with multiple relationships with OCC to reference the respective procedures and work groups in the Third-Party Relationship Management section, which as evident from the existing TPRMF is not limited to monitoring by the Credit and Liquidity Risk Working Group, as that current introduction suggests;
- Delete reference to specific OCC Rules in favor of reference to Chapters of OCC's Rulebook because the specific Rules currently identified are not a

complete list of those in the identified Chapters that give OCC authority to act to protect OCC from exposure presented by a Clearing Member.

Make other administrative changes to business unit names

(2) Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act [39] and Rule 17Ad–22(e)(3). Section 17A(b)(3)(F) of the Act [40] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest. Rule 17Ad–22(e)(3)(i) [41] requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually. For the reasons addressed below, OCC believe the proposed changes are consistent with these requirements.

Consistency With Section 17A(b)(3)(F) of the Exchange Act

The proposed RMF and associated policies, including the CRMP, would be the foundation for a risk management framework designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in the OCC's custody or control, and in general, protect investors and the public interest. Risk management is the means by which OCC guards against disruption to OCC's clearance and settlement services and loss of financial resources necessary to maintain OCC as a going concern or in OCC's custody or control to address member defaults and liquidity shortfalls. As a clearing agency that has been designated a systemically important financial market utility by the Federal Stability Oversight Counsel, such disruption or losses may present systemic risks to the markets OCC serves, OCC's Clearing Members, and other market participants, including investors, thereby harming the public interest.

As described above, the proposed RMF would be designed to provide a foundation to support the risk management policies, procedures, and systems that make up OCC's sound risk management framework. The proposed RMF would describe OCC's overall framework for comprehensive risk management, including OCC's framework to identify, measure, monitor and manage the risks faced by OCC in the provision of clearing, settlement and risk management services. The proposed RMF would provide the context for OCC's risk management framework, identify OCC's risk categories, describe the governance arrangements that implement risk management, and describe OCC's program for risk management, including the three lines of defense structure. In addition, the proposed CRMP would support the proposed RMF by explaining OCC's risk management activities related to enterprise risk. These changes are not meant to significantly alter OCC's approach to risk management, but rather to present OCC's approach to enterprise risk in a standalone policy, similar to OCC's approach with OCC's risk management. OCC believes that more clearly delineating its overall approach to risk management and its approach to enterprise risk through two separate policies helps support risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody, and in general, protect investors and the public interest. Accordingly, OCC believes that establishing the RMF and CRMP is consistent with Section 17A(b)(3)(F) of the Act.[42]

The proposed RMF and CRMP would also make a number of substantive changes to OCC's rules beyond the reorganization and restatement of existing OCC rules. Consistency of these changes with Section 17A(b)(3)(F) of the Act [43] are discussed below.

RMF Policy: Purpose Section

The purpose section of the RMF Policy would be revised to reflect the reorganization of content in the RMF Policy in the new RMF and CRMP, focusing on the purpose and intent of each of the newly proposed documents. The proposed change is designed to clearly explain the purpose of the proposed RMF and CRMP and their place in OCC's overall framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne. OCC believes that providing this enhanced clarity in two of its key risk management policies would strengthen risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[44]

RMF Policy: Context for Risk Management Framework and Risk Management Philosophy

OCC would delete the Context for Risk Management Framework and Risk Management Philosophy sections of the RMF Policy from the proposed RMF. These sections provide history and background information about OCC and its purpose in the financial market, but do not contain rules of OCC. Additionally, the information presented in the Risk Management Philosophy section serves as an additional purpose section and all items highlighted in this section are covered in the proposed RMF and CRMP. OCC believes that removing this extraneous information would enhance the clarity of these risk policies by focusing on the rules governing OCC's overall risk framework and corporate risk management program and would strengthen risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that revising the purposes changes are consistent with Section 17A(b)(3)(F) of the Act.[45]

RMF Policy: Risk Appetite Framework and Tolerance

OCC proposes to make certain modifications to the description of its risk appetite framework, including descriptions of OCC's use of a risk universe, risk appetites and risk tolerances, in the new CRMP. As

[39] 15 U.S.C. 78q–1.

[40] 15 U.S.C. 78q–1(b)(3)(F).

[41] 17 CFR 240.17Ad–22(e)(3)(i).

[42] 15 U.S.C. 78q–1(b)(3)(F).

[43] *Id.*

[44] 15 U.S.C. 78q–1(b)(3)(F).

[45] 15 U.S.C. 78q–1(b)(3)(F).

described above, the proposed CRMP would revise certain terminology in OCC's risk universe, such as organizing the universe into ''risk categories,'' ''risk sub-categories,'' and ''risk statements'' to effectively represent the Key Risks, Sub-categories, and Definitions that are discussed in the current RMF Policy. OCC would also modify certain governance requirements for the risk universe. Under the current RMF, Key Risks are approved by OCC's Board and risk appetites for Key Risks are set by the business departments responsible for those risk in cooperation with Corporate Risk. Under the proposed CRMP, the risk universe would be owned and approved by OCC's CRO and provided to the Management Committee and Board. The Board or the Risk Committee would ultimately be responsible for approving risk appetites and would continue to approve risk tolerances. The proposed CRMP would also provide additional details around the internal governance process for reviewing and approving risk categories, appetites, and tolerances and for monitoring risk tolerances. OCC would also remove the more general risk appetite statement definitions (*i.e.,* no appetite, low appetite, moderate appetite, and high appetite), which are currently described in the RMF Policy, enabling OCC to use more detailed, qualitative risk appetite statements for each risk sub-category following the governance processes described above. In addition, OCC would change the cadence of risk reporting, including risk tolerance breaches, to align with the timing of OCC's regular Board meetings. The proposed CRMP would also introduce the concept of risk rating scales, which provide an assessment of risk from an impact and likelihood perspective consistently across OCC and would be used to measure inherent and residual risk at a risk statement level.

OCC believes the proposed CRMP would provide a more comprehensive overview of the governance of OCC's risk universe and enhance certain processes therein. The proposed CRMP would provide additional details around the internal governance process for reviewing and approving risk categories, appetites, and tolerances and for monitoring risk tolerances and improve the governance process for the risk universe by allowing the CRO to modify risk categories as needed, with oversight of Management Committee and Board, and provide the Board or Risk Committee with more direct responsibility for setting the appetites for those risk. For these reasons, OCC believes the proposed changes would strengthen risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[46]

RMF Policy: Risk Management Governance

OCC proposes to modify certain descriptions of its risk management governance arrangements in the new RMF. For example, OCC would update and streamline the description of the responsibilities of its Board as they are generally already addressed in the Board Charter.[47] OCC also proposes to update the description of the responsibilities of the Management Committee, which primarily relates to the committee's role and responsibilities in reviewing and recommending changes to OCC's risk universe, as this would not be addressed in the proposed CRMP (as discussed above). OCC would also update the discussion of working groups and their responsibilities and include a description of the responsibilities of and development opportunities for OCC employees. OCC believes the proposed changes would improve OCC's risk framework by presenting a more concise, clear, and transparent description of OCC's risk management governance and thereby promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[48]

RMF Policy: Identification of Key Risks

OCC proposes to replace the Identification of Key Risks section of the RMF Policy, which provides a brief description of OCC's policies and procedures for managing each of those Key Risk and their respective Risk Sub-Categories, with a new OCC Risk Management section of the proposed RMF. The proposed RMF would reorganize the focus of this description to align with the three lines of defense model currently described in the RMF Policy and describe the types of risks managed by each line of defense. The new OCC Risk Management section of the RMF would: (i) restate existing content of the RMF; (ii) introduce new content not currently contained in OCC's RMF Policy; and (iii) delete certain aspects of the RMF Policy. The proposed RMF would continue to refer to the same rules and OCC Risk Policies currently maintained by OCC (and described in the RMF) to address such risks and which are currently filed with the Commission as rules of OCC.[49]

OCC also proposes to remove certain details concerning its management of operational risk (*e.g.,* quality standards program, cybersecurity program, system functionality and capacity, and business continuity program) as these aspects of its operational risk management would be contained in a new Operational Risk Management Framework document, which is currently being finalized by OCC, and will contain a more detailed and comprehensive overview of OCC's framework for managing operational risk.

OCC believes these proposed changes would present a comprehensive, clear, and transparent description of the key risks faced by OCC and the assignment of responsibility for managing such risk, thereby strengthening risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[50]

RMF Policy: Risk Management Practice

OCC proposes to relocate the discussion of its enterprise risk assessments, scenario analysis program, and risk reporting process to the new CRMP. As discussed above, the proposed CRMP is designed to more accurately and completely describe the risk assessment, monitoring, and reporting processes conducted by Corporate Risk. Additionally, OCC would eliminate the specific IT Risk Assessment section of the RMF Policy, as these details would be more appropriately addressed in the forthcoming Operational Risk Management Framework document, and would also remove the Compliance Risk Assessment section of the RMF Policy because this information is appropriately covered in the Compliance section of the proposed

[46] 15 U.S.C. 78q–1(b)(3)(F).

[47] *See supra* notes 16 and 17.

[48] 15 U.S.C. 78q–1(b)(3)(F).

[49] *See supra* notes 20–26 and associated text.

[50] 15 U.S.C. 78q–1(b)(3)(F).

RMF. OCC believes the proposed changes would result in an improved description of Corporate Risk's risk assessment, scenario analysis, and risk reporting responsibilities and thereby strengthen risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[51]

RMF Policy: Control Activities

OCC proposes to replace the Control Activities section of the RMF Policy with more general and broader descriptions of Compliance's responsibilities in the proposed RMF. In addition, under the proposed CRMP, responsibility for maintaining OCC's inventory of all business processes, risks, and associated controls would move from Compliance to Corporate Risk. As such, Corporate Risk would be responsible for reviewing the design of controls. Compliance would continue to perform design testing. OCC believes that assigning responsibility for reviewing control design to Corporate Risk is appropriate given its responsibilities in the enterprise risk assessment process, as part of which Corporate Risk leads quarterly workshops that assess the likelihood and impact of risks by reviewing data from across OCC, including risk events, Internal Audit findings, security risk assessments and observations, third-party observations, control design assessments, management control self-testing results, and business impact analyses, supplemented by information from emerging risk surveys (top-down), process-based risk assessments (bottom-up), and enterprise technology assessments. This enterprise risk assessment process affords Corporate Risk a holistic view of risk and controls, which OCC believes puts Corporate Risk in a unique position to review and improve control design with respect to controls intended to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[52]

RMF Policy: Exceptions and Violations

OCC proposes to replace the individual Policy Exceptions and Violations sections in the current RMF Policy and other OCC Risk Policies with a new Risk Acceptances and Deviations section in the RMF. The proposed change would provide for a single framework for risk acceptances, exceptions, deviations, and the escalation of deviations across OCC's filed policies rather than requiring each policy to have its own individual Policy Exceptions and Violations sections, which may over time become inconsistent as policies are updated at different times. Such inconsistency could create confusion about escalation obligations and procedures, which could in turn lead to failure to escalate issues appropriately. Accordingly, OCC believes that improving the documentation for its escalation process would strengthen risk management processes designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[53]

New Sections in Proposed RMF and CRMP

OCC proposes to add new sections to the proposed RMF and CRMP to provide additional details concerning its overall framework for managing risk and its approach to enterprise risk management. For example, the proposed RMF would include a new section discussing OCC's Recovery and Orderly Wind-Down Plan. In addition, the CRMP would introduce a new section to describe Corporate Risk's Risk Monitoring process, including key risk indicator monitoring and operational risk even monitoring. The CRMP would also introduce a new section to describe OCC's risk treatment process, which is the process by which Risk Owners manage risk exposures by utilizing risk treatment methods to remain within risk appetites and tolerances. Additionally, the proposed CRMP would also describe Corporate Risk's process for escalating risks to the CRO, Management Committee, and Board and training employees about risk to support risk management and decision-making. The proposed changes would provide a more comprehensive and transparent discussion of OCC's overall framework for managing risk and its approach to enterprise risk management. OCC believes the proposed enhancements to its risk management documentation would serve to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible, and in general, protect investors and the public interest. Accordingly, OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[54]

For the reasons set forth above, OCC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Act.[55]

Consistency With Rule 17Ad–22 Under the Exchange Act

OCC believes that the proposed rule change is generally consistent with Rule 17Ad–22(e)(3)(i)[56] because the proposed RMF would describe OCC's comprehensive framework for identifying, measuring, monitoring and managing the risks that arise within OCC or are borne by it, including legal, credit, liquidity, operational, general business, investment and custody risk. Moreover, the proposed CRMP would explain that Corporate Risk evaluates risks that may affect OCC's ability to perform the services detailed in the proposed RMF. The proposed RMF would explain how OCC employs established practices, such as the three lines of defense model for enterprise-wide risk management, to ensure that OCC maintains and operates a resilient, effective and reliable risk management and internal control infrastructure that assures risk management and processing outcomes expected by OCC stakeholders. The proposed CRMP would describe how OCC's second line of defense monitors the risks that arise in or are borne by OCC through a variety of risk assessment, risk reporting, evaluation and internal control management activities, consistent with the requirements of Rule 17Ad–22(e)(3)(i).[57]

The proposed CRMP would describe OCC's use of risk appetites and risk tolerances to evaluate OCC's risks across

[51] 15 U.S.C. 78q–1(b)(3)(F).

[52] 15 U.S.C. 78q–1(b)(3)(F).

[53] 15 U.S.C. 78q–1(b)(3)(F).

[54] 15 U.S.C. 78q–1(b)(3)(F).

[55] 15 U.S.C. 78q–1(b)(3)(F).

[56] *Id.*

[57] *Id.*

its risk universe to ensure that OCC sets appropriate levels and types risk that OCC is willing and able to assume in accordance with OCC's mission as a systemically important financial market utility. For example, the use of risk appetites allows OCC to carefully calibrate the levels of risk it accepts in a manner consistent with OCC's core mission of promoting financial stability in the markets it serves. In addition, the use of risk tolerances helps to inform whether risks are within Board-approved risk appetites. As a result, OCC believes the proposed RMF, as supported by the CRMP, is reasonably designed to provide for a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3)(i).[58]

RMF Policy: Risk Appetite Framework and Tolerance

As described herein, OCC proposes to make certain modifications to the description of its risk appetite framework, including descriptions of OCC's use of a risk universe, risk appetites and risk tolerances and the governance process for maintain the risk universe, in the proposed CRMP. The proposed CRMP would also introduce the concept of risk rating scales, which provide an assessment of risk from an impact and likelihood perspective consistently across OCC and would be used to measure inherent and residual risk at a risk statement level. OCC believes the proposed CRMP would provide a more comprehensive overview of the governance of OCC's risk universe and enhance certain processes therein. The proposed CRMP would also provide additional details around the internal governance process for reviewing and approving risk categories, appetites, and tolerances and for monitoring risk tolerances and improve the governance process for the risk universe by allowing the CRO to modify risk categories as needed, with oversight of Management Committee and Board, and provide the Board or Risk Committee with more direct responsibility for setting the appetites for those risk. OCC believes the propose changes are reasonably designed to provide for a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3)(i).[59]

RMF Policy: Risk Management Governance

Rules 17Ad–22(e)(2)(i) and (ii)[60] require that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that (i) are clear and transparent and (ii) clearly prioritize the safety and efficiency of the covered clearing agency. As discussed above, OCC proposes to modify certain descriptions of its risk management governance arrangements in the new RMF, including the roles and responsibilities of the Board, Management Committee, and OCC's internal working groups. OCC believes the proposed changes would improve OCC's risk framework by presenting a more clear, concise, and transparent description of OCC's governance arrangements as they relate to the management of risk within OCC. As a result, OCC believes the proposed changes are reasonably designed to provide for governance arrangements that (i) are clear and transparent and (ii) clearly prioritize the safety and efficiency of the covered clearing agency in accordance with Rules 17Ad–22(e)(2)(i) and (ii).[61]

RMF Policy: Identification of Key Risks

As described above, OCC proposes to replace the Identification of Key Risks section of the RMF Policy with a new OCC Risk Management section of the proposed RMF. The proposed RMF would reorganize the focus of this description to align with the three lines of defense model currently described in the RMF Policy and describe the types of risks managed by each line of defense. As described herein, the new OCC Risk Management section of the RMF would: (i) restate existing content of the RMF; (ii) introduce new content not currently contained in OCC's RMF Policy; and (iii) delete certain aspects of the RMF Policy. The proposed RMF would continue to refer to the same rules and OCC Risk Policies currently maintained by OCC (and described in the RMF) to address such risks and which are currently filed with the Commission as rules of OCC.[62] OCC believes the proposed changes would present a more comprehensive, clear, and transparent description of the key risks faced by OCC and the assignment of responsibility for managing such risks. As a result, OCC believes the proposed RMF, as supported by the CRMP, is reasonably designed to provide for a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3)(i).[63]

RMF Policy: Risk Management Practice

OCC proposes to relocate the discussion of its enterprise risk assessments, scenario analysis program, and risk reporting process to the new CRMP. As discussed above, the proposed CRMP is designed to more accurately and completely describe the risk assessment, monitoring, and reporting processes conducted by Corporate Risk. OCC believes the proposed changes would result in an improved description of Corporate Risk's risk assessment, scenario analysis, and risk reporting responsibilities and is therefore reasonably designed to support a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3)(i).[64]

RMF Policy: Exceptions and Violations

OCC proposes to replace the individual Policy Exceptions and Violations sections in the current RMF Policy and other OCC Risk Policies with a new Risk Acceptances and Deviations section in the RMF. The proposed change would provide for a single framework for risk acceptances and deviations, and the escalation of deviations across OCC's filed policies rather than requiring each policy to have its own individual Policy Exceptions and Violations sections, which may over time become inconsistent as OCC's individual risk policies evolve. This single framework would help to avoid ambiguities or confusion about escalation obligations or procedures that might otherwise arise if changes to such procedures were not applied consistently. The change would also reduce the administrative burden of having to update each document within OCC's universe of policies and procedures as OCC's process for escalating risk acceptance and deviations from those policies and procedures matures over time. OCC believes that improving the documentation for its escalation processes is reasonably designed to support its comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a

[58] *Id.*

[59] *Id.*

[60] 17 CFR 240.17Ad–22(e)(2)(i) and (ii).

[61] *Id.*

[62] *See supra* notes 20–26 and associated text.

[63] 17 CFR 240.17Ad–22(e)(3)(i).

[64] *Id.*

manner consistent with Rule 17Ad–22(e)(3)(i).[65]

New Sections in Proposed RMF and CRMP

OCC proposes to add new sections to the proposed RMF and CRMP to provide additional details concerning its overall framework for managing risk and its approach to enterprise risk management. For example, the proposed RMF would include a new section discussing OCC's Recovery and Orderly Wind-Down Plan[66] and introduce a new section to describe Corporate Risk's Risk Monitoring process, including key risk indicator monitoring and operational risk even monitoring. The CRMP would also introduce a new section to describe OCC's risk treatment process and would also describe Corporate Risk's process for escalating risks to the CRO, Management Committee, and Board and training employees about risk to support risk management and decision-making. The proposed changes would provide a more comprehensive and transparent discussion of OCC's overall framework for managing risk and its approach to enterprise risk management. OCC believes the proposed changes are therefore reasonably designed to provide for a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3)(i).[67]

Consistency With Section 19(b) of the Exchange Act

Section 19(b)(1) of the Act[68] and Rule 19b–4[69] thereunder set forth the requirements for SRO proposed rule changes, including the regulatory filing requirements for ''stated policies, practices and interpretations.''[70] OCC proposes to retire its existing RMF Policy, which was, in part, previously filed as an OCC ''rule'' with the Commission, as the RMF and CRMP would replace the RMF Policy in its entirety. Under the proposal, the material aspects of OCC's overall risk management framework and Corporate Risk program would be contained in the proposed RMF and CRMP described herein. As described in detail herein, various details in the current RMF Policy would no longer be OCC rule text following adoption of the RMF and CRMP. Specifically, OCC believes the removing the following sections of the current RMF Policy from OCC's rule text are consistent with Section 19(b)(1) of the Act and Rule 19b–4 because they are administrative in nature and do not address material aspects of the of the operation of the facilities of OCC:

- The Context for Risk Management Framework and Risk Management Philosophy sections providing history and background information about OCC and its purpose in the financial markets;[71]
- Sections of the RMF Policy related to project planning, corporate budgeting, and Human Resources and Compliance training; and
- The Risk Universe, which reflects the output of policies and processes described in the RMF Policy (and eventually, the proposed CRMP).

Accordingly, OCC believes the proposed changes would be consistent with the requirements of Section 19(b)(1) of the Act and Rule 19b–4 thereunder.[72]

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[73] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule changes would impact or impose any burden on competition. The proposed rule change clearly and transparently presents the framework OCC uses to identify, monitor and manage its risks. While the proposed rule change would enhance OCC's framework of risk management documentation, these updates do not affect Clearing Members' access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self regulatory organization consents, the Commission will: (A) by order approve or disapprove such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2022–010 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–OCC–2022–010. This file number should be included on the subject line if email is used. To help the Commission process and review your

[65] *Id.*

[66] OCC believes this proposed change also supports compliance with Exchange Act Rule 17Ad–22(e)(3)(ii), which requires a covered clearing agency to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses. *See* 17 CFR 240.17Ad–22(e)(3)(ii).

[67] 17 CFR 240.17Ad–22(e)(3)(i).

[68] 15 U.S.C. 78s(b)(1).

[69] 17 CFR 240.19b–4.

[70] *See supra* note 38.

[71] Additionally, OCC believes the information presented in the Risk Management Philosophy section serves as an additional purpose section and that all items highlighted in this section would be covered in, or otherwise reasonably and fairly implied by, the proposed RMF and CRMP.

[72] *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4.

[73] 15 U.S.C. 78q–1(b)(3)(I).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

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–OCC–2022–010 and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20728 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95837; File No. SR–DTC–2022–009]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make Clarifications to the DTC Rules Concerning the Admission of Participants to DTC's Premises and DTC's Authority To Impose Fines

September 20, 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 September 14, 2022, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to DTC Rules, By-Laws and Organization Certificate (''Rules'') concerning the admission of Participants to DTC's premises and DTC's authority to impose fines. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(4)[6] thereunder so that the proposal was effective upon filing with the Commission, as described in greater detail below.[7]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

DTC proposes to revise its Rules to clarify requirements related to the admission of Participants to DTC's premises and DTC's authority to impose fines. The proposed changes are described in detail below.

DTC Rule 17 provides, among other things, that necessary credentials for entering DTC's premises shall be provided as specified in the Procedures.[8] The rule further provides that, unless revoked by DTC, all credentials, authorizations and powers of attorney issued pursuant to Rule 17 or in connection with the work of DTC shall remain in full force and effect until DTC shall have received notice of the revocation thereof or of the termination of the holder's employment.[9]

DTC proposes to revise Rule 17 to delete the requirement that necessary credentials for entering DTC's premises be provided as specified in the Procedures. DTC does not currently maintain in its Procedures any specifications for providing such credentials. The proposed rule change would therefore remove outdated rule language that may cause confusion for DTC's Participants and readers of its Rules. DTC also proposes to revise Rule 17 to clarify that Participants must provide ''written'' notice of the revocation of any credentials, authorizations and powers of attorney or the termination of the holder's employment in order for such revocation or termination to become effective pursuant to Rule 17. The proposed rule change would clarify the appropriate method for notifying DTC of a revocation or termination of credentials and conform the notification requirement in Rule 17 to the requirements of DTC's affiliate clearing agencies, providing clear and consistent requirements across the clearing agencies' rules.[10]

DTC Rule 21 discusses DTC's authority to discipline Participants or Pledgees for, among other things, violations of DTC's Rules or Procedures.[11] DTC's disciplinary authority includes imposing any of the following sanctions: expulsion; suspension; limitation of activities, functions and operations; fine; censure; and any other fitting sanction.

DTC proposes to revise Rule 21 to state that fines shall be payable in the manner and at such time as determined by DTC from time to time. The proposed

[74] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(4).

[7] Terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf.*

[8] The contents of all DTC Service Guides constitute ''Procedures'' of DTC. The Procedures may be found on DTCC's public website, *available at https://www.dtcc.com/legal/rules-and-procedures.*

[9] *See* Rule 17, *supra* note 7.

[10] *See* National Securities Clearing Corporation (''NSCC'') Rule 27, Fixed Income Clearing Corporation (''FICC'') Government Securities Division (''GSD'') Rule 27, and FICC Mortgage Back Securities Division (''MBSD'') Rule 20. The NSCC Rules & Procedures, FICC GSD Rulebook, and FICC MBSD Clearing Rules are available on DTCC's public website, *available at https://www.dtcc.com/legal/rules-and-procedures.*

[11] *See* Rule 21, *supra* note 7.

rule change would clarify an implicitly understood aspect of DTC's Rules and more closely align Rule 21 to the requirements of DTC's affiliate clearing agencies to provide greater consistency across the DTCC clearing agency rules.[12]

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Section 17A(b)(3)(F) of Act [13] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions for the reasons set forth below.

The proposed rule change would clarify the appropriate method for notifying DTC of a revocation or termination of credentials (*i.e.,* in writing) and remove outdated rule language that may cause confusion for DTC's Participants and readers of its Rules. The proposed rule change would also clarify that fines imposed by DTC shall be payable in the manner and at such time as determined by DTC from time to time. The proposed rule change would provide additional accuracy, clarity and transparency around implicitly understood aspects of DTC's Rules and current practices thereunder. When participants better understand their rights and obligations regarding the Rules, such participants are more likely to act in accordance with the Rules, which DTC believes would promote the prompt and accurate clearance and settlement of securities transactions consistent with the requirements of Section 17A(b)(3)(F) of Act.[14]

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact on competition. The proposed changes concerning the issuance and revocation of credentials and the payment of fines are intended to clarify existing processes and would not impose any new material obligations or requirements on users of DTC's services. The proposed rule changes would apply equally to all participants and would not inhibit access to DTC's services or disadvantage or favor any particular user in relationship to another. DTC therefore does not believe that the proposed rule change would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received by DTC, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [15] of the Act and paragraph (f) [16] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment formm (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2022–009 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–DTC–2022–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2022–009 and should be submitted on or before October 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20729 Filed 9–23–22; 8:45 am]

BILLING CODE 8011–01–P

[12] *See* NSCC Rule 17 and FICC GSD Rule 23, *supra* note 10.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] *Id.*

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before October 26, 2022.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/*PRAMain. Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: Small business concerns (SBCs) that are awarded set-aside or sole source contracts are limited in their ability to subcontract to other than small business concerns by the limitation on subcontracting (LOS) clauses set forth in their contracts. To help determine whether theses SBCs are in compliance with any LOS clauses, Contracting Officers may require the SBCs to submit information evidencing their compliance.

Solicitation of Public Comments:

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control 3245–0400

Title: ''Limitations on Subcontracting Reporting''.

Description of Respondents: Small business concerns.

Estimated Number of Respondents: Small business concerns.

Estimated Annual Responses: 18,500.

Estimated Annual Hour Burden: 18,500.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2022–20753 Filed 9–23–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 11864]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: Exhibition of Three Works From the Museo Archeologico Regionale Antonino Salinas, Sicily

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 Greek and Roman Art galleries of The Metropolitan Museum of Art, New York, New York, 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: Elliot Chiu, Attorney-Adviser, 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. 2022–20721 Filed 9–23–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11867]

International Security Advisory Board (ISAB) Meeting Notice

ACTION: Closed meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on October 18, 2022, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public in the interest of national defense and foreign policy because the Board will be reviewing and discussing matters classified in accordance with E.O. 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, outer space, critical infrastructure, cybersecurity, the national security aspects of emerging technologies, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's ongoing studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, emerging technologies, climate and energy security.

For more information, contact Michelle Dover, Executive Director of the International Security Advisory Board, Department of State, Washington, DC 20520, telephone: (202) 736–4930.

Michelle Dover,

Executive Director, International Security Advisory Board, Department of State.

[FR Doc. 2022–20745 Filed 9–23–22; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice: 11824]

Notification of the Fifteenth Meeting of the CAFTA–DR Environmental Affairs Council; Withdrawal

ACTION: Notice; withdrawal.

SUMMARY: The Department of State published a document in the **Federal Register** of August 17, 2022, concerning the fifteenth meeting of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR) Environmental Affairs Council. The United States will no longer be hosting the meeting.

FOR FURTHER INFORMATION CONTACT: Bradley Blecker, (202) 394–3316 or Sigrid Simpson, (202) 881–6592.

SUPPLEMENTARY INFORMATION: Withdrawal.

In the **Federal Register** of August 17, 2022, we withdraw FR Doc 2022–0024.

Sherry Zalika Sykes,

Director, Office of Environmental Quality, Department of State.

[FR Doc. 2022–20735 Filed 9–23–22; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1259]

Agency Information Collection Activities: Requests for Comments; Clearance of Approval for Renewed Information Collection: Service Availability Prediction Tool (SAPT)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves planned routes of flight and aircraft avionics equipment. The information that is collected will be used to predict whether an aircraft flying the proposed route of flight will have sufficient position accuracy and integrity for the following: (1) Navigation, via the Receiver Autonomous Integrity Monitoring (RAIM) SAPT; (2) Surveillance, via the Automatic Dependent Surveillance—Broadcast (ADS–B) SAPT. In addition, the website will allow operators to request authorization to operate in ADS–B-Out rule airspace with aircraft that do not fully meet the ADS–B Out requirements via: (3) ADS–B Deviation Authorization Pre-flight Tool (ADAPT)

DATES: Written comments should be submitted by November 25, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Send comments to FAA at the following address: Mr. Evan Setzer, Program Manager, Surveillance and Broadcast Services, AJM–42, Program Management Organization, Federal Aviation Administration, 600 Independence Ave. SW, Wilbur Wright Building, Washington, DC 20597.

By fax: 202–267–1277 (Attention: Mr. Evan Setzer, Program Manager, Surveillance and Broadcast Services, AJM–42, Program Management Organization, Federal Aviation Administration).

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Mr. Paul Von Hoene, Aviation Safety, Aviation Safety Inspector (AC/OPS) at *paul.vonhoene@faa.gov* or at (202) 267–8916.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0780.

Title: Service Availability Prediction Tool (SAPT).

Form Numbers: eXtensible markup language (XML) format, ADS–B SAPT flight information entry form, and ADS–B authorization request at *https://sapt.faa.gov.*

Type of Review: Renewal of an information collection.

Background:

Under 14 CFR 91.103, pilots must use all available information in planning their flight. SAPT is a web-based tool to assist aircraft operators in achieving compliance with the requirements of 14 CFR 91.103, 91.225. and 91.227, and/or AC 90–100A Change 2, Paragraph 10a. (5). To ensure that they will meet the performance requirements for the duration of the flight, pilots may use the FAA-provided pre-flight Service Availability Prediction Tool (SAPT) to determine predicted navigation or surveillance availability before a flight. The SAPT has three main components: the Receiver Autonomous Integrity Monitoring (RAIM) SAPT, the ADS–B SAPT, and the ADS–B Deviation Authorization Pre-Flight Tool (ADAPT). The SAPT models the GPS constellation in order to assess the predicted accuracy and integrity of GPS position information used in navigation and surveillance for a few GPS receiver Technical Standard Orders (TSOs).

The RAIM SAPT is intended mainly for pilots, dispatchers, and commercial operators using TSO–C129 equipment to check their predicted navigation horizontal protection level (HPL). It incorporates TSO–C129 GPS RAIM predictions to check the availability of GPS RAIM satisfying the RNAV requirements of AC 90–100A Change 2, Paragraph 10(5)).

The ADS–B SAPT is provided to help operators comply with 14 CFR 91.225 and 91.227 by predicting whether operators will meet regulatory requirements, and to advise holders of FAA Exemption 12555 whether back-up surveillance will be available for any waypoints where installed aircraft avionics are not predicted to meet the requirements of 14 CFR 91.227(c)(1)(i) and (iii).

Information collected via ADS–B SAPT is comparable to that provided by pilots when they file flight plans, with some additional information about aircraft position source TSO and related capabilities. The ADS–B SAPT prediction is based on the ability of the aircraft's position source (*i.e.,* GPS receiver) to meet performance requirements specified in FAA TSOs C129, C129a, C145c/C146c, and C196, as well as the predicted status of the GPS constellation.

The ADS–B SAPT predicts whether GPS position information will be sufficient throughout the flight to meet the performance requirements of 14 CFR 91.227(c)(1)(i) and (iii). If a waypoint is in rule airspace and the aircraft's position source is not predicted to meet the performance requirements of 14 CFR 91.227, the ADS–B SAPT checks for the availability of back-up surveillance at that waypoint.

Operators of aircraft equipped with TSO–C129 (SA-On) GPS receivers must run a pre-flight prediction. The operator may use their own prediction tool. Although Exemption 12555 does not require operators with SA-On to use the ADS–B SAPT for pre-flight availability prediction, if the operator does use their

own tool and receives an indication that performance will fall below rule requirements, the operator cannot obtain back-up surveillance information from that tool and must either replan the flight or use ADS–B SAPT to determine whether back-up surveillance is available along the planned route of flight per Exemption 12555.

ADAPT is mandatory for operators desiring to apply for an ATC authorization, per 14 CFR 91.225(g), to fly in ADS–B Out rule airspace using aircraft with avionics that do not meet the ADS–B equipage requirements. ADAPT allows operators to create an air traffic authorization request to operate in ADS–B Out rule airspace when either (1) the aircraft is without ADS–B equipment; (2) that equipment is inoperative; or (3) their avionics are not expected to meet the ADS–B performance requirements as identified in 14 CFR 91.227(c)(1)(i) and (iii). Operators who wish to submit an ADAPT request must complete the ADS–B SAPT analysis using information entered into the flight information entry form before filing the ADAPT request.

Information Collected: Information collected by SAPT is comparable to that provided in FAA flight plans, with some additional information about the position source. The ADS–B SAPT flight information entry form requires the aircraft call-sign but does not collect other personal identification information about the operator. ADAPT does collect personal information to include name, telephone number, email address. The information is necessary to enable the FAA ATC Authorization Authority (AAA) to reply with either an approval, rejection, or pending decision. It also collects additional information about the flight, including US Civil Aircraft Registry Number or ICAO Address.

Respondents: These prediction tools are primarily intended for pilots and dispatchers; and for anyone who is planning a flight which passes through U.S. sovereign airspace, using an aircraft whose GPS receiver(s) is/are not guaranteed to meet certain performance requirements or whose aircraft is not equipped to meet the requirements of 14 CFR 91.225.

Frequency: As part of the flight planning process, as required by FAA policy. For some users, this could be every flight. For others it will depend on the specific conditions and performance requirements.

Estimated Average Burden per Response:

RAIM SAPT and ADS–B SAPT can be automated as part of the dispatch process by operators or flight service providers, thus eliminating manual data-entry.

RAIM SAPT—Insignificant, as all transactions are automated in flight planning systems.

ADS–B SAPT—5 minutes or less for transactions input via the flight plan form.

ADAPT—7 minutes or less (includes up to 2 minutes to check FAA email response).

Estimated Total Annual Burden:

200 hours for software maintenance for automated responses.

RAIM SAPT—Insignificant additional burden

ADS–B SAPT—Approximately 163,500 minutes.

ADAPT—Approximately 54,720 minutes.

Issued in Washington, DC, on September 20, 2022.

Jamal Wilson,

SAPT Project Lead, In-Service Performance and Sustainment (AJM–4220), Federal Aviation Administration.

[FR Doc. 2022–20661 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021—0601]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Financial Responsibility for Licensed Launch Activities

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 13, 2022. The FAA collects information from applicants for experimental permits in order to determine whether they satisfy the requirements for obtaining an experimental permit.

DATES: Written comments should be submitted by October 26, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Charles Huet by email at: *Charles.huet@faa.gov;* phone: 202–267–7427.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0601.

Title: Financial Responsibility for Licensed Launch Activities.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 13, 2022 (87 FR 2207). There were no comments. In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to determine if licensees have complied with financial responsibility requirements for maximum probable loss determination (MPL) analysis as set forth in FAA regulations. The FAA is responsible for determining MPL required to cover claims by a third party for bodily injury or property damage, and the United States, its agencies, and its contractors and subcontractors for covered property damage or loss, resulting from a Commercial space transportation permitted or licensed activity. The MPL determination forms the basis for financial responsibility requirements issued in a license or permit order.

Respondents: Approximately 10 applicants.

Frequency: On Occasion.

Estimated Average Burden per Response: $7,571.

Estimated Total Annual Burden: 100 hours per year, totals $75,710.

Issued in Washington, DC.

James Hatt,

Space Policy Division Manager, Office of Commercial Space Transportation.

[FR Doc. 2022–20751 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2022–0024]

Agency Information Collection Activities: Notice of Request for New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to submit one information collection, which is summarized below under **SUPPLEMENTARY INFORMATION.** We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 17, 2022. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 26, 2022.

ADDRESSES: You may submit comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection. All comments should include the Docket number FHWA–2022–0024.

SUPPLEMENTARY INFORMATION:

Title: Transportation Pooled Fund Excellence Award.

OMB Control Number: (if applicable).

Summary:

Respondents: Any participant in the Transportation Pooled Fund (TPF) program can submit a nomination of a TPF study for the TPF Excellence Award, including staff from the 50 States, the District of Columbia, and Puerto Rico.

Background: FHWA is partnering with the American Association of State Highway and Transportation Officials (AASHTO) Research Advisory Committee (RAC) to further promote research, innovation, and excellence through a new TPF Program Excellence Award.

For more than 45 years, the FHWA's TPF Program has enabled public and private entities to collaboratively conduct cutting-edge transportation research. Through the TPF Program, participants are able to pool funds and expertise to develop innovative solutions at a lower cost while extending the reach and impact of their research.

The TPF Excellence Award will recognize outstanding TPF studies that have made significant advancements in national research efforts in the areas of safety, economic growth, equity, and/or transformative climate solutions. The future award will highlight the importance of meaningful collaboration and partnership in transportation research. Administered through a partnership between FHWA and the AASHTO RAC, the biennial TPF Excellence Award will recognize one FHWA-led TPF study and one State department of transportation (DOT)-led study. Nominations would be received between February 1 and May 1 every 2 yr. Nomination forms would be sent to FHWA Division Offices and State DOTs to solicit nominees.

Award: Any participant in the TPF program can nominate a TPF study that is completed and has posted a final report by June 30 of the year submitted. The nominator is responsible for completing the nomination form that summarizes the outstanding accomplishments of the entry. FHWA will use the collected information to evaluate, showcase, and enhance the public's knowledge of research and innovation conducted through these TPF projects. Nominations will be reviewed by an independent panel of judges from various backgrounds. The awards will be given every 2 yr. The winners will be presented awards at the completion of the process.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 5 h per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 20 applications for an estimated total of 100 annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Patricia Sergeson, 202–493–3166, Department of Transportation, Federal Highway Administration, Office of Corporate Research, Technology and Innovation Management, Turner-Fairbank Highway Research Center, 6300 Georgetown Pike, McLean, VA 22101. Office hours are from 8 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

Public Comments Invited: You are asked to comment on any aspect of these information collections, including: (1) Whether the proposed collections are necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of these information collections.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: September 21, 2022.

Michael Howell,

Information Collection Officer.

[FR Doc. 2022–20772 Filed 9–23–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0041; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: General Motors, LLC (GM), has determined that certain model year (MY) 2018–2020 Chevrolet Suburban and Tahoe motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* GM filed an original noncompliance report dated March 31, 2022. GM subsequently

petitioned NHTSA on April 22, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of GM's petition.

DATES: Send comments on or before October 26, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–5304.

SUPPLEMENTARY INFORMATION:

I. Overview: GM determined that certain MY 2018–2020 Chevrolet Suburban and Tahoe motor vehicles do not fully comply with paragraph S6.5.2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment.* (49 CFR 571.108).

GM filed an original noncompliance report dated March 31, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* GM petitioned NHTSA on April 22, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 329,344 MY 2018–2020 Chevrolet Suburban and Tahoe motor vehicles manufactured between May 22, 2017, and April 8, 2020, are potentially involved:

III. Noncompliance: GM explains that the headlamp lens equipped in the subject vehicles does not fully comply with the marking requirements as stated in paragraph S6.5.2 of FMVSS No. 108. Specifically, the headlamp lens' in the subject vehicles are not marked ''DRL'' to indicate that there is a daytime running lamp (DRL) function in the headlamp assembly that is not optically combined with a headlamp function.

IV. Rule Requirements: Paragraph S6.5.2 of FMVSS No. 108 includes the requirements relevant to this petition. FMVSS No 108, 6.5.2 requires each original equipment and replacement lamp used as a DRL, unless optically combined with a headlamp, to be permanently marked ''DRL'' on its lens in letters not less than 3 mm high.

V. Summary of GM's Petition: The following views and arguments presented in this section, ''V. Summary of GM's Petition,'' are the views and arguments provided by GM. They have not been evaluated by the Agency and do not reflect the views of the Agency. GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

GM explains that the missing DRL marking on the headlamp lens is the result of a supplier error that occurred in the course of the change of the design of the DRL. GM says that the DRLs meet all of the performance requirements given in FMVSS No. 108 and other than the missing DRL marking, the subject headlamp assemblies comply with all marking requirements as stated in FMVSS No. 108.

GM details the history and purpose of the DRL marking to support its belief that the subject noncompliance does not affect vehicle safety. GM says that before the DRL marking requirement was added to FMVSS No. 108, the laws on vehicle lighting varied between states and that while no state laws directly prohibited the use of DRLs some of those laws did have the incidental effect of prohibiting the use of DRLs. In 1993, NHTSA published the final rule updating FMVSS No. 108 [1] to allow DRLs to be installed as optional lighting equipment. GM says that NHTSA added the ''DRL'' marking provision as an accommodation to states because NHTSA recognized that any update to DRL performance requirements would preempt the laws of those states which had effectively precluded the use of DRLs. GM states that the DRL marking requirement allowed the local authorities to distinguish between illegal vehicle lamps and lighting combinations and legal lamps that had been certified as meeting the DRL performance requirements. Therefore, GM believes that the DRL marking requirement was never intended to have any effect on the operation or function of the DRLs; and, accordingly, the absence of the marking does not have an impact on motor vehicle safety.

GM acknowledges that local authorities needed to distinguish between permitted and illegal vehicle headlighting was a relevant concern in

[1] *See* Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment, 58 FR 3500 (January 11, 1993).

the early 1990s but GM believes the DRL marking requirement no longer holds the same significance because of the increased prevalence of DRLs being installed in vehicles as standard equipment.

GM says that it has not received any complaints, reports, or claims as a result of the subject noncompliance. GM also states that it has not found any reports from consumers complaining that their vehicles did not pass a state inspection or that drivers have been cited by local law enforcement because the 'DRL' marking was not present.

Furthermore, GM says that the MY 2018–2020 Chevrolet Tahoe and Suburban motor vehicles without the DRL marking are also offered for sale in Canada, where the DRL marking is not a requirement. GM says that because the DRL marking is not required by the Canadian Motor Vehicle Safety Standards, this supports their belief that ''the marking requirement is an artifact of the piecemeal approach to vehicle lighting regulation in the United States that existed decades ago and has no bearing on motor vehicle safety or the performance of the headlamp system.''

GM believes that NHTSA's analysis of certain petitions for inconsequential noncompliance support granting the subject petition. According to GM, for inconsequentiality petitions submitted by OSRAM SYLVANIA Products, Inc.,[2] and General Motors, LLC,[3] NHTSA has previously granted these where, like in this petition, the only compliance related issue is that the light source does not meet the associated marking requirement. Specifically, GM noted that the key point in the analysis of both those petitions was that NHTSA determined that inadvertently installing a lamp by following the marking on the light source would not create an enhanced safety risk because the two light sources were interchangeable. Furthermore, GM claims that since the DRL is a non-replaceable lamp within the headlamp assembly, the whole headlamp assembly will need to be replaced. Thus, the ''DRL'' marking does not and was never intended to communicate any information related to its replacement and does not provide any information to the consumer on the compatible types of replacement light sources. GM cites a petition submitted by Volkswagen Group of America, Inc.,[4] to be similar to the subject petition where GM says NHTSA found that because consumers and other entities would identify replacement lamps through other means and would in no way rely upon the missing voltage marking, the noncompliance posed little if any risk to motor vehicle safety.

In a denial of a petition submitted by Great Dane, LLC,[5] GM says NHTSA reasoned that the absence of a certification label reduces the safety effectiveness of certain items of motor vehicle equipment, the same considerations do not apply to the subject noncompliance. GM claims that in contrast to the Grant Dane petition, the ''DRL'' marking serves a fundamentally different purpose in that consumers do not inspect the headlamp lens for the presence of the mark and the mark does not communicate any details about the performance. GM goes on to refer to a petition NHTSA granted that was submitted by Porsche Cars North America, Inc.,[6] where tires did not include the ''DOT'' certification mark. In this case, GM states NHTSA determined that the noncompliance was inconsequential because the affected tires complied with the relevant FMVSSs and contained a vehicle certification label.

GM concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–20749 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–59–P

[2] OSRAM SYLVANIA Products, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 22943 (April 17, 2003).

[3] General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 5644 (January 18, 2017).

[4] Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 26733 (June 8, 2017).

[5] Great Dane, LLC, Denial of Petition for Decision of Inconsequential Noncompliance, 87 FR 23018 (April 18, 2022).

[6] Porsche Cars North America, Inc.; Grant of Petition for Decision of Inconsequential Noncompliance, 86 FR 184 (January 4, 2021).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2022–0102]

Use of Inland Ports for Storage and Transfer of Cargo Containers

ACTION: Notice of request for information.

SUMMARY: This notice requests comments and information from representatives from across the supply chain, as well as the general public, pertaining to the feasibility of, and strategies for, identifying Federal and non-Federal sites for storage and transfer of cargo containers, to assist the Department of Transportation in preparing the report required by Section 24 of the Ocean Shipping Reform Act (OSRA), which was signed into law on June 16, 2022.

DATES: Comments must be received on or before October 26, 2022. DOT will consider comments filed after this date to the extent practicable.

ADDRESSES: You may submit comments identified by Docket Number DOT–OST–2022–0102 by any of the following methods:

- *Electronic Submission:* Go to *http://www.regulations.gov.* Search by using the docket number (provided above). Follow the instructions for submitting comments on the electronic docket site.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor (W12–140), Washington, DC 20590–0001.
- *Hand Delivery:* W12–140 of the Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket numbers.

Note: All comments received, including any personal information, will be posted

without change to the docket and is accessible via *http://www.regulations.gov.* Input submitted online via *www.regulations.gov* is not immediately posted to the site. It may take several business days before your submission is posted.

FOR FURTHER INFORMATION CONTACT: *osra_inlandports@dot.gov* or Brandon White at 202–366–4829.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2022, President Biden signed into law S. 3580, the Ocean Shipping Reform Act of 2022 (OSRA). Section 24 of OSRA, titled ''USE OF UNITED STATES INLAND PORTS FOR STORAGE AND TRANSFER OF CARGO CONTAINERS'', required that the U.S. Department of Transportation's Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, convene a meeting of representatives of entities described in subsection (b) to discuss the feasibility of, and strategies for, identifying Federal and non-Federal land, including inland ports, for the purposes of storage and transfer of cargo containers due to port congestion. The required meeting was conducted September 26, 2022.

This notice requests comments and information from representatives across the supply chain, and any other interested parties, pertaining to the feasibility of, and strategies for, identifying Federal and non-Federal sites for storage and transfer of cargo containers, to assist the Department of Transportation in preparing the report required by OSRA. In developing this report, the Secretary will consult with the heads of appropriate agencies and will be assisted by the relevant operating administrations of the Department of Transportation.

Written Comments

The Department seeks information from supply chain stakeholders and any other interested parties on the feasibility of, and strategies for, identifying Federal and non-Federal sites for storage and transfer of cargo containers, including, but not limited to, the following topics:

1. As far as solutions to address congestion are concerned, how much utility do you see in identifying additional space for the storage and transfer of intermodal containers? What, if anything, would you prioritize above additional storage and transfer space in order to maintain fluidity?

2. Would you consider the use of additional storage and transfer spaces for congestion mitigation, such as inland ports, feasible for your industry and geographic areas of operation?

3. Recognizing the distribution value chain involves multiple stakeholders, what other entities would most benefit from additional inland ports?

4. What roles do you envision the private and public sector, including the Federal government, offering to create the most effective strategy to implement congestion mitigation through greater development and utilization of inland ports?

Dated: September 15, 2022.

Christopher Coes,

Assistant Secretary for Transportation Policy.

[FR Doc. 2022–20755 Filed 9–23–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund; Notice of Information Collection and Request for Public Comment

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995. Currently, the Community Development Financial Institutions Fund (CDFI Fund), the Department of the Treasury, is soliciting comments concerning the Performance Progress Report and Financial Statement Audit Report Form. The Performance Progress Report and Financial Statement Audit Report Form are online forms submitted through the CDFI Fund's Awards Management Information System (AMIS).

DATES: Written comments must be received on or before November 25, 2022 to be assured of consideration.

ADDRESSES: Submit your comments via email to Heather Hunt, Program Manager for the Office of Compliance Monitoring and Evaluation (OCME), CDFI Fund at *CCME@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Heather Hunt, OCME Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 653–0241 (not a toll-free number). Other information regarding the CDFI Fund and its programs may be obtained on the CDFI Fund website at *https://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION:

Title: Performance Progress Report and Financial Statement Audit Report Form.

OMB Number: 1559–0032.

Abstract: Recipients of the Community Development Financial Institutions Program (CDFI Program), the CDFI Rapid Response Program (CDFI RRP), the Native American CDFI Assistance Program (NACA Program), and the Small Dollar Loan Program (SDL Program) submit the Performance Progress Report via the CDFI Fund's AMIS once a year, three (3) months after their Period of Performance end date or fiscal year end. Recipients and Allocatees of the CDFI Program, CDFI RRP, NACA Program, CMF, NMTC Program, and SDL Program also submit the Financial Statement Audit Report via the CDFI Fund's AMIS once a year, six (6) months after their Period of Performance end date or fiscal year end. Recipients respond to the questions below by providing numerical figures, ''yes'' or ''no'' answers, or narrative responses, as appropriate. These reports are used to determine Recipient compliance with their Assistance Agreement. There are no significant content changes to the forms, however minor, non-substantive modifications were made to the Performance Progress Report to include changes resulting from the implementation of new programs and modifications to existing Assistance Agreements.

Current Actions: Extension without change of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit institutions, non-profit entities, and State, local and Tribal entities participating in the CDFI Fund programs.

Estimated Number of Respondents: 1,902.

Frequency of Responses: Annually.

Estimated Total Number of Annual Responses: 1,902.

Estimated Annual Time per Respondent: 45 min.

Estimated Total Annual Burden Hours: 1,426.5 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record and may be published on the CDFI Fund website at *http://www.cdfifund.gov.* Comments are invited on: (a) whether the collection of information is necessary for the proper performance of

the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collections of information displays a valid OMB control number.

Authority: 12 U.S.C. 4704, 4713, 4719; 12 CFR parts 1805, 1806, 1815.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2022–20716 Filed 9–23–22; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Information Collection and Request for Public Comment

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995. Currently, the Community Development Financial Institutions Fund (CDFI Fund), the Department of the Treasury, is soliciting comments concerning the Uses of Awards Report Form. The Uses of Award Report Form is an online form submitted through the CDFI Fund's Awards Management Information System (AMIS).

DATES: Written comments must be received on or before November 25, 2022 to be assured of consideration.

ADDRESSES: Submit your comments via email to Heather Hunt, Program Manager for the Office of Compliance Monitoring and Evaluation (OCME), CDFI Fund at *CCME@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Heather Hunt, OCME Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 653–0241 (not a toll-free number). Other information regarding the CDFI Fund and its programs may be obtained on the CDFI Fund website at *https://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION:

Title: Uses of Award Report Form.

OMB Number: 1559–0032.

Abstract: Recipients of the Bank Enterprise Award Program (BEA Program), the Community Development Financial Institutions Program (CDFI Program), the CDFI Rapid Response Program (CDFI RRP), the Native American CDFI Assistance Program (NACA Program), and the Small Dollar Loan Program (SDL Program) submit the Uses of Award Report via the CDFI Fund's AMIS once a year, three (3) months after their Period of Performance (BEA Program) end date or fiscal year end (CDFI, CDFI RRP, NACA and SDL Programs). Recipients respond to the questions below by providing numerical figures, ''yes'' or ''no'' answers, or narrative responses, as appropriate. This report is used to determine Recipient compliance with the applicable performance goals in their Award or Assistance Agreement, and to demonstrate how award funds are expended. There is no significant content change to the form, however minor, non-substantive modifications were made to the Uses of Award Report to include changes resulting from the implementation of new programs and modifications to existing Award and Assistance Agreements.

Current Actions: Extension without change of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit institutions, non-profit entities, and State, local and Tribal entities participating in the CDFI Fund programs.

Estimated Number of Respondents: 1,902.

Frequency of Responses: Annually.

Estimated Total Number of Annual Responses: 1,902.

Estimated Annual Time per Respondent: 45 min.

Estimated Total Annual Burden Hours: 1,426.5 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record and may be published on the CDFI Fund website at *http://www.cdfifund.gov.* Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collections of information displays a valid OMB control number.

Authority: 12 U.S.C. 4704, 4713, 4719; 12 CFR parts 1805, 1806, 1815.

Jodie L. Harris.

Director, Community Development Financial Institutions Fund.

[FR Doc. 2022–20714 Filed 9–23–22; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On September 9, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individual

1. KHATIB, Esmail (Arabic: اسماعيل خطيب) (a.k.a. KHATIB, Seyed Esmaeil (Arabic: سيد اسماعيل خطيب)), Iran; DOB 1960 to 1961; POB Ghayenat, South Khorasan Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IFSR] [CYBER2] (Linked To: IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY).

   Designated pursuant to Section 1(a)(iii)(C) of Executive Order 13694 of April 1, 2015, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," 80 FR 18077, 3 C.F.R, 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 FR 1, 3 C.F.R, 2016 Comp., p. 659 (E.O. 13694, as amended) for having acted or purported to act for or on behalf of, directly or indirectly, the IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY.

Entity

1. IRANIAN MINISTRY OF INTELLIGENCE AND SECURITY (a.k.a. VEZARAT-E ETTELA'AT VA AMNIAT-E KESHVAR; a.k.a. "MOIS"; a.k.a. "VEVAK"), bounded roughly by Sanati Street on the west, 30th Street on the south, and Iraqi Street on the east, Tehran, Iran; Ministry of Intelligence, Second Negarestan Street, Pasdaran Avenue, Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Target Type Government Entity [SDGT] [SYRIA] [IFSR] [IRAN-HR] [HRIT-IR] [CYBER2].

   Designated pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity 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 causing a significant disruption to the availability of a computer or network of computers.

Dated: September 9, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–20786 Filed 9–23–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Office of Foreign Assets Control Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the Department of the Treasury's Office of Foreign Assets Control is soliciting comments concerning OFAC's Iranian Financial

Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

DATES: Comments should be received on or before October 26, 2022 to be assured of consideration.

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: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Office of Foreign Assets Control (OFAC)

Title: Iranian Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

OMB Number: 1505–0243.

Type of Review: Extension without change of a currently approved collection.

Description: Section 561.504(b) of the Iranian Financial Sanctions Regulations, 31 CFR part 561 (IFSR), specifies that a U.S. financial institution that maintained a correspondent account or payable-through account for a foreign financial institution whose name is added to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (the ''CAPTA List'') on OFAC's website (*www.treas.gov/ofac*) as subject to a prohibition on the maintaining of such accounts, must file a report with OFAC that provides complete information on the closing of each such account, and on all transactions processed or executed through the account pursuant to § 561.504, including the account outside of the United States to which funds remaining in the account were transferred. This report must be filed with OFAC within 30 days of closure of the account. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions listed on the CAPTA List pursuant to the IFSR. The reports will be reviewed by OFAC and may be used for compliance and enforcement purposes by the agency.

Affected Public: The likely respondents affected by this collection of information are U.S. financial institutions maintaining correspondent accounts or payable-through accounts for foreign financial institutions.

Estimated Number of Respondents: OFAC assesses that the estimate for the number of unique reporting respondents is approximately 1.

Frequency of Response: The estimated annual frequency of responses is approximately 1 response per respondent.

Estimated Total Number of Annual Responses: The estimated total number of responses per year is approximately 1.

Estimated Time per Response: OFAC assesses that there is an average time estimate of 2 hours per response.

Estimated Total Annual Burden Hours: The estimated total annual reporting burden is approximately 2 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–20768 Filed 9–23–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Departmental Offices

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Comments should be received on or before October 26, 2022 to be assured of consideration.

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.

Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Emergency Capital Investment Program Initial Supplemental Report and Quarterly Supplemental Report.

OMB Control Number: 1505–0275.

Type of Review: Revision of a currently approved collection.

Description: Authorized by the Consolidated Appropriations Act, 2021, the Emergency Capital Investment Program (ECIP) was created to encourage low- and moderate-income community financial institutions to augment their efforts to support small businesses and consumers in their communities. Under the program, Treasury will provide approximately $8.75 billion in capital directly to depository institutions that are certified Community Development Financial Institutions (CDFIs) or minority depository institutions (MDIs) to, among other things, provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, that may be disproportionately impacted by the economic effects of the COVID–19 pandemic.

ECIP capital is eligible for a reduction in the dividend or interest rate payable on the instruments depending on the increase in lending by the recipients of the capital (Recipients) within minority, rural, and urban low-income and underserved communities and to low- and moderate-income borrowers over a baseline amount of lending. Recipients are required to submit an Initial Supplemental Report and quarterly reports to determine their increase in lending to the specified targeted communities over the baseline and therefore their qualification for rate reductions on the dividend or interest rates payable on the ECIP instruments. In addition, these reports will collect data necessary for Treasury and other oversight bodies to evaluate program outcomes over time. Treasury uses the Initial Supplemental Report to establish a baseline amount of qualified lending.

Treasury proposes to continue use of this form to collect additional or restated data on a Recipient's amount of baseline lending, such as in connection with mergers, acquisitions, or other business combinations. Instructions may be modified from time to time to accommodate these uses. Treasury proposes to use the Quarterly Supplemental Report to collect the information required to establish a

Recipient's increase in lending. The Quarterly Supplemental Report has two components: (1) schedules which must be completed each quarter that collect data on activity for the preceding quarter and (2) schedules that collect data on the preceding four quarters of activity that are submitted annually. There are separate schedules and instructions for insured depository institutions, bank holding companies, and savings and loan holding companies; and credit unions.

Quarterly Report Schedules: Recipients of ECIP investments will be required to submit two schedules on a quarterly basis. Schedule A—Summary Qualified Lending is used to collect the Qualified Lending and Deep Impact Lending, as defined in the Glossary in the Instructions to the Quarterly Supplemental Report, of a Recipient for a given quarter. Schedule A is therefore used to establish the growth in a Recipient's Qualified Lending over its baseline Qualified Lending for the purposes of calculating the payment rate on the ECIP preferred shares or subordinated debt issued by the Recipient. Schedule B—Disaggregated Qualified Lending is used to present further detail on the composition of the Participant's Qualified and Deep Impact Lending.

Annual Report Schedules: Annually, Recipients will report on up to ten (10) additional schedules, depending on the origination activity that took place during the prior year. Schedule C—Additional Demographic Data on Qualified Lending collects additional demographic data on certain categories of Qualified Lending and Deep Impact Lending. Schedule D—Additional Place-based Data on Qualified Lending collects additional geographic data on certain categories of Qualified Lending and Deep Impact Lending.

Forms: Initial Supplemental Report and Instructions, Quarterly Supplemental Report Instructions and Schedules.

Affected Public: Recipients of investments through the Emergency Capital Investment Program.

Estimated Number of Respondents: 190 (5 for the Initial Supplemental Report; 185 for the Quarterly Supplemental Report).

Frequency of Response: Initial Supplemental Report—One time annually; Quarterly Supplemental Report—Four times annually for Schedules A and B, Annually for Schedules C and D.

Estimated Total Number of Annual Responses: Initial Supplemental Report—5; Quarterly Supplemental Report—740 for Schedules A & B and 185 for Schedule C and D.

Estimated Time per Response: 8 hours annually for the Initial Supplemental Report; 40 hours annually for the Quarterly Supplemental Report Schedules A & B + 120 hours for Schedules C & D.

Estimated Total Annual Burden Hours: 29,640.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

In addition, Treasury seeks comments on the following:

1. For the Quarterly Supplemental Report, Treasury is considering updating the datasets used to identify certain place-based targeted communities periodically, based on availability. For example, from time to time, updated Area Median Income data is published by the Census Bureau or other relevant data sources. Recipients would be required to use this new data in order to classify originations going forward. How frequently should Treasury update this data—never, annually, every five years, some other time period? Treasury anticipates that a transition period would be implemented each time such reference data is updated. Would a one-year transition period be sufficient?

2. Treasury welcomes comments on sources of data through which origination data requested by ECIP is already reported to the federal government and for which Treasury may determine that collection of the data by the Quarterly Supplemental Report represents a duplication of reporting.

3. Are there additional data points that Treasury should consider collecting, in addition to those proposed?

4. Treasury seeks comments on the instructions or other guidance that would be helpful to Recipients to better understand their reporting obligations on the Initial Supplemental Report or Quarterly Supplemental Report.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–20780 Filed 9–23–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0521]

Agency Information Collection Activity Under OMB Review: Certification of Loan Disbursement, Verification of Deposit and Verification of Employment

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. 2900–0521.

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. 2900–0521'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Certification of Loan Disbursement, Verification of Deposit and Verification of Employment.

OMB Control Number: 2900–0521.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 26–1820 is used for loans closed on the prior approval and automatic basis. It is used by lenders closing VA loans under 38 U.S.C. 3710 and thereby complies with the provisions of 38 U.S.C. 3702(c) which requires lenders to report to the Secretary on loans guaranteed or insured.

In this information collection request VA has revised the VA Form 26–1820 to include additional fields and certifications. The fields added are already collected routinely by the lender and do not add an undue burden to the lender. In addition, certifications that are to be provided to the Veteran were added that were included in OMB Control # 2900–0144.

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 138 on September 19, 2022, pages 43386 and 43387.

Affected Public: Individuals or Households.

Estimated Annual Burden: 267,167.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 804,000.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer (Alt), Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–20759 Filed 9–23–22; 8:45 am]

BILLING CODE 8320–01–P

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Federal Register

Vol. 87, No. 185

Monday, September 26, 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 September 20, 2022

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