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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

Readability Changes for Special Requirements for Admission, Extension, and Maintenance of Nonimmigrant Status

AGENCY: DHS, Office of the Secretary.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is adding technical reading aids to a section of the Code of Federal Regulations to make that section easier to navigate.

DATES: This final rule is effective on October 17, 2022.

FOR FURTHER INFORMATION CONTACT: For information about this document, contact Danny Fischler, Office of the General Counsel, U.S. Department of Homeland Security, (202) 282-9822.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Rule

The Department of Homeland Security (DHS) is revising its regulations at 8 CFR 214.2, *Special requirements for admission, extension, and maintenance of status*. The revision is intended to make it easier to locate information within § 214.2, which is lengthy and contains a significant number of paragraph levels. Specifically, DHS is adding five tables to § 214.2, each of which will function as a table of contents or reading aid.

DHS is making two sets of changes. First, DHS is adding a table of contents for § 214.2 as a whole. This table of contents corresponds to the paragraph headings in the first paragraph level of § 214.2, *i.e.*, paragraphs (a), (b), (c), and so on.

Second, DHS is inserting additional tables of contents corresponding to the second paragraph level within the following paragraphs of § 214.2:

—(f) Students in colleges, universities, seminaries, conservatories, academic

high schools, elementary schools, other academic institutions, and in language training programs.

—(h) Temporary employees.¹

—(m) Students in established vocational or other recognized nonacademic institutions, other than in language training programs.

—(w) CNMI-Only Transitional Worker (CW-1).

DHS selected these paragraphs because of their relative length and complexity. By adding a table of contents to the second paragraph level within paragraphs (f), (h), (m), and (w), DHS aims to make § 214.2 easier to navigate for both DHS and the public.

Within each table of contents, each entry corresponds to a paragraph heading within § 214.2. A reader of an electronic version of § 214.2, such as the version available at www.ecfr.gov/, can use the table of contents entry and the “Find” feature of a web browser or other application to more easily find the corresponding paragraph heading within § 214.2. These changes do not alter the operative regulatory text in any way and are intended to serve as a supplemental aid to make it easier to find information within the regulation.

II. Regulatory History

DHS did not publish a notice of proposed rulemaking for this regulation. Under 5 U.S.C. 553(b)(B), an agency may waive the notice and comment requirements if it finds, for good cause, that notice and comment is impracticable, unnecessary, or contrary to the public interest. DHS finds that notice and comment are unnecessary under 5 U.S.C. 553(b)(B) because the changes herein are technical in nature and will have no substantive effect on the public. DHS also finds that the delayed effective date provision of 5 U.S.C. 553 does not apply because this rule is not “substantive,” and that even if the provision did apply, good cause exists under 5 U.S.C. 553(d)(3) for making this final rule effective immediately upon publication.

III. Regulatory Analysis

DHS considered numerous statutes and executive orders related to rulemaking when developing this rule.

¹ DHS is also revising certain paragraph headings within paragraph (h) to make each paragraph heading unique within that paragraph.

Below are summarized analyses based on these statutes and executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. This rule involves non-substantive technical changes; it will not impose any additional costs on the public. The benefit of the change is that 8 CFR 214.2 will now be easier to navigate.

B. Regulatory Flexibility Act

This rule is not preceded by a notice of proposed rulemaking. Therefore, it is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612).

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

D. National Environmental Policy Act

DHS reviews proposed actions to determine whether the National Environmental Policy Act (NEPA) applies to them and if so what degree of analysis is required. DHS Directive 023–01 Rev. 01 (Directive) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) establish the procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (“categorical exclusions”) which

experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(2)(ii), 1508.4. For an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Instruction Manual section V.B(2)(a)–(c).

This rule is a technical amendment that updates the structure of 8 CFR 214.2 to make it more accessible. Specifically, the amendment inserts a main table of contents, as well as four tables of contents for paragraphs (f), (h), (m), and (w). Therefore, it clearly fits within categorical exclusion A3(a) “Promulgation of rules . . . of a strictly administrative or procedural nature.” Instruction Manual, Appendix A, Table 1. Furthermore, the rule is not part of a

larger action and presents no extraordinary circumstances creating the potential for significant environmental impacts. Therefore, the amendment is categorically excluded from further NEPA review.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

For the reasons stated in the preamble, DHS amends 8 CFR part 214 as follows:

PART 214—NONIMMIGRANT CLASSES

- 1. The authority citation for part 214 is revised to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau,

48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

- 2. Amend § 214.2 as follows:
 - a. Immediately after the section heading, add table 1 to § 214.2;
 - b. Immediately after the paragraph heading of paragraph (f), add table 2 to paragraph (f);
 - c. Immediately after the paragraph heading of paragraph (h), add table 3 to paragraph (h);
 - d. Revise paragraph headings of paragraphs (h)(21), (22), (26), (27), and (28), respectively;
 - e. Immediately after the paragraph heading of paragraph (m), add table 4 to paragraph (m); and
 - f. Immediately after the paragraph heading of paragraph (w), add table 5 to paragraph (w).

The revisions and additions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

TABLE 1 TO § 214.2—SECTION CONTENTS

- (a) Foreign government officials.
- (b) Visitors.
- (c) Transits.
- (d) Crewmen.
- (e) Treaty traders and investors.
- (f) Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.
- (g) Representatives to international organizations.
- (h) Temporary employees.
- (i) Representatives of information media.
- (j) Exchange aliens.
- (k) Spouses, Fiancées, and Fiancés of United States Citizens.
- (l) Intracompany transferees.
- (m) Students in established vocational or other recognized nonacademic institutions, other than in language training programs.
- (n) Certain parents and children of section 101(a)(27)(l) special immigrants.
- (o) Aliens of extraordinary ability or achievement.
- (p) Artists, athletes, and entertainers.
- (q) Cultural visitors.
- (r) Religious workers.
- (s) NATO nonimmigrant aliens.
- (t) Alien witnesses and informants.
- (u) [Reserved].
- (v) Certain spouses and children of LPRs.
- (w) CNMI-Only Transitional Worker (CW–1).

* * * * *
 (f) *Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*

TABLE 2 TO PARAGRAPH (f)—PARAGRAPH CONTENTS

- (1) Admission of student.
- (2) I–20 ID.
- (3) Admission of the spouse and minor children of an F–1 student.
- (4) Temporary absence.
- (5) Duration of status.
- (6) Full course of study.
- (7) Extension of stay.

TABLE 2 TO PARAGRAPH (f)—PARAGRAPH CONTENTS—Continued

-
- (8) School transfer.
 - (9) Employment.
 - (10) Practical training.
 - (11) OPT application and approval process.
 - (12) Reporting while on optional practical training.
 - (13) Temporary absence from the United States of F–1 student granted employment authorization.
 - (14) Effect of strike or other labor dispute.
 - (15) Spouse and children of F–1 student.
 - (16) Reinstatement to student status.
 - (17) Current name and address.
 - (18) Special rules for certain border commuter students.
 - (19) Remittance of the fee.
-

* * * * *

(h) *Temporary employees.*

TABLE 3 TO PARAGRAPH (h)—PARAGRAPH CONTENTS

-
- (1) Admission of temporary employees.
 - (2) Petitions.
 - (3) Petition for registered nurse (H–1C).
 - (4) Petition for alien to perform services in a specialty occupation, services relating to a DOD cooperative research and development project or coproduction project, or services of distinguished merit and ability in the field of fashion modeling (H–1B).
 - (5) Petition for alien to perform agricultural labor or services of a temporary or seasonal nature (H–2A).
 - (6) Petition for alien to perform temporary nonagricultural services or labor (H–2B).
 - (7) Petition for alien trainee or participant in a special education exchange visitor program (H–3).
 - (8) Numerical limits.
 - (9) Approval and validity of petition.
 - (10) Denial of petition.
 - (11) Revocation of approval of petition.
 - (12) Appeal of a denial or a revocation of a petition.
 - (13) Admission.
 - (14) Extension of visa petition validity.
 - (15) Extension of stay.
 - (16) Effect of approval of a permanent labor certification or filing of a preference petition on H classification.
 - (17) Effect of a strike.
 - (18) Use of approval notice, Form I–797.
 - (19) Additional fee for filing certain H–1B petitions.
 - (20) Retaliatory action claims.
 - (21) Change of employers during COVID–19 National Emergency (August 19, 2020 through December 17, 2020).
 - (22) Change of employers during COVID–19 National Emergency (December 18, 2020 through June 16, 2021).
 - (23) Change of employers and extensions beyond 3 years during COVID–19 National Emergency for H–2B aliens essential to the U.S. food supply chain.
 - (24) Severability.
 - (25) [Reserved].
 - (26) Change of employers and portability for H–2B workers (May 25, 2021 through November 22, 2021).
 - (27) Change of employers and portability for H–2B workers (January 28, 2022 through July 27, 2022).
 - (28) Change of employers and portability for H–2B workers (July 28, 2022 through January 24, 2023).
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(21) *Change of employers during COVID–19 National Emergency (August 19, 2020 through December 17, 2020).*

* * *

(22) *Change of employers during COVID–19 National Emergency (December 18, 2020 through June 16, 2021).* * * *

* * * * *

(26) *Change of employers and portability for H–2B workers (May 25, 2021 through November 22, 2021).*

* * *

(27) *Change of employers and portability for H–2B workers (January 28, 2022 through July 27, 2022).* * * *

(28) *Change of employers and portability for H–2B workers (July 28, 2022 through January 24, 2023).* * * *

* * * * *

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*

TABLE 4 TO PARAGRAPH (m)—PARAGRAPH CONTENTS

-
- (1) Admission of student.
 - (2) Form I–20 ID copy.
 - (3) Admission of the spouse and minor children of an M–1 student.
 - (4) Temporary absence.
 - (5) Period of stay.
 - (6)–(8) [Reserved].
 - (9) Full course of study.
 - (10) Extension of stay.

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- (11) School transfer.
- (12) Change in educational objective.
- (13) Employment.
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- (16) Reinstatement to student status.
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- (18) Current name and address.
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- (20) Remittance of the fee.

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- (1) Definitions.
- (2) Eligible aliens.
- (3) Derivative beneficiaries—CW-2 nonimmigrant classification.
- (4) Eligible employers.
- (5) Petition requirements.
- (6) Appropriate documents.
- (7) Change of employers.
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- (9) Multiple beneficiaries.
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- (11) Early termination.
- (12) Approval.
- (13) Petition validity.
- (14) Validity of the labor certification.
- (15) How to apply for CW-1 or CW-2 status.
- (16) Biometrics and other information.
- (17) Period of admission.
- (18) Extension of petition validity and extension of stay.
- (19) Change or adjustment of status.
- (20) Effect of filing an application for or approval of a permanent labor certification, preference petition, or filing of an application for adjustment of status on CW-1 or CW-2 classification.
- (21) Rejection.
- (22) Denial.
- (23) Terms and conditions of CW Nonimmigrant status.
- (24) Expiration of status.
- (25) Waivers of inadmissibility for applicants lawfully present in the CNMI.
- (26) Semiannual report.
- (27) Revocation of approval of petition.
- (28) Appeal of a revocation of a petition.
- (29) Notice to DOL.

* * * * *

Alejandro N. Mayorkas,
Secretary, Department of Homeland Security.
 [FR Doc. 2022-22465 Filed 10-14-22; 8:45 am]
BILLING CODE 9112-FP-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2022-0611]

RIN 1625-AA08

Eleventh Coast Guard District Annual Marine Events; Northern California and Lake Tahoe, CA

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

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the list of marine events occurring annually within the Eleventh Coast Guard District, specifically within the

San Francisco Captain of the Port (COTP) zone. This rule will enable vessel movement restrictions in the regulated area when the special local regulations are activated and enforced.

DATES: This rule is effective on October 17, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0611 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT Anthony Solares, Sector San Francisco, U.S. Coast Guard;

telephone 415–399–3585, email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Coast Guard regularly updates the regulations for recurring special local regulations within the Eleventh Coast Guard District listed in 33 CFR 100.1103. These recurring special local regulations are for marine events that take place either on or over the navigable waters of the Eleventh Coast Guard District as defined at 33 CFR 3.55–1. These regulations were last amended February 13, 2020 (85 FR 8169). Before new recurring events are added to the listed events for Eleventh Coast Guard District they are reviewed for safe practice and verified to be recurring on or about the same time of year for subsequent years.

In response, on August 29, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Eleventh Coast Guard District Annual Marine Events; Northern California and Lake Tahoe, CA” (87 FR 52865). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the marine event additions. During the comment period that ended September 29, 2022, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of the participants and vessels during the upcoming event on October 23, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1233). The Captain of the Port San Francisco (COTP) has determined the regulation update is necessary to include recurring marine events and keep spectators and vessels a safe distance away from the specified events to ensure the safety of participants, spectators, and transiting vessels.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 29, 2022. There are no changes in the regulatory text of this rule from the regulatory text in the NPRM.

This rule updates the list of marine events occurring annually within the Eleventh Coast Guard District, specifically within the San Francisco Captain of the Port (COTP) zone. This rule will enable vessel movement restrictions in the regulated area when the special local regulations are activated and enforced. No vessel or person will be permitted to enter the regulated area unless authorized by the COTP.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and location of the regulated areas. The effect of this rule will not be significant because vessel traffic can either pass safely around these areas, regardless of size, or this rule will encompass only a small portion of the waterway for a short duration. Vessels will also be able to request permission from the COTP to transit through the regulated areas.

B. Impact on Small Entities

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

significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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 rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves revision of 33 CFR 100.1103. The additions to table 1 of 33 CFR 100.1103 will capture recurring marine events in the San Francisco Captain of the Port (COTP) zone. The revised regulation will prevent unauthorized persons or vessels from entering into, transiting through, or remaining in the regulated areas without the permission of the Captain of the Port San Francisco or a designated representative. It is categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters.

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

- 2. Revise and republish § 100.1103 to read as follows:

§ 100.1103 Northern California and Lake Tahoe area annual marine events.

(a) *General.* Special local regulations are established for the events listed in table 1 to this section. Notice of implementation of these special local regulations will be made by publication in the **Federal Register** 30 days prior to the event for those events without specific dates or by Notice to Mariners 20 days prior to the event for those events listing a period for which a firm date is identifiable. In all cases, further information on exact dates, times, and other details concerning the number and type of participants and an exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list for Local Notice to Mariners contact: Commander (dpw), Eleventh Coast Guard District, Coast Guard Island, Building 50–2, Alameda, CA 94501–5100. *Note:* Sponsors of events listed in table 1 to this section must submit an application each year as required by subpart A of this part to the cognizant Coast Guard

Sector Commander. Sponsors are informed that ample lead time is required to inform all Federal, state, local agencies, and other interested parties and to provide the sponsor the best support to ensure the safety of life and property.

(b) *Special local regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The “official patrol” consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the regulated areas during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed or signaled by an official patrol vessel, any spectator located within a regulated area during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander’s official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander’s representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. The PATCOM may be reached on VHF–FM Channel 13 (156.65 MHz) or 16 (156.8 MHz) when required, by the call sign “PATCOM”.

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 100.1103
[All coordinate referenced use datum NAD 83]

1. Blessing of the Fleet:	
Sponsor	Corinthian Yacht Club.
Event Description	Boat parade during which vessels pass by a pre-designated platform or vessel.
Date	Last Sunday in April.
Location	San Francisco Waterfront to South Tower of Golden Gate Bridge.
Regulated Area	The area between a line drawn from Bluff Point on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and a line drawn from Peninsula Point to the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.

TABLE 1 TO § 100.1103—Continued
 [All coordinate referenced use datum NAD 83]

<p>2. Opening Day on San Francisco Bay:</p> <p>Sponsor</p> <p>Event Description</p> <p>Date</p> <p>Location</p> <p>Regulated Area</p>	<p>Pacific Inter-Club Yacht Association and Corinthian Yacht Club.</p> <p>Boat parade during which vessels pass by a pre-designated platform or vessel.</p> <p>Last Sunday in April.</p> <p>San Francisco, CA waterfront: Crissy Field to Pier 39.</p> <p>The area defined by a line drawn from Fort Point; thence easterly approximately 5,000 yards; thence easterly to the Blossom Rock Bell Buoy; thence westerly to the Northeast corner of Pier 39; thence returning along the shoreline to the point of origin.</p> <p>Special Requirements: All vessels entering the regulated area shall follow the parade route established by the sponsor and be capable of maintaining an approximate speed of 6 knots.</p> <p>Commercial Vessel Traffic Allowances: The parade will be interrupted, as necessary, to permit the passage of commercial vessel traffic. Commercial traffic must cross the parade route at a no-wake speed and perpendicular to the parade route.</p>
<p>3. Delta Thunder Powerboat Race:</p> <p>Sponsor</p> <p>Event Description</p> <p>Date</p> <p>Location</p> <p>Regulated Area</p>	<p>Pacific Offshore Power Racing Association.</p> <p>Professional high-speed powerboat race.</p> <p>Second Saturday, Sunday in September.</p> <p>Off Pittsburg, CA in the waters around Winter Island and Brown Island.</p> <p>The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.</p>
<p>4. Pittsburg Seafood Festival Air Show:</p> <p>Sponsor</p> <p>Event Description</p> <p>Date</p> <p>Location</p> <p>Regulated Area</p>	<p>City of Pittsburg, CA.</p> <p>Pittsburg Seafood Festival Air Show.</p> <p>Second Saturday, Sunday in September.</p> <p>Off Pittsburg, CA in the waters around Winer Island and Broqn Island.</p> <p>The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.</p>
<p>5. Sacramento Ironman Swim:</p> <p>Sponsor</p> <p>Event Description</p> <p>Date</p> <p>Location</p> <p>Regulated Area</p>	<p>IRONMAN Group.</p> <p>Swim portion of the Sacramento Ironman Triathlon.</p> <p>A Sunday in October.</p> <p>Waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.</p> <p>For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.</p>
<p>6. Escape From Alcatraz Swim:</p> <p>Sponsor</p> <p>Event Description</p> <p>Date</p> <p>Location</p> <p>Regulated Area</p>	<p>Action Sports Events IMG.</p> <p>Escape From Alcatraz Swim.</p> <p>An approximate 750 meter swim that will originate from a boat located in the San Francisco Bay.</p> <p>A weekend day in June.</p> <p>Waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.</p> <p>For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.</p>

Dated: October 7, 2022.
Taylor Q. Lam,
Captain, U.S. Coast Guard, Captain of the Port San Francisco.
 [FR Doc. 2022-22429 Filed 10-14-22; 8:45 am]
BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0845]

RIN 1625-AA00

Safety Zone; Potomac River, Washington, DC

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Washington, DC, on October 22, 2022, (no rain date) from potential hazards during a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port,

Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 8:30 p.m. through 10:30 p.m. on October 22, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0845 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Courtney Perry, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2596, email Courtney.E.Perry@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On September 29, 2022, the Coast Guard was notified of a fireworks display by event planners. The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to do so. We must establish this safety zone by October 22, 2022, to protect the public from hazards associated with the fireworks event. Hazards include explosive materials, dangerous projectiles, and falling debris. The fireworks fallout zone extends across the navigable channel.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because

immediate action is needed to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port, Sector Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in the October 22, 2022, display will be a safety concern for anyone near the fireworks barge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:30 p.m. through 10:30 p.m. on October 22, 2022. The safety zone covers all navigable waters of the Potomac River within 400 feet of the fireworks barge in approximate position latitude 38°53′39.7″ N, longitude 077°03′29.7″ W, located near the John F. Kennedy Center for Performing Arts in Washington, DC. The size of the zone and the duration of the rule are intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone, which will impact a small designated area of the Potomac River for 2 hours, during the evening, when vessel traffic is normally

low. Furthermore, the Coast Guard conducted outreach on October 5, 2022, to the area’s predominant commercial passenger vessel operator to determine if previously scheduled transits along the waterway would be impacted by this safety zone, and was told there were none scheduled. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

This rule will not call for a new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zone lasting only 2 hours that will prohibit entry within a portion of the Potomac River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is

available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–0845 to read as follows:

§ 165.T05–0845 Safety Zone; Potomac River, Washington, DC.

(a) *Location.* The following area is a safety zone: All navigable waters of the Potomac River within 400 feet of the fireworks barge in approximate position latitude 38°53′39.7″ N, longitude 077°03′29.7″ W located near the John F. Kennedy Center for Performing Arts, in Washington, DC. These coordinates are based on datum North American Datum of 1983 (NAD 83).

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–

2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10:30 p.m. on October 22, 2022.

Dated: October 11, 2022.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2022–22462 Filed 10–14–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0761]

RIN 1625–AA00

Safety Zone; Missouri River Mile Markers 139.5–139.2, Jefferson City, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Missouri River at Mile Markers (MM) 139.5–139.2. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with electrical line work. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective from October 15, 2022 until October 31, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0761 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Richard

Cherkauer, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314-269-2560, email Richard.G.Cherkauer@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 COTP Captain of The Port Sector Upper Mississippi River
 DHS Department of Homeland Security
 FR Federal Register
 MM Mile marker
 NPRM Notice of proposed rulemaking
 § Section
 U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The NPRM process would delay the establishment of the safety zone until after the construction work is completed and compromise public safety. We must establish this temporary safety zone immediately and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to public safety due to ongoing electrical line work.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line work will be a safety concern for anyone operating or transiting within the Missouri River from MM 139.5–139.2. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone

while electrical line work is being conducted.

IV. Discussion of the Rule

Electrical line work will be occurring near MM 139.5–139.2 beginning October 15, 2022. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314-269-2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in the size of the safety zone as conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on a safety zone located on the Missouri River at MM 139.5–139.2, near Jefferson City, MO. The Safety Zone is expected to be active only during the hours of 9 a.m. through 4 p.m., or only when work is being conducted, every day until October 31, 2022.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship

between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing the width of the Upper Mississippi River at MM 139.5–139.2. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER**

INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2.

- 2. Add § 165.T08–0761 to read as follows:

§ 165.T08–0761 Safety Zone; Missouri River, Mile Markers 139.5–139.2, Jefferson City, MO.

(a) *Location.* The following area is a safety zone: all navigable waters within Missouri Mile Markers (MM) 139.5–139.2.

(b) *Enforcement period.* This section will be subject to enforcement from October 15, 2022 through October 31, 2022.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs),

and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: October 12, 2022.

A.R. Bender,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2022–22634 Filed 10–13–22; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0821]

RIN 1625–AA00

Safety Zone; NAS Jax Air Show, St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the St. Johns River in connection with the Naval Air Station Jacksonville Air Show. This action is necessary to provide for the safety of life on these navigable waters near Naval Air Station Jacksonville, Jacksonville, FL, during the air show. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port Jacksonville or a designated representative.

DATES: This rule is effective from 7 a.m. on October 21, 2022 through 4 p.m. on October 23, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0821 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Shawn Keeman, Waterways Management Division, U.S. Coast Guard; telephone 904–714–7661, email Shawn.R.Keeman@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule. It would be contrary to the public interest since immediate action is necessary to protect the safety of participants, spectators, the public, and vessels transiting the waters of Jacksonville, FL during the Naval Air Station Jacksonville Air Show.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Naval Air Station Jacksonville Air Show, and to ensure the safety of life on navigable waters during the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Jacksonville (COTP) has determined that potential hazards associated with the air show would be a safety concern for anyone within the safety zone established by this rulemaking. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from October 21, 2022 through October 23, 2022 for: All waters of the St. Johns River, one nautical mile east of the boathouse at Naval Air Station Jacksonville, FL then north .75 nautical mile, then west approximately 1 nautical mile west, then .15 nautical miles south to the shoreline. The duration of the safety zone is intended to ensure the safety of vessels and these

navigable waters before, during, and after the scheduled air show, from 7 a.m. through 4 p.m. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the following reasons: (1) the temporary safety zone will only being enforced for a total of 9 hours per day, for a total of 27 hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative.

B. Impact on Small Entities

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

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

economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone lasting 9 hours each day for 3 days for a total of 27 hours, in the waters surrounding Naval Air Station Jacksonville in Jacksonville, FL. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T07–0821 to read as follows:

§ 165.T07–0821 NAS Jax Air Show, St. Johns River, Jacksonville, FL.

(a) *Location.* The following area is a safety zone: All waters of the St. Johns River, from surface to bottom, encompassed by a line connecting the following points beginning at 30°14'18" N, 081°39'46" W, thence to 30°14'27" N, 081°39'46" W, thence to 30°14'27" N, 081°38'38" W, thence to 30°13'41" N, 081°38'38" W, thence to 30°13'41" N, 081°39'54" W, and along the shore line back to the beginning point. These coordinates are based on the 1984 World Geodetic System (WGS 84).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by Jacksonville by telephone at (904) 714–7557, or a designated representative via VHF–FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or a designated representative.

(d) *Enforcement period.* This section will be enforced from from 7 a.m. until 4 p.m., each day from October 21, 2022 through October 23, 2022.

Dated: October 12, 2022.

Joshua D. Rose,

Commander, U.S. Coast Guard, Acting Captain of the Port Jacksonville.

[FR Doc. 2022–22467 Filed 10–14–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2022–0290; FRL–10107–02–R4]

Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2015 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 28, 2022, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia 2015 8-hour ozone nonattainment area (hereinafter referred to as the “Atlanta Area” or “Area”) to attainment for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is approving the State's plan for maintaining attainment of the 2015 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the years of 2018 and 2033 for the Area, incorporating the maintenance plan into the SIP, and redesignating the Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Area.

DATES: This rule is effective November 16, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2022–0290. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency,

Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9029. Ms. Spann can also be reached via electronic mail at spann.jane@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is taking the following separate but related actions: (1) Approving Georgia's plan for maintaining the 2015 ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporating the plan into the SIP, and (2) redesignating the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia.

EPA is taking final action to approve Georgia's maintenance plan for the Atlanta Area as meeting the requirements of section 175A, such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status, and incorporate it into the SIP. The maintenance plan is designed to keep the Atlanta Area in attainment of the 2015 8-hour ozone NAAQS through 2033. The maintenance plan includes 2018 and 2033 MVEBs for NO_x and VOC for the Atlanta Area for transportation conformity purposes. EPA is approving these MVEBs and incorporating them into the SIP. EPA is also taking final action to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

EPA is also notifying the public of the status of EPA's adequacy process for the MVEBs for the Atlanta Area. The Adequacy comment period began on February 11, 2022, with EPA's posting of the availability of Georgia's submission on EPA's Adequacy website ([https://www.epa.gov/state-and-local-transportation/state-implementation-](https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa)

[plans-sip-submissions-currently-under-epa](https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa)). The Adequacy comment period for these MVEBs closed on March 15, 2022. No comments, adverse or otherwise, were received during the Adequacy comment period.

In summary, this final rulemaking is in response to Georgia's February 28, 2022, redesignation request and associated SIP submission that addresses the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS.

II. Background

Effective August 3, 2018, EPA designated areas as unclassifiable/attainment or nonattainment for the 2015 8-hour ozone NAAQS that was promulgated on October 1, 2015. *See* 80 FR 65292 (October 26, 2015). The Atlanta Area was designated as nonattainment for the 2015 8-hour ozone NAAQS and classified as a marginal nonattainment area.¹ *See* 83 FR 25776 (June 4, 2018). On February 28, 2022, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS and submitted a SIP revision containing the State's plan for maintaining attainment of the 2015 8-hour ozone standard in the Area, including 2018 and 2033 MVEBs for NO_x and VOC for the Atlanta Area.

In a notice of proposed rulemaking (NPRM) published on August 26, 2022, *see* 87 FR 52487, EPA proposed to approve the maintenance plan, including the 2018 and 2033 MVEBs for NO_x and VOC, and incorporate the plan into the Georgia SIP and to redesignate the Area to attainment for the 2015 8-hour ozone NAAQS. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO_x and VOC MVEBs for the Atlanta Area. The details of Georgia's submittal and the rationale for EPA's actions are further explained in the NPRM. Comments on the August 26, 2022, NPRM were due on or before September 26, 2022. EPA did not receive any comments on the August 26, 2022, NPRM.

III. Final Action

EPA is approving the aforementioned changes to the SIP. EPA is taking two separate but related final actions. First, EPA is approving the maintenance plan

for the Atlanta Area, including the NO_x and VOC MVEBs for 2018 and 2033, and incorporating it into the Georgia SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2015 8-hour ozone NAAQS and that the MVEBs meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Second, EPA is approving Georgia's redesignation request for the 2015 8-hour ozone NAAQS for the Atlanta Area. Approval of the redesignation request changes the official designation of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in the Atlanta Area for the 2015 8-hour ozone NAAQS from nonattainment to attainment, as indicated at 40 CFR part 81. EPA is also notifying the public that EPA finds the newly established NO_x and VOC MVEBs for the Atlanta Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners for the Atlanta Area will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e).

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions 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);
- Do not impose an information collection burden under the provisions

¹ That Atlanta Area consists of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia.

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are 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.*);

- Do 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);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9,

2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by December 16, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or actions. These actions may not be challenged later in proceedings to enforce their requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, Incorporation by reference.

Dated: September 30, 2022.

Daniel Blackman,
Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 and part 81 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

■ 2. In § 52.570(e), amend the table by adding a new entry at the end of the table for “2015 8-hour Ozone Maintenance Plan for the Atlanta Area” to read as follows:

§ 52.570 Identification of plan.

* * * * *
(e) * * *

EPA APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2015 8-hour Ozone Maintenance Plan for the Atlanta Area.	Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties.	2/28/2022	10/17/2022, [Insert citation of publication].	

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.311, amend the table entitled “Georgia—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by

revising the entry for “Atlanta, GA,” to read as follows:

§ 81.311 Georgia.
* * * * *

GEORGIA—2015 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Atlanta, GA Bartow County. Clayton County.	11/16/2022	Attainment.		

GEORGIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Cobb County. DeKalb County. Fulton County. Gwinnett County. Henry County.				
* * * *				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * *

[FR Doc. 2022–21653 Filed 10–14–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 12–375, DA 22–676; FR ID 109242]

Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the *Annual Reports Adoption Order* issued by the Commission’s Wireline Competition Bureau (WCB or Bureau) on June 24, 2022. In that *Order*, WCB adopted instructions, a reporting template, and a certification form related to an Annual Report data collection regarding calling services for incarcerated people. The instant document is consistent with the *Annual Reports Adoption Order*, which indicated that the Commission will publish a document in the **Federal Register** announcing that OMB approved the data collection and establishing an effective date for the actions in the *Order*.

DATES: The *Annual Reports Adoption Order*, DA 22–676, including the reporting instructions, template, and certification form adopted in that *Order*, published August 2, 2022, at 87 FR 47103, is effective on October 17, 2022.

FOR FURTHER INFORMATION CONTACT: Erik Raven-Hansen, Pricing Policy Division, Wireline Competition Bureau, (202) 418–1532, or email erik.raven-hansen@fcc.gov.

SUPPLEMENTARY INFORMATION: This document announces that, on October 3, 2022, OMB approved, for a period of three years, the information collection requirements adopted on June 24, 2022, in the *Annual Reports Adoption Order*, DA 22–676, published at 87 FR 47103 (August 2, 2022). The OMB Control Number is 3060–1222. The Commission publishes this document as an announcement of the effective date of the requirements for the Annual Report Collection.

In the *Annual Reports Adoption Order*, WCB directed that requirements for the Annual Reports adopted in that *Order* would become effective on the date specified in a document to be published in the **Federal Register** announcing OMB approval. Annual Reports must be filed on April 1 of each year. We note that the next inmate calling services (ICS) providers’ responses to the Annual Report data collection are due no later than Monday, April 3, 2023 because April 1, 2023, falls on a Saturday.

If you have any comments on the Annual Report data collection, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20002. Please include the OMB Control Number, 3060–1222, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202)

418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on October 3, 2022, for the information collection requirements contained in WCB’s *Annual Reports Adoption Order*. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1222.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total data collection burdens and costs for the respondents are as follows:
OMB Control Number: 3060–1222.

OMB Approval Date: October 3, 2022.
OMB Expiration Date: October 31, 2025.

Title: Inmate Calling Services (ICS) Provider Annual Reporting, Certification, Consumer Disclosure, and Waiver Request Requirements, WC Docket No. 12–375, FCC 21–60.

Form Numbers: FCC Form 2301(a) and FCC Form 2301(b).

Respondents: Business or other for profit.

Number of Respondents and Responses: 20 respondents; 23 responses.

Estimated Time per Response: 5 hours–120 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver request requirements.

Total Annual Burden: 3,740 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 4(i)–(j), 201(b), 218, 220, 225, 255, 276, 403, and 617 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201(b), 218, 220, 225, 255, 276, 403, and 617.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Protective Order in the Commission's ICS proceeding, WC Docket 12–375, 28 FCC Rcd 16954 (WCB 2013), provides confidential treatment for the proprietary information submitted by ICS providers in response to the Commission's directives. The Commission will treat as presumptively confidential any particular information identified as confidential by the provider in accordance with the Freedom of Information Act and Commission rules. Each confidential document should be stamped and submitted to the Secretary's Office with an accompanying cover letter, as specified by the Protective Order.

Needs and Uses: Section 201 of the Communications Act of 1934, as amended (Act), 47 U.S.C 201, requires that ICS providers' interstate and international rates and practices be just and reasonable. Section 276 of the Act, 47 U.S.C. 276, requires that payphone service providers (including ICS providers), be fairly compensated for completed calls.

In 2015, the Commission released the Second Report and Order and Third Notice of Further Proposed Rulemaking, WC Docket No. 12–375, 30 FCC Rcd 12763, (2015 ICS Order), in which the Commission required that ICS providers file Annual Reports providing data and other information on their ICS operations, as well as Annual Certifications that reported data are complete and accurate and comply with the Commission's ICS rules. Pursuant to the authority delegated it by the Commission in the 2015 ICS Order, the Bureau created a standardized reporting template (FCC Form No. 2301(a)) and a related certification of accuracy (FCC Form No. 2301(b)), as well as instructions to guide providers through the reporting process. The instructions explain the reporting and certification requirements and reduce the burden of the data collection. (ICS Annual Reporting Form (2017–2019), <https://www.fcc.gov/general/ics-data-collections>; ICS Annual Reporting

Certification Form, <https://www.fcc.gov/general/ics-data-collections>).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking (2021 ICS Order), WC Docket No. 12–375, 36 FCC Rcd (2021), in which it revised its rules by adopting, among other things, lower interim rate caps for interstate calls. The rules necessitated changes to the Annual Reports in order to simplify compliance with and reduce the burden of the data collection. On December 15, 2021, the Bureau issued a Public Notice, WC 12–375, DA 21–1583 (WCB December 15, 2021), seeking comment on its proposed revisions to the instructions and annual reporting and certification templates for the Annual Reports. After considering the comments and replies submitted in response to the Public Notice, the Bureau released the *Annual Reports Adoption Order* on June 24, 2022, revising the instructions, standardized reporting template, and the certification of accuracy. See <https://www.fcc.gov/document/wcb-announces-ics-annual-reporting-and-certification-revisions>. The Order largely adopted the proposals contained in the Public Notice, with certain minor refinements and reevaluations responsive to comments and replies filed in response to the Public Notice.

Under the Bureau's Order, ICS providers must continue to submit all reports using the electronic template provided by the Commission, and to provide the data in a machine-readable, manipulatable format. The reporting requirements cover the general categories proposed in the Public Notice. These categories include the submission of information on facilities served; interstate, intrastate, and international ICS rates; ancillary service charges; site commissions; and disability access, among other matters. The Bureau adopted reporting requirements for interstate, international, and intrastate ICS rates as proposed, with minor revisions. Further, the Bureau adopted the reporting requirements for ancillary service charges assessed by ICS providers as proposed, with certain revisions. In addition, the Bureau adopted the reporting requirements as proposed concerning site commissions, with minor revisions. The Bureau also revised the instructions and reporting template to match these revisions, and to more precisely target the information to be reported in connection with providers' disability access services.

Federal Communications Commission.

Lynne Engledow,

Deputy Chief, Pricing Policy Division, Wireline Competition Bureau.

[FR Doc. 2022–22530 Filed 10–14–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220216–0049]

RTID 0648–XC462

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of the incidental catch allowance for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2022 total allowable catch of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 13, 2022, through 2400 hours, A.l.t., December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2022 total allowable catch (TAC) of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA is 2,500 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish of the GOA (87 FR 11559, March 2, 2022).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS

(Regional Administrator), has determined that the 2022 TAC of Pacific ocean perch apportioned to the incidental catch allowance in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that catches of the incidental catch allowance for Pacific ocean perch in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b). This closure does not apply to fishing by vessels participating in the cooperative fishery of the Rockfish Program for the Central GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of Pacific ocean perch in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 12, 2022.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 13, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022-22628 Filed 10-13-22; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 87, No. 199

Monday, October 17, 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 25

[Docket No. FAA-2022-0532; Notice No. 25-22-03-SC]

Special Conditions: Airbus A320-200 Series Model A320-251N, -252N, -253N, -271N, -272N, -273N Airplanes and A321-200 Series Model A321-251NX, -252NX, -253NX, -271NX, -272NX Airplanes; Flight Attendant Seat Mounted on Movable Interior Structure

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

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Airbus A320-200 Series Model -251N, -252N, -253N, -271N, -272N, -273N (known as A320neo) airplanes and A321-200 Series Model -251NX, -252NX, -253NX, -271NX, -272NX (known as A321neo) airplanes. The airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is flight attendant seats mounted on movable lavatory doors. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before December 1, 2022.

ADDRESSES: Send comments identified by Docket No. FAA-2022-0532 using any of the following methods:

- *Federal eRegulations Portal:* Go to <https://www.regulations.gov/> and follow

the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

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

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the Information Contact below. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Docket: Background documents or comments received may be read at <https://www.regulations.gov/> at any

time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Shannon Lennon, Human Machine Interface, AIR-626, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206-231-3209; email shannon.lennon@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Background

On October 27, 2020, Airbus SAS applied for a change to Type Certificate No. A28NM for flight attendant seats mounted on movable lavatory doors in A320-200 Series Model A320-251N, -252N, -253N, -271N, -272N, and -273N (known as A320neo) airplanes and A321-200 Series Model A321-251NX, -252NX, -253NX, -271NX, and -272NX (known as A321neo) airplanes. These airplanes are twin-engine, transport category airplanes. The A320neo has a maximum passenger seating capacity of 179 and the A321neo has a maximum passenger seating capacity of 244.

The applicable airworthiness requirements do not contain adequate or appropriate safety standards for this new lavatory door-mounted flight attendant seat. Section 25.785 of title 14, Code of Federal Regulations (14 CFR) specifies certain requirements for flight attendant seats but did not consider flight attendant seats mounted on movable structure such as lavatory doors and, therefore, does not

specifically address additional concerns associated with ensuring the flight attendant seats are safe to occupy when necessary. Therefore, special conditions are necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR), § 21.101, Airbus must show that the A320neo and A321neo airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A28NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus A320neo and A321neo airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Airbus A320neo and A321neo airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Airbus A320neo and A321neo airplanes will incorporate the following novel or unusual design features:

Flight attendant seats mounted on movable lavatory doors.

Discussion

Airbus will install, in A320neo and A321neo airplanes, flight attendant seats on lavatory doors. The lavatory door-mounted flight attendant seat is intended to be occupied during all

phases of flight, including takeoff and landing.

Flight attendant seats are typically floor-mounted or wall-mounted on a non-movable structure (e.g., mounted on monument walls) which is attached to the airplane structure. The installation of a flight attendant seat on movable structure, such as a lavatory door, introduces certain issues that must be addressed to ensure safety of the attendant seat occupant. Such considerations include ensuring that the lavatory door is closed (fixed) when the flight attendant seat is to be occupied and ensuring that the lavatory door lock mechanism is reliable after frequent use of the lavatory door. Additionally, the lavatory door, door locking mechanism, and door housing will need to withstand certain loading conditions as that structure is part of the load path between seat structure and airplane structure.

Other issues include ensuring that the flight attendant seat is available to use when necessary, which requires a way to ensure the lavatory is not occupied when the flight attendant seat must be occupied. Also, additional maintenance requirements will need to be considered to establish the reliability of the lavatory door locking mechanism, as it is a feature that will be frequently used.

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

Applicability

As discussed above, these special conditions are applicable to the A320 Series Model -251N, -252N, -253N, -271N, -272N, -273N (known as A320neo) and A321 Series Model -251NX, -252NX, -253NX, -271NX, -272NX (known as A321neo) airplanes. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on A320 Series Model -251N, -252N, -253N, -271N, -272N, -273N (known as A320neo) and A321 Series Model -251NX, -252NX, -253NX, -271NX, -272NX (known as A321neo) airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for A320 Series Model -251N, -252N, -253N, -271N, -272N, -273N (known as A320neo) and A321 Series Model -251NX, -252NX, -253NX, -271NX, -272NX (known as A321neo).

(a) The lavatory door-mounted flight attendant seat-system primary load path, including the flight attendant seat, seat attachment means, the lavatory door, and lavatory door attachment to the lavatory housing—including the locking mechanism—must be shown to be capable of withstanding the emergency landing dynamic loads in accordance with § 25.562. The lavatory housing and the lavatory attachment to the airplane structure must comply with the requirements of § 25.561.

(b) Means must be provided to ensure that the flight attendant seat can only be used if the lavatory door is securely locked in the closed position.

(1) The procedures for establishing that the lavatory door is closed and locked prior to use of the flight attendant seat must become part of the cabin crew training.

(2) The effects of structural deformation of the lavatory door and lavatory door housing must be addressed to prevent unlocking or failure of the locking mechanism.

(c) Means must be provided to ensure that the lavatory is not occupied so that the flight attendant seat is available when necessary.

(d) Means must be provided to ensure that no one is inadvertently trapped inside the lavatory when the lavatory door is locked to facilitate use of the flight attendant seat.

(e) The lavatory door locking mechanism must be shown to withstand frequent use. Potential deterioration of moving parts must be addressed to show that the locking mechanism is reliable within its established life cycle. Accordingly, instructions for continued airworthiness must also be defined for the locking mechanism.

Issued in Kansas City, Missouri, on October 11, 2022.

Patrick R. Mullen,

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

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BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 461

Trade Regulation Rule on Impersonation of Government and Businesses

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) commences a rulemaking to promulgate a trade regulation rule entitled “Rule on Impersonation of Government and Businesses,” which would prohibit the impersonation of government, businesses, or their officials. The Commission finds such impersonation to be prevalent based on the comments it received in response to an advance notice of proposed rulemaking and other information discussed in this document. The Commission now solicits written comment, data, and arguments concerning the utility and scope of the proposed trade regulation rule to prohibit the impersonation of government, businesses, or their officials.

DATES: Comments must be received on or before December 16, 2022.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write “Impersonation NPRM, R207000” on your comment and file your comment online at <https://www.regulations.gov>. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Christopher E. Brown, Attorney, Marketing Practices Division, phone: 202-326-2825, cbrown3@ftc.gov.

SUPPLEMENTARY INFORMATION: The Commission invites interested parties to submit data, views, and arguments on the proposed Rule on Impersonation of Government and Businesses and, specifically, on the questions set forth in Item IV of this notice of proposed rulemaking (“NPRM”). The comment period will remain open until December 16, 2022.¹ To the extent practicable, all comments will be available on the public record and posted at the docket for this rulemaking on <https://www.regulations.gov>. If interested parties request to present their position orally, the Commission will hold an informal hearing, as specified in Section 18(c) of the FTC Act, 15 U.S.C. 57a(c). Persons interested in making a presentation at an informal hearing must file a comment in response to this document containing a statement explaining why they believe an informal hearing is warranted, how they would participate in an informal hearing, their interests in the proceeding, whether there are any disputed issues of material fact necessary to be resolved during an informal hearing, and a summary of their anticipated testimony. If an informal hearing is held, a separate document will issue under 16 CFR 1.12(a) (“initial notice of informal hearing”).

I. Background

On December 23, 2021, the Commission published an advance notice of proposed rulemaking (“ANPR”) under the authority of Section 18 of the FTC Act, 15 U.S.C. 57a(b)(2); the provisions of part 1, subpart B, of the Commission’s Rules of Practice, 16 CFR 1.7–1.20; and 5 U.S.C. 553.² This authority permits the Commission to promulgate, modify, or repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1). The ANPR described the Commission’s history of taking law enforcement action against and educating consumers about the impersonation of government and businesses,³ and it asked questions about the prevalence of impersonation

¹ The Commission elects not to provide a separate, second comment period for rebuttal comments. See 16 CFR 1.11(e) (“The Commission may in its discretion provide for a separate rebuttal period following the comment period.”).

² Fed. Trade Comm’n, ANPR: Trade Regulation Rule on Impersonation of Gov’t and Businesses, 86 FR 72901 (Dec. 23, 2021), <https://www.federalregister.gov/documents/2021/12/23/2021-27731/trade-regulation-rule-on-impersonation-of-government-and-businesses>.

³ See *id.*, 86 FR 72901–04.

fraud and whether and how to proceed with an NPRM.⁴ The Commission took comment for 60 days, and it received 164 unique comments, which it has thoroughly considered.

Based on the substance of these comments, as well as the Commission’s history of enforcement and other information discussed below, the Commission has reason to believe that the impersonation, including affiliation or endorsement claims, of government, businesses, and their officials or agents is prevalent⁵ and that proceeding with this rulemaking is in the public interest. This document discusses the comments and explains its considerations in developing the proposed rule. The Commission also poses specific questions for comment. Finally, the NPRM provides the text of its proposed rule.

II. Summary of Comments to ANPR

The Commission received 164 unique comments in response to the ANPR, which are publicly available on this rulemaking’s docket at <https://www.regulations.gov/docket/FTC-2021-0077/comments>.⁶ Of the total comments received, 113 expressly support the Commission’s proceeding with the rulemaking. Another 35 comments did not express a clear view on the merits of proceeding, and another 16 comments did not address the question. No commenter expressed the view that the Commission should not commence this rulemaking. Most comments came from individual consumers, with 140 total comments. Ten comments were submitted by businesses,⁷ eleven by

⁴ See *id.* at 72904.

⁵ See 15 U.S.C. 57a(b)(3) (“The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent.”).

⁶ The docket lists 168 comments, but four of these were submitted by AVIXA, Inc. (“Audio Visual and Integrated Experience Association”) and two by the National Association of Attorneys General (“NAAG”), accounting for four total duplicates. See AVIXA Cmts., <https://www.regulations.gov/comment/FTC-2021-0077-0085>, <https://www.regulations.gov/comment/FTC-2021-0077-0126>, <https://www.regulations.gov/comment/FTC-2021-0077-0128>; NAAG Cmts., <https://www.regulations.gov/comment/FTC-2021-0077-0152>, <https://www.regulations.gov/comment/FTC-2021-0077-0164>.

⁷ See Pub’ts Clearing House, Cmt. on ANPR (Feb. 8, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0008> (“PCH Cmt.”); YouMail Inc., Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0148> (“YouMail Cmt.”); WMC Global, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0154> (“WMC Cmt.”); DIRECTV, LLC, Cmt. on ANPR (Feb. 23, 2022), [https://www.regulations.gov/comment/FTC-2021-](https://www.regulations.gov/comment/FTC-2021-0077-0154)

trade associations,⁸ and three by government or law-enforcement organizations.⁹

The 140 individual consumers who commented expressed deep concern about the harmful effects of both government and business impersonation. One representative consumer comment declared: “Citizens of the USA should be able to answer the phone and not have to worry about what type of spam, coercion, or trickery is about to assault them.”¹⁰ Many consumers expressed concern that impersonation scams target specific populations, such as older consumers.

0077-0167 (“DIRECTV Cmt.”); Somos, Inc., Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0162> (“Somos Cmt.”); Microsoft Corp., Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0135> (“Microsoft Cmt.”); Apple, Inc., Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0159> (“Apple Cmt.”); Cotney Attorneys & Consultants, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0140> (“Cotney Cmt.”); Erik M. Pelton & Associates, Consultants, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0156> (“Pelton Cmt.”); Informa PLC, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0166> (“Informa Cmt.”).

⁸ See Exhibitions & Conferences Alliances, Cmt. on ANPR (Feb. 15, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0009> (“ECA Cmt.”); AVIXA, Inc., Cmt. on ANPR (Feb. 17, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0085> (“AVIXA Cmt.”); Experiential Designers & Producers Association, Cmt. on ANPR (Feb. 16, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0073> (“EDPA Cmt.”); Association of Equipment Manufacturers, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0168> (“AEM Cmt.”); The American Apparel & Footwear Association, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0141> (“AAFA Cmt.”); NCTA—The Internet & Television Association, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0169> (“NCTA Cmt.”); USTelecom, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0160> (“USTelecom Cmt.”); International Housewares Association, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0144> (“IHA Cmt.”); National Association of Broadcasters, Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0146> (“NAB Cmt.”); CTIA, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0161> (“CTIA Cmt.”); Consumer Tech. Ass’n, Cmt. on ANPR (Feb. 17, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0091> (“CTA Cmt.”).

⁹ See Broward Cnty., Fla., Cmt. on ANPR (Feb. 16, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0075> (“Broward Cmt.”); NAAG, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0164> (“NAAG Cmt.”); Nat’l Ass’n of State Charity Officials (“NASCO”), Cmt. on ANPR, at 1 (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0165> (“NASCO Cmt.”).

¹⁰ Coni Limpert, Cmt. on Trade Regulation Rule on Impersonation of Government and Businesses (“Cmt. on ANPR”) (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0121> (“Limpert Cmt.”).

Another consumer, who fell victim to an impersonator of a contractor company, described lasting and serious harm: “We are lost and devastated. I live in fear daily because someone has sensitive information about my home, its location, and the people I love who reside in it.”¹¹

A. Comments About the Impersonation of Government

In its ANPR, the Commission cited public data from the Consumer Sentinel Network database and its enforcement record to conclude that “government impersonation scams are highly prevalent and increasingly harmful.”¹² The comments received about the impersonation of government bolster this conclusion.

Six commenters explicitly addressed the widespread nature of the impersonation of government entities, citing common scams perpetrated by fraudsters pretending to be Federal, State, and local governments.¹³ For example, USTelecom, a trade association of telephone and broadband industry companies, and YouMail, Inc. (“YouMail”), a communications and cybersecurity company, cite their own data regarding the prevalence of Social Security Administration impersonation scams,¹⁴ which echo the Commission’s findings that these schemes are among the most common government impersonation complaints. Broward County, Florida, and NAAG note the incidence of government impersonation at the local level, giving particular emphasis to scams offering consumers official-looking government documents at a significantly marked-up price.¹⁵ Commenters also cite evidence of other common government impersonation frauds, such as schemes impersonating the Internal Revenue Service¹⁶ and Department of Homeland Security¹⁷ or targeting public-sector employees entitled to benefits¹⁸ and businesses seeking to comply with regulatory reporting requirements.¹⁹

¹¹ Yroctonya Williams, Cmt. on ANPR (Jan. 6, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0004> (“Williams Cmt.”).

¹² ANPR, 86 FR 72901; see also Fed. Trade Comm’n, *Explore Government Imposter Scams*, TABLEAU PUBLIC, <https://public.tableau.com/app/profile/federal.trade.commission/viz/GovernmentImposter/Infographic> (last visited Mar. 17, 2022).

¹³ See USTelecom, Cmt. at 2; Broward Cmt. at 1; NAAG Cmt. at 3; YouMail Cmt. at 3WMC Cmt. at 2; Somos Cmt.

¹⁴ See USTelecom Cmt. at 1; YouMail Cmt. at 3.

¹⁵ See Broward Cmt. at 1; NAAG Cmt. at 4.

¹⁶ See Broward Cmt. at 1.

¹⁷ See USTelecom Cmt. at 1.

¹⁸ See NAAG Cmt. at 5–6.

¹⁹ See *id.* at 5; see also Fed. Trade Comm’n, NPRM: Telemarketing Sales Rule, 87 FR 33677,

The Commission also takes notice of additional indications of the prevalence of government impersonation scams, which came after the ANPR’s publication: The Federal Bureau of Investigation issued a Public Service Announcement on March 7, 2022, “warning the public of ongoing widespread fraud schemes in which scammers impersonate law enforcement or government officials in attempts to extort money or steal personally identifiable information.”²⁰ Similarly, the Social Security Administration’s Office of the Inspector General spearheaded a scam alert issued by multiple Federal law enforcement agencies on May 20, 2022, warning the public of government impersonation scams involving the reproduction of Federal law enforcement credentials and badges.²¹ Additionally, the Commission recently noted that, in some impersonation scams, fraudsters have instructed consumers to convert cash into cryptocurrency under false threats of government investigations or fraud.²²

Several commenters discussed how a rule addressing impersonation should be drafted. For example, Broward County offered specific recommendations, including but not limited to prohibiting advertising that creates the impression of government affiliation or endorsement without express consent and requiring advertisers to prominently disclaim government affiliation or endorsement where it could be reasonably construed from silence.²³ YouMail suggested that

33683 n.77 (June 3, 2022), <https://www.federalregister.gov/documents/2022/06/03/2022-09914/telemarketing-sales-rule> (collecting cases of business-to-business fraud that impersonated the government and violated the Telemarketing Sales Rule).

²⁰ Public Service Announcement, Fed. Bureau of Investigation, Alert No. I-030722-PSA, *FBI Warns of the Impersonation of Law Enforcement and Government Officials* (Mar. 7, 2022), <https://www.ic3.gov/Media/Y2022/PSA220307>.

²¹ Scam Alert, Soc. Sec. Admin. Off. of Inspector Gen., *Federal Law Enforcement Agencies Warn of Impersonation Scam Involving Credentials and Badges* (May 20, 2022), <https://oig.ssa.gov/assets/uploads/scam-alert-law-enforcement-credentials.pdf>.

²² See Press Release, Fed. Trade Comm’n, *New Analysis Finds Consumers Reported Losing More than \$1 Billion in Cryptocurrency to Scams since 2021* (June 3, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/new-analysis-finds-consumers-reported-losing-more-1-billion-cryptocurrency-scams-2021> (“After cryptocurrency investment schemes, the next largest losses reported by consumers were on . . . Business and Government Impersonation Scams[.] Reports show these scammers often target consumers by claiming their money is at risk because of fraud or a government investigation and the only way to protect their cash is by converting it to cryptocurrency.”).

²³ See Broward Cmt. at 2.

the proposed rule “not be so prescriptive as to put a damper on private cybersecurity businesses’ ability to develop and refine new, market-based tools to prevent electronic communications fraud, including impersonation fraud.”²⁴

Two commenters, NAAG and USTelecom, explicitly addressed the Commission’s questions regarding individuals or entities that provide the means and instrumentalities for impersonators to conduct such practices. NAAG asserted that impersonators “often use other companies’ products and services to execute their scams,” such as “marketing companies, call centers, attorneys, third-party mailing services, payment processors, lead list providers, remote offices . . . [d]ating websites, and social media”²⁵ It also addressed the Commission’s question regarding the circumstances under which the provision of means and instrumentalities should be considered deceptive or unfair, remarking that “when an entity provides substantial assistance or support to impersonators and knows or should have known that their products [or] services are being used in a fraudulent impersonation scheme, that company could also be held liable under the proposed impersonation rule.”²⁶ Similarly, USTelecom also recommended liability for “individuals or entities that provide the means and instrumentalities for impersonators . . . such as how the FTC has used the [Telemarketing Sales Rule] against robocall enablers,” but noted that the proposed rule “should make clear that liability . . . requires proof of knowledge of such fraud or conscious avoidance of it, consistent with FTC precedent and [Telemarketing Sales Rule] and Section 5 jurisprudence.”²⁷ Somos, Inc., which manages registry databases for the telecommunications industry, similarly encourages the “[p]rosecution of . . . those knowingly aiding and abetting” impersonated toll-free numbers.²⁸

Several commenters recommended additional action to a proposed rulemaking, including the development of educational workshops and materials,²⁹ and increased collaboration between the Commission and other

government agencies, businesses, and trade associations to combat impersonation fraud.³⁰ For example, WMC Global, a cybersecurity company, recommended that government agencies invest in “phishing kit intelligence”—one of the tools the company states it uses to identify impersonators responsible for credential phishing attacks.³¹ YouMail encourages the Commission to work with industry groups “that develop methods, techniques, and standards that advance the fight against robocalls and related fraud,” which can serve to “help educate the public about how those tools can be used for self-protection against impersonation.”³² Somos expressed a willingness to assist law enforcement’s prosecution of impersonators that spoof a company’s Toll-Free Number (TFN) for their CallerID, but use a different TFN as a call back number, which leads consumers to believe they are communicating with an honest business.³³ Somos states that it can always provide the identity of the entity that reserved the TFN, which law enforcement, using subpoenas, can trace back to the subscriber or U.S. point of entry that likely committed the fraud or knowingly aided and abetted the activity.³⁴

B. Comments About the Impersonation of Businesses

The ANPR noted that business impersonation scams cause an “enormous amount of financial harm to the public” and are widespread: “From January 1, 2017, through September 30, 2021, consumers reported being defrauded of roughly \$852 million in 753,555 business impersonation incidents.”³⁵ The comments received about the impersonation of businesses bolster this conclusion.

The Commission received 15 comments that specifically addressed the widespread impersonation of businesses from consumers, trade associations, and businesses.³⁶ Consumers submitted comments about various business impersonators they encountered, including impersonators

of Microsoft³⁷ and Apple.³⁸ Several of these impersonated companies submitted their own comments relaying that impersonation of their businesses causes severe harm to consumers as well as to their own business.³⁹

The Commission received several comments from trade associations that represent groups engaged in the face-to-face business events industry. Five trade associations representing businesses partaking in conferences, trade shows, and other face-to-face business events submitted comments noting that they are frequently targets of business impersonation.⁴⁰ These comments outlined two prevalent types of business impersonation fraud: hotel reservation scams and attendee list-sale scams. A hotel reservation scam involves scammers impersonating housing providers of a particular conference or event and tricking consumers into purchasing bogus hotel rooms.⁴¹ Perpetrators of attendee list-sale scams contact face-to-face exhibitors and sell fake attendee lists.⁴² They often use the event organizer’s name and logo to bolster the illusion that they are, or are affiliated with or endorsed by, the event organizer.⁴³

The National Association of Broadcasters (“NAB”) also expressed its support for the initiation of a rulemaking to address impersonation because of its experience hosting an annual convention.⁴⁴ NAB states that business impersonation harms numerous small businesses that often do not have the resources to properly protect themselves.⁴⁵

The American Apparel & Footwear Association (“AAFA”) states that the AAFA and the roughly 1,000 brands it represents are frequent targets of

³⁷ See, e.g., Betty Hanley, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0163> (“Hanley Cmt.”).

³⁸ See, e.g., Maximo Esteban, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0157> (“Esteban Cmt.”); Anonymous, Cmt. on ANPR (Feb. 16, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0044> (“0044 Cmt.”).

³⁹ See Microsoft Corp., Cmt. on ANPR (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0135> (“Microsoft Cmt.”); Apple, Inc., Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0159> (“Apple Cmt.”).

⁴⁰ See EDPA Cmt.; ECA Cmt.; AEM Cmt.; AVIXA Cmt.; NAB Cmt.

⁴¹ See ECA Cmt. at 2; EDPA Cmt.; AEM Cmt. at 1; AVIXA Cmt.

⁴² See ECA Cmt. at 2; EDPA Cmt.; AEM Cmt. at 1; AVIXA Cmt.

⁴³ See ECA Cmt. at 2; EDPA Cmt.; AEM Cmt. at 1; AVIXA Cmt.

⁴⁴ See NAB Cmt. at 1–2.

⁴⁵ See *id.*

²⁴ YouMail Cmt. at 11.

²⁵ NAAG Cmt. at 8.

²⁶ *Id.* at 10.

²⁷ USTelecom Cmt. at 3–4.

²⁸ Somos Cmt. at 3, 5.

²⁹ See USTelecom Cmt. at 3; NAAG Cmt. at 13; YouMail Cmt. 9–10; WMC Cmt. at 5; NCTA Cmt. at 2; CTIA Cmt.; Pelton Cmt. at 5; ECA Cmt. at 2–3; AAFA Cmt. at 3; CTA Cmt. at 3–7; YouMail Cmt. at 10; DIRECTV Cmt. at 2.

³⁰ See YouMail Cmt. at 10; WMC Cmt. at 5; Somos Cmt. at 6.

³¹ WMC Cmt. at 1, 5.

³² YouMail Cmt. at 10.

³³ See Somos Cmt. at 3, 6.

³⁴ *Id.*

³⁵ ANPR, 86 FR 72901.

³⁶ See ECA Cmt.; AVIXA Cmt.; EDPA Cmt.; AEM Cmt.; AAFA Cmt.; NCTA Cmt.; US Telecom Cmt.; NAAG Cmt.; PCH Cmt.; YouMail Cmt.; WMC Cmt.; IHA Cmt.; DIRECTV Cmt.; Somos Cmt.; NAB Cmt..

business impersonation.⁴⁶ The impersonators use company or organization trademarks and logos in the signature blocks of fraudulent email solicitations to help perpetrate these schemes.⁴⁷ The AAFA comment notes that impersonation is a widespread issue in the non-profit trade association industry.⁴⁸ Another trade association, the International Housewares Association,⁴⁹ and a consulting firm for construction companies, Cotney Attorneys & Consultants,⁵⁰ submitted comments that also expressed concern about rampant impersonation fraud surrounding trade shows and conferences.

Four trade associations that represent businesses in the telecommunications and technology industries submitted comments noting that these industries are frequently targeted for business impersonation fraud. The internet & Television Association (“NCTA”), a trade association for the United States cable television industry, states that its members provide television service to almost 80% of the nation’s cable television customers.⁵¹ NCTA does not explicitly take a position on the proposed rulemaking, but states that it stands “ready to assist the FTC with its educational efforts.”⁵² NCTA identified two common types of business scams, a payment scam and unauthorized reselling scam. A payment scam involves scammers impersonating employees or vendors and calling customers or prospective customers in an effort to gain their personal information, such as credit card information, bank account numbers, Social Security numbers, and passwords.⁵³ An unauthorized reselling scam involves scammers fraudulently using member brands to collect customer or employee information or unlawfully reselling access to the company’s network.⁵⁴ NCTA states that it takes considerable action to fight these scams, including communicating regularly with customers and providing educational materials online, engaging with the communities at town halls, and directing consumers to FTC resources.⁵⁵

USTelecom states that it supports the efforts of Federal agencies, including the FTC, to hold impersonators accountable for fraud, including impersonators using telephone networks to perpetrate their scams.⁵⁶ It notes that, every day, these impersonators spam the U.S. telephone network with robocalls and voice phishing calls pretending to be private companies.⁵⁷ USTelecom’s Industry Traceback Group tracks these calls and identifies the percentage of bank scams, health insurance scams, and Amazon impersonators, among others.⁵⁸ According to USTelecom, most of these calls originate from outside of the United States, from countries such as India, Pakistan, Mexico, the United Kingdom, and Australia.⁵⁹

Consumer Technology Association (“CTA”) states that it is North America’s largest technology trade association.⁶⁰ CTA and its members are frequently targeted for impersonation fraud.⁶¹ CTA states that it has seen a growing number of impersonation fraud through email solicitations, including impersonation attempts of CTA representatives.⁶² CTA also states that business impersonation victimizes non-profit organizations, such as the CTA Foundation.⁶³ CTA supports an FTC rule that would prohibit deceptive impersonation of for-profit and non-profit businesses alike.⁶⁴ It recommends that the FTC not focus rulemaking efforts on communication channels; instead, it encourages the FTC to work with the private sector to improve detection and reporting mechanisms to prevent impersonation schemes.⁶⁵ Finally, CTA suggests that the FTC consider partnership with other Federal agencies, the private sector, and non-profits to gather information and help prevent impersonation fraud.⁶⁶

CTIA, a trade association for wireless-service providers, proposes that the FTC continue to use its existing tools to combat impersonation fraud.⁶⁷ CTIA suggests that, if the FTC proceeds with a new rule to address impersonation fraud, the rule should “narrowly” target bad actors and continue to coordinate with government partners and the

private sector.⁶⁸ CTIA lists various industry efforts to help prevent robocalls from reaching consumers and discusses its implementation of “Messaging Principles and Best Practices” to help stop bad actors.⁶⁹ CTIA states that its members have been assisting Federal and State enforcement actions against impersonation frauds.⁷⁰

The Commission received 11 comments from businesses or trade associations that are frequently impersonated; six of these comments were from companies in the telecommunications and technology industries.⁷¹

For example, DIRECTV submitted a comment supporting the Commission’s effort to fight impersonation fraud⁷² and states that many impersonators pose as representatives of DIRECTV in an effort to commit prepaid card fraud, which causes significant harm to both consumers and businesses.⁷³ According to DIRECTV, impersonators falsely offer consumers discounts on its service in exchange for the consumer’s providing a prepaid credit card or gift card to a third-party e-commerce website.⁷⁴ This conduct can result in significant financial loss for consumers.⁷⁵ DIRECTV cites a YouMail, Inc. estimate that Americans received millions of calls over the course of one month in late 2021 from scammers claiming to be from companies, such as Amazon, Apple, PayPal, and Wells Fargo, and making false claims about the consumers’ accounts or information with these companies.⁷⁶ DIRECTV states that impersonation fraud harms its business by forcing it to dedicate resources to fighting the scams and also states that the scams hurt its ability to interest consumers in legitimate services.⁷⁷

Apple, Inc., submitted a comment that urges the Commission to adopt a rule targeting bad actors (and their “facilitators” that are engaging in impersonation fraud) without stifling legitimate business activity.⁷⁸ Apple states that it has worked cooperatively with the FTC and other Federal agencies to protect consumers from

⁴⁶ See AAFA Cmt. at 1.

⁴⁷ See *id.*

⁴⁸ See *id.* at 2.

⁴⁹ See IHA Cmt. at 1.

⁵⁰ See Cotney Attorneys & Consultants, Cmt. on ANPR, at 1 (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0140> (“Cotney Cmt.”).

⁵¹ See NCTA Cmt. at 2.

⁵² *Id.*

⁵³ See *id.*

⁵⁴ See *id.*

⁵⁵ See *id.*

⁵⁶ See USTelecom Cmt. at 1.

⁵⁷ See *id.*

⁵⁸ See *id.* at 2.

⁵⁹ See *id.*

⁶⁰ Consumer Tech. Ass’n, Cmt. on ANPR, at 1 (Feb. 17, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0091> (“CTA Cmt.”).

⁶¹ See *id.*

⁶² See *id.* at 4.

⁶³ See *id.* at 5–6.

⁶⁴ See *id.*

⁶⁵ *Id.* at 9.

⁶⁶ See *id.*

⁶⁷ See CTIA, Cmt. on ANPR (Feb. 23, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0161> (“CTIA Cmt.”).

⁶⁸ *Id.*

⁶⁹ *Id.* at 7–10.

⁷⁰ See *id.*

⁷¹ See YouMail Cmt.; WMC Cmt.; DIRECTV Cmt.; Microsoft Cmt.; Apple Cmt.; Somos Cmt.; PCH Cmt.; Informa Cmt.; AAFA Cmt.; NAB Cmt.; CTA Cmt.

⁷² See DIRECTV Cmt. at 1.

⁷³ See *id.* at 2–4.

⁷⁴ See *id.* at 4–6.

⁷⁵ See *id.* at 2.

⁷⁶ See *id.*

⁷⁷ See *id.* at 3–4.

⁷⁸ Apple Cmt.

impersonation fraud.⁷⁹ Apple notes the prevalence of fraud in which impersonators steal money from consumers through gift card scams.⁸⁰ Apple states that, as a result of aggressive civil and criminal enforcement, impersonation fraud levels have decreased.⁸¹ Apple states that impersonators who have obtained stolen gift cards use gray markets⁸² to sell the items purchased with those cards, making it harder for consumers to detect the fraud.⁸³ Apple maintains that gray markets are primary “means and instrumentalities” that impersonators use to conduct their scams.⁸⁴ One consumer submitted a comment describing how he had had fallen prey to Apple employee impersonators.⁸⁵ Another commenter, a former Apple employee, described the many stories she had heard of customers falling victim to Apple employee impersonators.⁸⁶

Microsoft Corporation strongly supports the Commission’s decision to proceed with rulemaking to combat government and business impersonation fraud.⁸⁷ Microsoft states that it is frequently impersonated in the form of technical support scams, in which individuals impersonate Microsoft employees to trick consumers into purchasing technical support services to fix non-existing software or device issues.⁸⁸ Such impersonators often steal personal information from consumers and frequently install malware or other programs to do so.⁸⁹ Microsoft’s comment discusses its commitment to protecting customer privacy through its Digital Crimes Unit.⁹⁰ Microsoft states that it has a database of roughly 600,000 consumer complaints regarding technical support scams.⁹¹ It also states that it has conducted consumer surveys regarding the prevalence of technology scams. In 2021, Microsoft commissioned

YouGov to conduct an online survey of more than 16,000 adult internet users in 16 countries.⁹² Microsoft maintains that the survey results demonstrate the strong need for additional protection of consumers from technical support scams.⁹³

According to Microsoft, the YouGov survey shows that 67% of U.S. consumers have encountered a technical support scam in the previous year.⁹⁴ The study did show that marginally fewer consumers have been exposed to technical support scams in recent years than in 2018.⁹⁵ The YouGov survey also showed that consumers have been targeted with impersonation scams involving Facebook, Apple, Google, and Amazon.⁹⁶

Microsoft states that consumers often lose hundreds and sometimes thousands of dollars to technical support impersonation scams.⁹⁷ According to Microsoft, the YouGov survey shows that the Millennial Generation and Generation Z have the highest losses from technical support scams: One in 10 members of these demographics fell victim to such a scam and lost money.⁹⁸ The survey data shows that men are more likely to fall prey to a technical support scam.⁹⁹

Microsoft states that there has been a shift from the traditional “cold-call” model that scammers use, often by using spoofed numbers and claiming to be a Microsoft employee, to deployment of automated pop-ups/malware on websites to redirect consumers to scam websites.¹⁰⁰ It states that technical support scams typically make strong claims via pop-up websites, email and other online platforms,¹⁰¹ in addition to telephone calls where callers falsely represent themselves as Microsoft employees.¹⁰² According to Microsoft, technical support impersonators often share resources, which allows them to copy each other’s business models and limit risk of enforcement action.¹⁰³

Addressing means-and-instrumentalities liability, Microsoft states that scammers typically rely on payment processors to receive money from victims of these scams.¹⁰⁴ The scammers also utilize affiliate marketing

services to advertise to consumers through malicious ads and pop-up windows.¹⁰⁵

Microsoft states that a systematic approach is critical to address these scams, especially because private actors are limited in their ability to recover money for victims.¹⁰⁶ Microsoft notes that the FTC’s new rule would “clarify and strengthen the FTC’s authority to address these scams, building upon the FTC’s existing authority under the FTC Act and existing regulation, including the Telemarketing Sales Rule.”¹⁰⁷

Somos, Inc. states in its comment that, when scammers use Toll-Free Numbers (TFNs) to execute their scams, it causes consumers to lose confidence in TFNs.¹⁰⁸ It reports that, since 2017, Somos and partner organizations have shut down more than 18,000 TFNs used by impersonation scammers.¹⁰⁹ Somos discusses anecdotal evidence based on experience with companies that have asked Somos to help shut down TFNs utilized by scammers.¹¹⁰ Somos states that it works with more than 80 companies whose customers have been targeted by impersonation scams—65 utility companies, four tech companies, three retailers, and 10 miscellaneous entities.¹¹¹ Somos states that there has been an increase in the number of TFNs reported as impersonation scams.¹¹²

The Commission received a comment from Erik M. Pelton & Associates, a trademark law firm in Virginia, requesting that it include trademark scams in its definition of impersonation scams.¹¹³ The comment states that trademark scams have become widespread.¹¹⁴ Specifically, the comment states that a Pakistan-based company used over 200 fake websites to impersonate the United States Patent and Trademark Office (USPTO) and offer trademark filing services.¹¹⁵ The law firm urges transparency from the FTC, USPTO, and United States Postal Inspection Service about the pervasiveness of trademark scams and the measures being taken to address

⁷⁹ See *id.*

⁸⁰ See *id.*

⁸¹ See *id.* Apple notes that complaints about unauthorized calls by individuals listed on the FTC’s Do Not Call Registry decreased after the Commission sued a VoIP provider for originating illegal robocalls.

⁸² Gray markets “allow consumers to sell physical and digital goods at a discounted price. Impersonators who have obtained stolen gift card funds utilize gray markets to sell items purchased with those funds to other consumers who may be unaware of the fraudulent source of the items they are purchasing.” *Id.*

⁸³ See *id.*

⁸⁴ *Id.*

⁸⁵ See Esteban Cmt.

⁸⁶ See 0044 Cmt.

⁸⁷ See Microsoft Cmt. at 1.

⁸⁸ See *id.*

⁸⁹ See *id.*

⁹⁰ See *id.* at 2.

⁹¹ See *id.* at 3.

⁹² See *id.*

⁹³ See *id.*

⁹⁴ See *id.*

⁹⁵ See *id.*

⁹⁶ See *id.* at 3–4.

⁹⁷ See *id.* at 4.

⁹⁸ See *id.*

⁹⁹ See *id.*

¹⁰⁰ See *id.* at 5–6.

¹⁰¹ See *id.* at 6.

¹⁰² See *id.*

¹⁰³ See *id.*

¹⁰⁴ See *id.*

¹⁰⁵ See *id.*

¹⁰⁶ See *id.*

¹⁰⁷ *Id.* The Commission also received a comment from a consumer who fell prey to Microsoft impersonators. See Hanley Cmt.

¹⁰⁸ See Somos Cmt. at 1.

¹⁰⁹ See *id.* at 2.

¹¹⁰ See *id.*

¹¹¹ See *id.*

¹¹² See *id.* at 4.

¹¹³ See Erik M. Pelton & Associates, Consultants, Cmt. on ANPR, at 1 (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0156> (“Pelton Cmt.”).

¹¹⁴ See *id.* at 3.

¹¹⁵ See *id.*

these scams.¹¹⁶ The comment also recommends that the FTC investigate the means used to collect the money unlawfully taken from victims.¹¹⁷ The comment also suggests that the FTC adopt a more robust impersonation scam reporting system for consumers and businesses.¹¹⁸

C. Other Comments

The Commission received a number of comments that advocated for “non-profit” entities to be included in the proposed rule’s definition of businesses that can be impersonated.¹¹⁹ For example, The National Association of State Charity Officials (“NASCO”), an association of state charity officials, state attorneys general, and other state officials who regulate charities, submitted a comment urging the Commission to consider including impersonation of charitable organizations in the rule.¹²⁰ NASCO states that “fraudulent practices of impersonating legitimate charitable causes and charitable organizations persist across the country.”¹²¹ It urges the FTC to ensure that the impersonation rule would cover individual and professional fundraiser impersonators.¹²² NASCO notes that the FTC worked with 38 state charity regulators to help shut down a telemarketing scam that involved over 100 million donations.¹²³

III. Reasons for the Proposed Rule on Impersonation of Government and Businesses

The Commission believes that the proposed rule will substantially improve its ability to combat the most prevalent impersonation fraud and may also strengthen deterrence against this fraud in the first instance. While government impersonation and business impersonation are already unlawful under Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices, the proposed rule will allow the Commission to seek civil penalties against the violators and more readily obtain monetary redress for their victims. The rule would not impose new burdens on honest businesses and instead provide benefits to businesses

whose brands are harmed by business impersonators.

A. Need for and Objectives of the Proposed Rule on Impersonation of Government and Businesses

The Commission’s objective in commencing this rulemaking is to expand the remedies available to it in combatting common and injurious forms of fraud. In the ANPR, the Commission described how a recent U.S. Supreme Court decision,¹²⁴ which overturned 40 years of precedent from the U.S. Circuit Courts of Appeal uniformly holding that the Commission could take action under Section 13(b) of the FTC Act to return money unlawfully taken from consumers through unfair or deceptive acts or practices, has made it significantly more difficult for the Commission to return money to injured consumers.¹²⁵ Without Section 13(b) as it had historically been understood, the only method the Commission has to return money unlawfully taken from consumers is Section 19, which provides two paths for consumer redress. The longer path requires the Commission to first win a case in—and any appeal arising from—its administrative court. Then, to recover money for consumers, the Commission must prove that the violator engaged in fraudulent or dishonest conduct¹²⁶ in a second action in Federal court. The shorter path, which allows the Commission to recover directly through a Federal court action or obtain civil penalties directly from a Federal court, is available only when a rule has been violated.¹²⁷

The proposed rule will make available the shorter path in a broader set of Commission enforcement actions. Currently, the Commission can directly pursue in Federal court Section 19 remedies, including civil penalties and consumer redress, for impersonation fraud only if that fraud violates the Commission’s Telemarketing Sales Rule, Mortgage Assistance Relief Services Rule, or R-Value Rule, which expressly prohibit impersonation fraud but apply only in specific contexts.¹²⁸ Outlawing

impersonation of government and business by rule no matter what the context expands the Commission’s enforcement toolkit and allows it to stop and deter harmful conduct and make American consumers whole when they have been wronged. Because impersonation fraud is so prevalent and so harmful, the unlocking of additional remedies through this rulemaking, particularly the possibility of seeking civil penalties against violators as well as obtaining redress for their victims, will allow the Commission to more effectively police impersonation scams that plague consumers.

B. Overview and Scope of Proposed Rule on Impersonation of Government and Businesses

The Commission’s proposed rule is straightforward. It borrows from existing rules and statutory definitions by declaring that impersonation of government and businesses is unlawful.¹²⁹ As noted above, case law and the Commission’s experience, as well as the comments and other evidence cited herein, are replete with examples of such impersonation.

The prohibition against impersonating government in proposed § 461.2 would cover unlawful conduct by persons who misrepresent that they are or are affiliated with a government or government officer by, including but not limited to: (1) calling, messaging, or otherwise contacting an individual or entity while posing as a government or an officer or agent or affiliate or endorsee thereof, including by identifying a government or officer by name or by implication; (2) sending physical mail through any carrier using addresses, government seals or lookalikes, or other identifying insignia of a government or officer thereof; (3) creating a website or other electronic service impersonating the name, government seal, or identifying insignia of a government or officer thereof or using “.gov” or any lookalike, such as

sponsorship by, any person or government entity”); R-Value Rule, 16 CFR 460.21 (“Do not say or imply that a government agency uses, certifies, recommends, or otherwise favors your product unless it is true. Do not say or imply that your insulation complies with a governmental standard or specification unless it is true.”); Regulation O (Mortgage Assistance Relief Services), 12 CFR 1015.3(b)(3) (prohibiting misrepresentations that “a mortgage assistance relief service is affiliated with, endorsed or approved by, or otherwise associated with: (i) The United States government, (ii) Any governmental homeowner assistance plan, (iii) Any Federal, State, or local government agency, unit, or department, (iv) Any nonprofit housing counselor agency or program, (v) The maker, holder, or servicer of the consumer’s dwelling loan, or (vi) Any other individual, entity, or program”).

¹²⁹ See *id.*

¹¹⁶ See *id.*

¹¹⁷ See *id.* at 5.

¹¹⁸ *Id.*

¹¹⁹ Nat’l Ass’n of State Charity Officials (“NASCO”), Cmt. on ANPR, at 1 (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0165> (“NASCO Cmt.”); ECA Cmt. at 2; Cotney Cmt. at 2; CTA Cmt. at 3–7.

¹²⁰ See NASCO Cmt. at 1.

¹²¹ *Id.* at 2.

¹²² See *id.* at 3.

¹²³ See *id.*

¹²⁴ See *AMG Cap. Mgmt., LLC v. FTC*, 141 S. Ct. 1341, 1352 (2021).

¹²⁵ See ANPR, 86 FR 72901 & n.24 (discussing *AMG Cap. Mgmt.*).

¹²⁶ See 15 U.S.C. 57b(a)(2) (“If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief.”).

¹²⁷ Compare 15 U.S.C. 57b(a)(1) (rule violations), with *id.* 57b(a)(2) (Section 5 violations).

¹²⁸ See TSR, 16 CFR 310.3(a)(2)(vii) (prohibiting misrepresentations with respect to a “seller’s or telemarketer’s affiliation with, or endorsement or

“govusa.com”; (4) creating or spoofing an email address using “.gov” or any lookalike; (5) placing advertisements that pose as a government or officer thereof against search queries for government services; and (6) using a government seal on a building, letterhead, website, email, vehicle, or other physical or digital place.

The prohibition against impersonating businesses in § 461.3 would cover a variety of similarly unlawful conduct, including but not limited to: (1) calling, messaging, or otherwise contacting an individual or entity while posing as a business or an officer or agent or affiliate or endorsee thereof, including by naming a business by name or by implication, such as “card member services” or “the car dealership”; (2) sending physical mail through any carrier using addresses, seals, logos, or other identifying insignia of a business or officer thereof; (3) creating a website or other electronic service impersonating the name, logo, insignia, or mark of a business or a close facsimile or keystroke error, such as “ntyimes.com,” “rnicrosoft.com,” “microsoft.biz,” or “carnegiehall.tixsales.com”; (4) creating or spoofing an email address that impersonates a business; (5) placing advertisements that pose as a business or officer thereof against search queries for business services; and (6) using, without authorization, a business’s mark on a building, letterhead, website, email, vehicle, or other physical or digital place.

The rule, in proposed § 461.4, also makes it unlawful to provide the means and instrumentalities for violations of proposed §§ 461.2 and 461.3. Some commenters suggested that the Commission impose liability on a broader set of actors, namely those who assist and facilitate violations. The Telemarketing Sales Rule (“TSR”) does so, but the Commission cannot do so here. The TSR provides express statutory authorization for assisting-and-facilitating liability,¹³⁰ a form of indirect liability. Sections 5 and 18 of the FTC Act contain no such express authorization. Instead, the case law describes a form of direct liability for a party who, despite not having direct contact with the injured consumers, “passes on a false or misleading representation with knowledge or reason to expect that consumers may possibly be deceived as a result.”¹³¹ In other words: “One who places in the

hands of another a means of consummating a fraud or competing unfairly in violation of the Federal Trade Commission Act is himself guilty of a violation of the Act.”¹³² Accordingly, the Commission proposes expressly to impose liability on those who provide the means and instrumentalities of violations of the prohibitions against impersonation of government and businesses, but it declines to seek to impose assisting-and-facilitating liability. An example of a violation of proposed § 461.4’s prohibition on providing the means and instrumentalities for impersonation is a person who fabricates official-looking Internal Revenue Service (IRS) Special Agent identification badges for sale. In this example, the person does not actually impersonate an IRS Special Agent, so does not violate proposed § 461.2’s prohibition against impersonating government officers but does provide the means and instrumentalities for others to do so, which violates proposed § 461.4.

Several commenters raised questions about jurisdiction. The proposed rule is subject to all existing limitations of the law: of unfair or deceptive acts or practices under the FTC Act; of the FTC’s jurisdiction; and of the U.S. Constitution—the Commission cannot bring a complaint to enforce the rule if the complaint would exceed the Commission’s jurisdiction or offend the Constitution. One important jurisdictional subject for discussion is not-for-profit entities. The Commission is authorized to sue a corporation (including any company, trust, or association, incorporated or unincorporated) only when it is “organized to carry on business for its own profit or that of its members.”¹³³ Nevertheless, the proposed rule’s definition of “business” includes entities that are organized as not-for-profit entities. The reason is that persons, partnerships, or corporations that *are* organized for profit (including illicit profits) may impersonate a business that is not. For example, a scammer might impersonate a charity. Whether organized as a person, partnership, or corporation, this hypothetical scammer is within the jurisdiction of the FTC, even if the impersonated charity is not. Accordingly, the rule, in proposed § 461.1, defines a “business” that may

be impersonated to include non-profits.¹³⁴

One commenter worried that the rule, if applied literally in an unanticipated way, could chill legitimate speech.¹³⁵ The proposed rule, however, sweeps no more broadly than the existing prohibition against unfair and deceptive practices in Section 5 of the FTC Act. Because misrepresentations must be “material” and “in or affecting commerce,” a communication that is not material to a commercial transaction, such as impersonation in artistic or recreational costumery or impersonation in connection with political or other non-commercial speech, is not prohibited by the proposed rule.

C. The Rulemaking Process

The Commission can decide to finalize the proposed rule if the rulemaking record, including the public comments in response to this NPRM, supports such a conclusion. The Commission may, either on its own initiative or in response to a commenter’s request, engage in additional processes, which are described in 16 CFR 1.12 and 1.13. If the Commission on its own initiative decides to conduct an informal hearing, or if a commenter files an adequate request for such a hearing, then a separate notice will issue under 16 CFR 1.12(a). Based on the comment record and existing prohibitions against impersonation of government and businesses under Section 5 of the FTC Act, the Commission does not here identify any disputed issues of material fact necessary to be resolved at an informal hearing. The Commission may still do so later, on its own initiative or in response to a persuasive showing from a commenter.

IV. Preliminary Regulatory Analysis

Under Section 22 of the FTC Act, the Commission, when it publishes any NPRM, must include a “preliminary regulatory analysis.” 15 U.S.C. 57b–3(b)(1). The required contents of a preliminary regulatory analysis are (1) “a concise statement of the need for, and the objectives of, the proposed rule,” (2) “a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective,” and (3) “a preliminary analysis of the projected benefits and any adverse economic effects and any

¹³⁴ State laws likely forbid impersonation by a bona fide non-profit organization even if would not be subject to FTC jurisdiction.

¹³⁵ See Cason Reilly, Cmt. on ANPR, at 1–3 (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2021-0077-0136>.

¹³⁰ See 15 U.S.C. 6102(a)(2) (“acts or practices of entities or individuals that assist or facilitate deceptive telemarketing”).

¹³¹ *Shell Oil Co.*, 128 F.T.C. 749 (1999).

¹³² *C. Howard Hunt Pen Co. v. FTC*, 197 F.2d 273, 281 (3d Cir. 1952).

¹³³ 15 U.S.C. 44.

other effects” for the proposed rule and each alternative, along with an analysis “of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.” 15 U.S.C. 57b–3(b)(1)(A)–(C). This NPRM already provided the concise statement of the need for, and the objectives of, the proposed rule in Item III.A above. It addresses the other requirements below.

A. Reasonable Alternatives and Anticipated Costs and Benefits

The Commission believes that the benefits of proceeding with the rulemaking will significantly outweigh the costs, but it welcomes public comment and data (both qualitative and quantitative) on any benefits and costs to inform a final regulatory analysis. Critical to the Commission’s analysis is the legal consequence that any eventual rule would allow not only for monetary relief to victims of rule violations but also for the imposition of civil penalties against violators. Such results are likely to provide benefits to consumers and competition, as well as to the agency, without imposing any significant costs on consumers or competition. It is difficult to quantify with precision what all those benefits may be, but it is possible to describe them qualitatively.

It is useful to begin with the scope of the problem the proposed rule would address. As discussed in the ANPR, consumers reported 1,362,996 instances of government impersonation and associated total losses of \$922,739,109 from January 1, 2017 through September 30, 2021.¹³⁶ Since then, consumers reported another 46,606 instances of government impersonation in the fourth quarter of 2021 and 46,950 in the first quarter of 2022.¹³⁷ For business impersonation, the ANPR noted that, from January 1, 2017 through September 30, 2021, consumers reported being defrauded of roughly \$852 million in 753,555 incidents.¹³⁸ Since then, consumers reported another 96,341 instances of business impersonation in the fourth quarter of 2021 and 79,057 in the first quarter of 2022.¹³⁹ For the time

period discussed in the ANPR, average annual total consumer losses reported from business impersonation were roughly \$180 million, and average annual total consumer losses reported from government impersonation were roughly \$190 million. With all the 2021 data in, total reported consumer losses last year due to government impersonation topped \$445 million over 396,601 reported incidents.¹⁴⁰

Reports of government and business impersonation remain high. The consumer losses remain large, with, for government impersonation scams alone, a median loss of \$1,322 and total losses of \$103 million reported for government impersonation in the first quarter of 2022.¹⁴¹ If the trends from the first quarter of 2022 continue, the annual consumer loss reported just for government impersonation will again exceed \$400 million. And these figures cover only those incidents that are reported to the Commission; plainly, the prevalence of government and business impersonation in reality is higher than what gets reported to the Commission.

It follows that, qualitatively, government and business impersonation cases have recently constituted and are likely to constitute in the future a meaningful share of Commission enforcement actions,¹⁴² and in many of those actions a rule against impersonation may prove to be the only or the most practicable means for achieving consumer redress. As such, the most significant anticipated benefit of a final rule is the ability to obtain monetary relief, especially consumer redress, as well as civil penalties. While such relief could also be obtained with an existing rule, such as the TSR, in many cases, by no means do all impersonation scams implicate an existing rule, and there is no reason to expect them all to do so in the future.¹⁴³

federal.trade.commission/viz/FraudReports/SubcategoriesOverTime (last visited June 24, 2022).

¹⁴⁰ See Fed. Trade Comm’n, Explore Government Imposter Scams, Tableau Public, <https://public.tableau.com/app/profile/federal.trade.commission/viz/GovernmentImposter/Infographic> (last visited June 24, 2022).

¹⁴¹ See *id.*

¹⁴² Impersonation scams overall, including those that are not covered by the proposed rule’s scope of government and business impersonation, constitute 17.16% of all consumer complaints received in the Consumer Sentinel Network in 2021. See Fed. Trade Comm’n, Consumer Sentinel Network Data Book 2020, 6 (2022), https://www.ftc.gov/system/files/ftc_gov/pdf/CSN%20Annual%20Data%20Book%202021%20Final%20PDF.pdf.

¹⁴³ The Commission has brought many impersonation cases in which no existing rule was violated or no relief under a rule was sought. See, e.g., Compl. at 12–13, *FTC v. Modern Tech. Inc.*, No. 13–cv–8257 (N.D. Ill. filed Nov. 18, 2013) (only counts under Section 5); Compl. at 9–10, *FTC v.*

To succeed at obtaining consumer redress without a rule violation, the Commission must first file a complaint alleging that the impersonator violated Section 5 and prevail in securing a cease-and-desist order. Then, to secure consumer redress for victims of the impersonator, the Commission must file follow-on litigation under Section 19, and without a rule this second litigation requires the Commission to allege and persuade a court in each case that the conduct at issue is “one which a reasonable man would have known under the circumstances was dishonest or fraudulent.”¹⁴⁴ Although this standard is likely to be met in impersonation cases, having to do so in each case requires a greater expenditure of Commission resources than in cases with a rule violation, which do not require a second litigation or separate proof of knowledge that the conduct was dishonest or fraudulent.

Accordingly, without a rule, the Section 19 path often requires consumer victims to wait many years before the Commission can deliver redress to them, even six years or more.¹⁴⁵ Although the Commission does not have extensive experience pursuing Section 19 cases without a rule violation, its limited experience supports a reasonable estimate that such litigation can take at least twice as long as litigation with a rule violation. Because of the prevalence of impersonation scams, the Commission will not have a shortage of bad actors to investigate, and it could invest the savings of enforcement resources from having a

Gerber Prods. Co., No. 2:14–cv–06771–SRC–CLW (D.N.J. filed Oct. 30, 2014) (only counts under Sections 5 and 12(a)); Compl. at 17–19, 22, *FTC v. DOTAuthority.com, Inc.*, No. 16–cv–62186 (S.D. Fla. filed Sept. 13, 2016) (seeking relief only for counts under Section 5); Compl. at 8–9, *FTC v. Moore*, No. 5:18–cv–01960 (C.D. Cal. filed Sept. 13, 2018) (only counts under Section 5); Compl. at 21–22, *FTC v. Forms Direct, Inc. (Am. Immigr. Ctr.)*, No. 3:18–cv–06294 (N.D. Cal. filed Oct. 16, 2018) (only counts under Section 5); Am. Compl. at 8–9, *FTC v. Starwood Consulting, LLC*, No. 4:18–cv–02368 (S.D. Tex. filed Mar. 27, 2019) (only counts under Section 5 from FTC); Compl. at 8–9, *FTC v. Ponte Invs., LLC*, No. 1:20–cv–00177–JJM–PAS (D.R.I. filed Apr. 17, 2020) (only counts under Section 5).

¹⁴⁴ 15 U.S.C. 57b(a)(2). Depending on the egregiousness of the misconduct and the harm it is causing, the Commission also may seek preliminary injunctive relief in federal court. 15 U.S.C. 53(b).

¹⁴⁵ See, e.g., Press Release, Fed. Trade Comm’n, Marketers of Ab Force Weight Loss Device Agree to Pay \$7 Million for Consumer Redress (Jan. 14, 2009), <https://www.ftc.gov/news-events/news/press-releases/2009/01/marketers-ab-force-weight-loss-device-agree-pay-7-million-consumer-redress> (describing a 2009 settlement of a follow-on Section 19 action against Telebrands Corp. that was brought after litigation finally concluded of a 2003 administrative complaint alleging violations of Section 5—in this case, the Section 19 action settled instead of being litigated to judgment, which would have taken more time).

¹³⁶ See ANPR, 86 FR 72901, 72902.

¹³⁷ See Fed. Trade Comm’n, Fraud Reports: Subcategories over Time, Tableau Public, <https://public.tableau.com/app/profile/federal.trade.commission/viz/FraudReports/SubcategoriesOverTime> (last visited June 24, 2022). See also Fed. Trade Comm’n, Consumer Sentinel Network Data Book 2020, 4 (2022), https://www.ftc.gov/system/files/ftc_gov/pdf/CSN%20Annual%20Data%20Book%202021%20Final%20PDF.pdf.

¹³⁸ See ANPR, 86 FR 72901.

¹³⁹ See Fed. Trade Comm’n, Fraud Reports: Subcategories over Time, Tableau Public, <https://public.tableau.com/app/profile/>

rule into investigating and, where the facts warrant, bringing enforcement actions in additional impersonation matters. In sum, the significant potential consumer-redress benefits of a rule are that the Commission could put a stop to more impersonation scams, return money to more victims, and win that redress more quickly.

A secondary potential benefit is deterrence of impersonation scams. The potential deterrence from a rule should not be overstated; because impersonation scams are already clearly unlawful, deterrence would affect only bad actors who are comfortable breaking the law under the existing set of consequences but would opt not to break the law if potentially subject to civil penalties and swifter redress. Scholarship on deterrence suggests that the potential severity of consequences, such as high civil penalties, is less likely to influence behavior than the perceived likelihood of detection and punishment.¹⁴⁶ Still, an eventual rule that makes it less likely that impersonators get to keep their ill-gotten gains and more likely that they have to pay civil penalties can have only helpful deterrence effects, whatever their magnitude. And the publicity around this rulemaking process and any eventual rule could have the salutary effect of complementing the Commission's consumer education work by elevating public awareness of these prevalent forms of fraud, which could increase how often they are detected and reported.

If a final rule succeeds in deterring unlawful behavior, another potential benefit is that businesses that are frequently impersonated may have to spend less money to monitor the market for impersonators of their brand. Several businesses filed comments indicating that monitoring for impersonation required significant expenditures of funds and personnel.¹⁴⁷ Quantifying the savings those companies might achieve from deterrence of impersonation activity, however, would require substantial speculation. At the same time, the proposed rule is unlikely to impose costs on honest businesses, and no commenter suggested it would. Thus, even a marginal increase in deterrence

is a likely benefit of the rule, although not its primary benefit.

Some rough math may help illustrate these qualitatively described benefits: Between January 1, 2018, and June 30, 2022, Consumer Sentinel received 338,393 complaints regarding business or government impersonation scams that expressly reported the initial contact method used by the impersonator as being email, social media, online or pop-up advertisement, website, or mobile application.¹⁴⁸ These complaints referenced aggregate consumer losses of \$599,270,000. Because these initial contact methods typically are unlikely to be covered by the TSR or other rules, the Commission currently cannot redress such fraud other than by using its Section 19 authority. The Commission cannot predict the volume of future government and business impersonation scam complaints, their contact methods, or the losses those complaints will report, but if even a small percentage of similar complaints the Commission receives in the future are redressed or deterred by the proposed rule, the marginal effect from rule implementation (relative to not implementing the rule) would have had economically significant consequences. For example, assume that the annualized rate of consumer injury from government and business impersonation scams initiated through email, social media, online or pop-up advertisements, websites, or mobile applications over the past 4.5 years is \$133,171,000 (or \$599,270,000 divided by 4.5 years). If that annualized rate continues over the next 10 years, consumer losses over that period would be \$1,331,710,000. Even a five per cent reduction in such losses through redress or deterrence would result in a benefit to consumers of over \$66.5 million (without adjusting for inflation or discounting any of these figures).

One potentially reasonable alternative to the proposed rule is to terminate the rulemaking and rely instead on the existing tools that the Commission currently possesses to combat government and business impersonation fraud, such as consumer education and enforcement actions brought under Sections 5 and 19 of the FTC Act. Termination of the rulemaking would offer the benefit of preserving some

Commission resources that would be required to continue the rulemaking in the short term, but it would come at a significant cost. The cost that is most significant is the failure to strengthen the set of tools available in support of the Commission's enforcement program against impersonation fraud, depriving it of the benefits outlined above. The alternative of terminating the rulemaking would not sufficiently accomplish the Commission's objectives. The Commission seeks comment on this and other potentially reasonable alternatives.

B. Paperwork Reduction Act

In addition to the requirements of Section 22, the Commission must provide in any NPRM the "information required by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and the Paperwork Reduction Act, 44 U.S.C. 3501–3520, if applicable." 16 CFR 1.11(c)(4).

The Paperwork Reduction Act requires the Commission to engage in additional processes and analysis if it proposes to engage in a "collection of information" as part of the proposed rule. 44 U.S.C. 3506. The Commission states that the proposed rule contains no collection of information.

C. Regulatory Flexibility Act—Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires the Commission to prepare and make available for public comment an "initial regulatory flexibility analysis" ("IRFA") in connection with any NPRM. 5 U.S.C. 603. An IRFA requires many of the same components as Section 22 of the FTC Act and the Paperwork Reduction Act, which the Commission incorporates into its IRFA. The IRFA must furthermore contain, among other things, "a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply." 5 U.S.C. 603(b)(3). This and other requirements do not apply, however, whenever "the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b).

The Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of honest, small entities, and this document serves as notice to the Small Business Administration of the Commission's certification. Because the impersonation of government and businesses is already prohibited by Section 5 of the FTC Act, the rule does not change the state of the law in terms of what is legal and what is illegal.

¹⁴⁶ See, e.g., Aaron Chalfin & Justin McCrary, *Criminal Deterrence: A Review of the Literature*, 55 J. Econ. Lit. 5 (2017), <https://doi.org/10.1257/jel.20141147> (reviewing twenty years of studies, albeit in criminal rather than civil context, and finding stronger evidence for deterrent effect of perceived risk of detection than for severity of punishment).

¹⁴⁷ See Microsoft Cmt.; Apple Cmt.

¹⁴⁸ This is a conservative estimate of the number of Consumer Sentinel complaints received over this period that reference such initial contact methods. Complaints referencing a sub-category of business complaints, related to "technical support" scams, are excluded because such complaints may also be reported under business impersonations and because many were submitted to Consumer Sentinel from the impersonated business with the initial contact method information omitted.

Furthermore, the proposed rule would impose no recordkeeping requirement. The main changes arise for entities that are currently violating Section 5 but would, after its finalization, also be violating the rule: instead of being immune from civil penalties (at least for first offenses) and more capable of evading consumer redress, the violators could be ordered by a court to pay significant civil penalties and to provide full redress to their victims. This change could constitute a significant economic impact for law violators, but it will not affect a substantial number of small entities. The Commission believes that the vast majority of small entities do not impersonate government or other businesses. Furthermore, the Commission does not consider those small entities that are violating existing law to be among those Congress protected in enacting the additional procedural protections for small entities when agencies consider rulemaking.

V. Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of the proposed rule. The Commission requests that factual data on which the comments are based be submitted with the comments. In addition to the issues raised above, the Commission solicits public comment on the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Should the Commission finalize the proposed rule as a final rule? Why or why not? How, if at all, should the Commission change the proposed rule in promulgating a final rule?

(2) Please provide comment, including relevant data, statistics, consumer complaint information, or any other evidence, on each different provision of the proposed rule. Regarding each provision, please include answers to the following questions:

(a) How prevalent is the act or practice the provision seeks to address?

(b) What is the provision's impact (including any benefits and costs), if any, on consumers, governments, and businesses, both those existing and those yet to be started?

(c) What alternative proposals should the Commission consider?

(3) Does the proposed rule contain a collection of information?

(4) Would the proposed rule, if promulgated, have a significant economic impact on a substantial number of small entities? If so, how could it be modified to avoid a significant economic impact on a substantial number of small entities?

(5) The proposed rule contains a one-sentence prohibition against impersonation of government in § 461.2 and another against impersonation of businesses in § 461.3. Are these prohibitions clear and understandable? Are they ambiguous in any way? How if at all should they be improved?

(6) The proposed rule, in § 461.4, prohibits providing the means and instrumentalities to commit violations of § 461.2 or § 461.3. Should any final rule contain this prohibition against providing the means and instrumentalities for violations of the prohibitions against government or business impersonation? Why or why not?

(7) The proposed rule, in § 461.1, defines "business" to include non-profit organizations. Should any final rule keep the prohibition against impersonating non-profit organizations? Why or why not?

(8) Should the proposed rule be expanded to address the impersonation of individuals or entities other than governments and businesses in interstate commerce?¹⁴⁹ For example, should the proposed rule be expanded to prohibit impersonation of individuals for the purpose of seeking monetary payment or contribution, such as in romance or grandparent impersonation scams? In your answer to this question, please provide the following information:

(a) How prevalent is the act or practice?

(b) What would be the impact, including benefits and costs, of including individual impersonation in the proposed rule on consumers, governments, and businesses?

(c) What alternative proposals should the Commission consider?

VI. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 16, 2022. Write "Impersonation NPRM, R207000" on your comment. Your comment—including your name and your state—will be placed on the public record of

¹⁴⁹ Cf. ANPR, 86 FR 72901; see also, Emma Fletcher, Reports of romance scams hit record highs in 2021, FTC Data Spotlight (Feb. 10, 2022), <https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2022/02/reports-romance-scams-hit-record-highs-2021>.

this proceeding, including, to the extent practicable, on the website <https://www.regulations.gov>.

Because of the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write "Impersonation NPRM, R207000" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B), Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential"—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with

the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov>—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before December 16, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/siteinformation/privacypolicy>.

VII. Communications by Outside Parties to the Commissioners or Their Advisors

Under Commission Rule 1.18(c)(1), 16 CFR 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor will be subject to the following treatment: written communications and summaries or transcripts of all oral communications must be placed on the rulemaking record. Unless the outside party making an oral communication is a member of Congress, communications received after the close of the public-comment period are permitted only if advance notice is published in the Weekly Calendar and Notice of "Sunshine" Meetings.

List of Subjects in 16 CFR Part 461

Consumer protection, Impersonation, Trade Practices.

■ For the reasons stated above, the Federal Trade Commission proposes to amend 16 CFR chapter I by adding part 461 to read as follows:

PART 461—RULE ON IMPERSONATION OF GOVERNMENT AND BUSINESSES

Sec.

- 461.1 Definitions.
- 461.2 Impersonation of government prohibited.
- 461.3 Impersonation of businesses prohibited.
- 461.4 Means and instrumentalities prohibited.

Authority: 15 U.S.C. 41–58.

§ 461.1 Definitions.

As used in this part:

Business means a corporation, partnership, association, or any other entity that provides goods or services, including not-for-profit entities.

Government includes Federal, State, local, and tribal governments as well as agencies and departments thereof.

Officer includes executives, officials, employees, and agents.

§ 461.2 Impersonation of government prohibited.

It is unlawful to falsely pose as or to misrepresent, directly or by implication, affiliation with, including endorsement or sponsorship by, a government entity or officer thereof.

§ 461.3 Impersonation of businesses prohibited.

It is unlawful to falsely pose as or to misrepresent, directly or by implication, affiliation with, including endorsement or sponsorship by, a business or officer thereof.

§ 461.4 Means and instrumentalities prohibited.

It is unlawful to provide the means and instrumentalities for a violation of § 461.2 or § 461.3.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2022–21289 Filed 10–14–22; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2570

RIN 1210–AC05

Posting of Hearing Transcript Regarding Proposed Amendment to Exemption Procedures Regulation and Closing of Reopened Comment Period

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Announcement of hearing transcript posting and closing of the reopened comment period.

SUMMARY: As discussed in the **DATES** section below, the Department of Labor's Employee Benefits Security Administration (EBSA) is announcing that it has posted the transcript of the virtual public hearing regarding the proposed amendment to its exemption procedure regulation online and determined the closing date for the proposed amendment's reopened comment.

DATES: The public hearing transcript was posted to EBSA's website on October 6, 2022, and the reopened comment period for the proposed amendment will close on October 28, 2022.

FOR FURTHER INFORMATION CONTACT:

Contact Brian Shiker, Office of Exemption Determinations, EBSA, by phone at (202) 693–8552 (not a toll-free number) or email bshiker.brian@dol.gov.

SUPPLEMENTARY INFORMATION: On March 15, 2022, the Department published in the **Federal Register** a proposed amendment¹ (the Rule) that would update its existing procedures governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act, the Internal Revenue Code, and the Federal Employees' Retirement System Act. The Department received 29 comment letters on the Rule before the public comment period ended on May 29, 2022.

On August 22, 2022, the Department announced in a **Federal Register** notice² that it would hold a virtual public hearing regarding the Rule on September 15, 2022 and then reopen the Rule's public comment period from the hearing date until approximately 14 days after the Department published the hearing transcript on EBSA's website. The notice also stated that the Department will publish a **Federal Register** notice that announces it has posted the hearing transcript to EBSA's website and when the reopened comment period closes.

The Department held the virtual public hearing on September 15, 2022, and eight organizations were represented at the hearing. The Department reopened the Rule's comment period on the hearing date.

In accordance with the August 22, 2022 **Federal Register** notice, the Department is hereby providing notice that it posted the hearing transcript to EBSA's website on October 6, 2022, and the Rule's reopened comment period that began on September 22, 2022 will close on October 28, 2022.³

The Department encourages all interested parties to submit comments on the Rule before the reopened comment period closes. All written comments should be identified by RIN 1210–ACO5 and sent to the Office of Exemption Determinations through the Federal eRulemaking Portal. Federal eRulemaking Portal: [https://](https://www.dol.gov/agencies/ebsa)

¹ 87 FR 14722.

² 87 FR 51299.

³ The hearing transcript may be accessed at: <http://www.dol.gov/agencies/ebsa>.

www.regulations.gov at Docket ID number: EBSA–2022–0003. Please follow the instructions for submitting comments.

All comments on Rule and requests to testify at the hearing are available to the public without charge online at <https://www.regulations.gov>, at Docket ID number: EBSA–2022–0003 and <https://www.dol.gov/agencies/ebsa>. They also are available for public inspection in EBSA’s Public Disclosure Room, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW, Washington, DC 20210.

Signed in Washington, DC, this 6th day of October 2022.

Ali Khawar,

*Principal Deputy Assistant Secretary,
Employee Benefits Security Administration,
U.S. Department of Labor.*

[FR Doc. 2022–22243 Filed 10–14–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

[2900–AR78]

Loan Guaranty: Loss-Mitigation Options for Guaranteed Loans

AGENCY: Department of Veterans Affairs.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Veterans Affairs (VA) Loan Guaranty Service (LGY) is requesting public comment on expanding VA’s incentivized loss-mitigation options available to servicers that assist veterans whose VA-guaranteed loans are in default. Although VA identifies, below, specific topics and questions for discussion, it encourages commenters to discuss any other topic that will help VA as it explores whether to expand the incentivized loss-mitigation options outlined in VA regulation.

DATES: Comments must be received on or before January 17, 2023.

ADDRESSES: Comments must be submitted through www.regulations.gov. Except as provided below, comments received before the close of the comment period will be available at www.regulations.gov for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: [https://](https://www.regulations.gov)

www.regulations.gov. VA will not post on www.regulations.gov public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period’s closing date is considered late and will not be considered in any future proposed rulemaking or otherwise addressed by VA.

FOR FURTHER INFORMATION CONTACT:

Andrew Trevayne, Assistant Director for Loan and Property Management, and Stephanie Li, Chief of Regulations, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–8862. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

VA provides financial incentives to loan servicers for helping veterans avoid the foreclosure of their VA-backed loans. 38 CFR 36.4319. As VA continues to consider how best to serve veterans, VA is requesting public comment on whether expanding VA’s incentivized loss-mitigation tools for servicers might help veterans retain their homes. VA is also requesting specific comments on the recent use of VA’s loan refunding authority and loan deferment as temporary home retention options to assist certain veteran borrowers.

In response to the COVID–19 pandemic, VA developed new, temporary home retention options to assist veterans with VA-guaranteed loans who were financially affected, either directly or indirectly, by the COVID–19 National Emergency. Use of these new options, including loan deferment,¹ the Veterans Assistance Partial Claim Payment program (VAPCP),² and the COVID–19 Refund Modification,³ is limited to certain guaranteed loans (*i.e.*, those in which a veteran has outstanding payments associated with a COVID–19

forbearance). A common thread across these three temporary home retention options is the veteran’s ability to defer missed mortgage payments until the first of the following occurs: (i) the maturity date of the VA-guaranteed loan, (ii) the date of transfer of the property, or (iii) the date the guaranteed loan is refinanced or otherwise paid in full. The major difference is that VA does not act as a mortgage investor of last resort for the loan deferment option but does for the VAPCP and the COVID–19 Refund Modification. While VA has seen significant use of both the VAPCP and the COVID–19 Refund Modification, fewer servicers have opted for loan deferment.

As VA explores changes to its incentivized loss-mitigation options, VA is interested in understanding whether loan deferment would be a viable incentivized loss-mitigation option. VA is also interested in how changes to the VAPCP or COVID–19 Refund Modification programs might affect veterans, servicers, and taxpayers. In sum, VA is requesting public comment on whether expanding VA’s incentivized loss-mitigation tools, outlined at 38 CFR 36.4319, might further assist veterans who have VA-backed loans to retain their homes, and is including the following specific questions:

Questions Related to Flexibility/ Adaptability of VA’s Incentivized Loss-Mitigation Options

1. Are VA’s incentivized loss-mitigation options, outlined at 38 CFR 36.4319, flexible and adaptable, particularly for those transitional times when the market is in flux (*e.g.*, rising interest rate environments, recession, etc.)? Please, where possible, provide data and evidence in support of your response. What could VA do to increase the flexibility and adaptability of section 36.4319’s incentivized loss-mitigation options?

Questions Related To Evaluating VA Loss-Mitigation Options

2. Should VA have a prescribed order of loss-mitigation options that servicers must follow, or would stakeholders like to see VA’s regulation continue to provide VA’s preferred order of consideration (*i.e.*, a hierarchy for review)? If VA were to incentivize options such as loan deferment and/or a partial loan refunding option (*e.g.*, VAPCP or COVID–19 Refund), where should these options rank among other options, and should they be either prescribed or preferred?

3. During the COVID–19 pandemic, veterans were given more opportunity to

¹ VA Circular 26–21–19, Loan Deferment as a COVID–19 Home Retention Option (Sept. 29, 2021, expiring July 1, 2023 unless otherwise renewed), https://www.benefits.va.gov/HOMELOANS/resources_circulars.asp.

² 38 CFR 36.4800 *et seq.* (sunset date October 28, 2022).

³ VA Circular 26–21–13, COVID–19 Home Retention Waterfall and COVID–19 Refund Modification (July 23, 2021, expiring July 1, 2023 unless otherwise renewed), https://www.benefits.va.gov/HOMELOANS/resources_circulars.asp.

select the home retention option that they thought would be best for them. Under what circumstances, if any, should veterans retain opportunities to select from VA loss-mitigation options? How would giving veterans the ability to select from VA loss-mitigation options impact servicers? If VA were to switch to a prescribed order of loss-mitigation options that servicers must follow, what limitations, if any, should be placed on veterans' ability to select from them?

4. During the COVID-19 pandemic, certain loss-mitigation options were offered without the requirement of collecting financial information. Moving beyond the pandemic, under what circumstances should VA require servicers to collect financial information before a loss-mitigation option is selected? Under what circumstances might a trial payment plan serve as a substitute for the collection of financial information?

Questions Related to Loan Deferment, VAPCP, and COVID-19 Refund Modifications

5. How should VA develop a loan deferment option that would assist veterans without placing undue burden on servicers? For example, if VA were to incentivize a hybrid loan deferment/repayment plan in which servicers would defer the missed principal and interest and establish a loan repayment plan for missed taxes and insurance, would that address potential concerns related to short-term lost income from deferring missed mortgage payments? For veterans, what consumer protection concerns should VA be aware of in considering a loan deferment loss-mitigation option?

6. In what way(s), if any, should VA use the VAPCP and/or COVID-19 Refund Modification after the COVID-19 national emergency? VA is particularly interested in data and evidence showing whether the VAPCP and/or COVID-19 Refund Modification programs have assisted veterans, servicers, and taxpayers.

7. What challenges would exist for veterans, servicers, holders, and VA, if VA were to develop a loss-mitigation option similar to the VAPCP, but with a requirement for repayment at a low interest rate (rather than the zero percent interest rate under the VAPCP)? What hurdles might servicers face in executing such loan documents on behalf of VA? What if VA required servicers to service such loans on VA's behalf?

8. Would a low-interest second loan option similar to the VAPCP be more helpful to veterans and/or servicers than

a loan deferment loss-mitigation option, and what data and evidence exist to support your response? What sort of financial evaluation would be appropriate to determine whether a low-interest second loan would be an appropriate loss-mitigation option for a veteran, as opposed to VA's existing loss-mitigation options at 38 CFR 36.4319?

9. What, if any, limitations should VA place on a deferment-style loss-mitigation option, including minimum/maximum deferment amounts, lifetime uses, etc.?

Questions Related to Incentive Payments

10. What kind of incentive payment might be appropriate to make loan deferment a more viable option for servicers and VA? What kind of incentive payment might be appropriate for a loss-mitigation option similar to the VAPCP or COVID-19 Refund Modification?

11. How could VA structure an incentive payment that does not encourage servicers to use one of these loss-mitigation options if more financially feasible options are available to assist the veteran?

Questions Related to Investor Requirements

12. What, if any, Government National Mortgage Association (Ginnie Mae) specific investor requirements should VA consider when evaluating changes to VA loss-mitigation options, including the introduction of a deferment-style loss-mitigation option?

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 11, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022-22414 Filed 10-14-22; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 87, 1031, and 1068

[EPA-HQ-OAR-2022-0389; FRL-5934-01-OAR]

RIN 2060-AT10

Proposed Finding That Lead Emissions From Aircraft Engines That Operate on Leaded Fuel Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: In this action, the Administrator is proposing to find that lead air pollution may reasonably be anticipated to endanger the public health and welfare within the meaning of section 231(a) of the Clean Air Act. The Administrator is also proposing to find that engine emissions of lead from certain aircraft cause or contribute to the lead air pollution that may reasonably be anticipated to endanger public health and welfare under section 231(a) of the Clean Air Act.

DATES:

Comments: Written comments must be received on or before January 17, 2023.

Public Hearing: The EPA plans to hold a virtual public hearing on November 1, 2022. See **SUPPLEMENTARY INFORMATION** for information on registering for a public hearing.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA-HQ-OAR-2022-0389, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
 - *Email:* a-and-r-docket@epa.gov.
- Include Docket ID No. EPA-HQ-OAR-

2022–0389 in the subject line of the message.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OAR, Docket EPA–HQ–OAR–2022–0389, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this action. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the process for this action, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Public Hearing. EPA plans to hold a virtual public hearing for this action. Please refer to Participation in Virtual Public Hearing in the **SUPPLEMENTARY INFORMATION** section of this document for additional information.

FOR FURTHER INFORMATION CONTACT: Marion Hoyer, Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency; Telephone number: (734) 214–4513; Email address: hoyer.marion@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Public Participation

Written Comments: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2022–0389, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section of this document. Once submitted, comments cannot be edited or withdrawn from the docket. 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), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the

primary submission (including such content located on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Documents to which the EPA refers in this proposed action are available online at <https://www.regulations.gov/> in the docket for this action (Docket EPA–HQ–OAR–2022–0389). To access reference documents in-person and for additional assistance, please refer to the following instructions.

The EPA plans to hold a virtual hearing on November 1, 2022. This hearing will be held using Zoom. In order to attend the virtual public hearing, all attendees (including those who will not be presenting verbal testimony) must register in advance. Upon publication of this document in the **Federal Register**, the EPA will begin registering speakers for the hearing. To register to speak at the virtual hearing, please use the instructions at <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-lead-emissions-aircraft>. If you have questions regarding registration, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this document. The last day to register to speak at the hearing will be October 31, 2022. Prior to the hearing, the EPA will post a general agenda that will list registered speakers in approximate order at: <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-lead-emissions-aircraft>. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

The EPA anticipates that each commenter will have 5 minutes to provide oral testimony. The EPA recommends submitting the text of your oral testimony as written comments to the docket for this action. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

If you require the services of a translator or special accommodations such as audio description, please

identify these needs when you register for the hearing no later than October 24, 2022. The EPA may not be able to arrange accommodations without advanced notice.

B. General Information

Does this action apply to me?

Regulated Entities: In this action, the EPA is proposing to make endangerment and cause or contribute findings for the lead air pollution and engine emissions of lead from certain aircraft. The classes of aircraft engines and of aircraft relevant to this proposed action are referred to as “covered aircraft engines” and as “covered aircraft,” respectively throughout this document. Covered aircraft engines in this context means any aircraft engine that is capable of using leaded aviation gasoline. Covered aircraft in this context means all aircraft and ultralight vehicles¹ equipped with covered engines. Covered aircraft would, for example, include smaller piston-engine aircraft such as the Cessna 172 (single-engine aircraft) and the Beechcraft Baron G58 (twin-engine aircraft), as well as the largest piston-engine aircraft—the Curtiss C–46 and the Douglas DC–6. Other examples of covered aircraft would include rotorcraft,² such as the Robinson R44 helicopter, light-sport aircraft, and ultralight vehicles equipped with piston engines. Because the majority of covered aircraft are piston-engine powered, this document focuses on those aircraft (in some contexts the EPA refers to these same engines as reciprocating engines). All such references and examples used in this document are covered aircraft as defined in this paragraph.

The proposed findings in this action, if finalized, would not themselves apply new requirements to entities other than the EPA and the Federal Aviation Administration (FAA). Specifically, if the EPA issues final findings that lead emissions from covered aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, then the EPA would, under section 231 of the Clean Air Act, promulgate aircraft engine emission standards for that air pollutant. In contrast to the findings, those standards would apply to and have an effect on other entities outside the federal government. Entities potentially interested in this proposed action include those that manufacture

¹ The FAA regulates ultralight vehicles under 14 CFR part 103.

² Rotorcraft encompass helicopters, gyroplanes, and any other heavier-than-air aircraft that depend principally for support in flight on the lift generated by one or more rotors.

and sell covered aircraft engines and covered aircraft in the United States and those who own or operate covered

aircraft. Categories that may be regulated in a future regulatory action

include, but are not limited to, those listed here:

Category	NAICS ^a code	SIC ^b code	Examples of potentially affected entities
Industry	3364412	3724	Manufacturers of new aircraft engines.
Industry	3364111	3721	Manufacturers of new aircraft.
Industry	481219	4522	Aircraft charter services (<i>i.e.</i> , general purpose aircraft used for a variety of specialty air and flying services). Aviation clubs providing a variety of air transportation activities to the general public.
Industry	611512	8249 and 8299	Flight Training.

^a North American Industry Classification System (NAICS).

^b Standard Industrial Classification (SIC) code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding potentially regulated entities likely to be interested in this proposed action. This table lists examples of the types of entities that the EPA is now aware of that could potentially have an interest in this proposed action. If the EPA issues final affirmative findings under section 231(a) of the Clean Air Act regarding lead, the EPA would then undertake a future notice and comment rulemaking to issue emission standards, and the FAA would be required to prescribe regulations to ensure compliance with these emissions standards pursuant to section 232 of the Clean Air Act. Such findings also would trigger the FAA's statutory mandate pursuant to 49 U.S.C. 44714 to prescribe standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions which EPA has decided endanger public health or welfare under section 231(a) of the Clean Air Act. Other types of entities not listed in the table could also be interested and potentially affected by subsequent actions at some future time. If you have any questions regarding the scope of this proposed action, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this document.

C. Children's Health

Executive Order 13045³ requires agencies to identify and assess health and safety risks that may disproportionately affect children and ensure that activities address disproportionate risks to children. Children may be more vulnerable to environmental exposures and/or the associated health effects, and therefore more at risk than adults. These risks to children may arise because infants and children generally eat more food, drink

more water and breathe more air relative to their size than adults do, and consequently may be exposed to relatively higher amounts of contaminants. In addition, normal childhood activity, such as putting hands in mouths or playing on the ground, can result in exposures to contaminants that adults do not typically have. Furthermore, environmental contaminants may pose health risks specific to children because children's bodies are still developing. For example, during periods of rapid growth such as fetal development, infancy and puberty, their developing systems and organs may be more easily harmed.⁴

Protecting children's health from environmental risks is fundamental to the EPA's mission. Since the inception of Executive Order 13045, the understanding of children's environmental health has broadened to include conception, infancy, early childhood and through adolescence until 21 years of age.⁵ Because behavioral and physiological characteristics can affect children's environmental health risks, childhood and children's health is viewed with an understanding of the concept of "lifestages," which recognize unique growth and developmental periods through which all humans pass.⁶

This document includes discussion and analysis that is focused particularly on children. For example, as described in Sections III.A and V of this document, the scientific evidence has long been established demonstrating that young children (due to rapid

growth and development of the brain) are vulnerable to a range of neurological effects resulting from exposure to lead. Low levels of lead in young children's blood have been linked to adverse effects on intellect, concentration, and academic achievement, and as the EPA has previously noted "there is no evidence of a threshold below which there are no harmful effects on cognition from [lead] exposure."⁷ Evidence suggests that while some neurocognitive effects of lead in children may be transient, some lead-related cognitive effects may be irreversible and persist into adulthood, potentially contributing to lower educational attainment and financial well-being.⁸ The 2013 Lead ISA notes that in epidemiologic studies, postnatal (early childhood) blood lead levels are consistently associated with cognitive function decrements in children and adolescents.⁹ In Section II.A.5 of this document, we describe the number of children living near and attending school near airports and provide a proximity analysis of the potential for greater representation of children in the near-airport environment compared with neighboring areas.

D. Environmental Justice

Executive Order 12898 establishes federal executive policy on environmental justice. It directs federal agencies, to the greatest extent practicable and permitted by law, to make achieving environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects

⁴ EPA (2006) A Framework for Assessing Health Risks of Environmental Exposures to Children. EPA, Washington, DC, EPA/600/R-05/093F, 2006.

⁵ EPA. Memorandum: Issuance of EPA's 2021 Policy on Children's Health. October 5, 2021. Available at <https://www.epa.gov/system/files/documents/2021-10/2021-policy-on-childrens-health.pdf>.

⁶ EPA. "Childhood Lifestages relating to Children's Environmental Health." Oct. 25, 2021. Retrieved from <https://www.epa.gov/children/childhood-lifestages-relating-childrens-environmental-health> on Nov. 22, 2021.

⁷ EPA (2013) ISA for Lead. Executive Summary "Effects of Pb Exposure in Children." pp. lxxxvii-lxxxviii. EPA/600/R-10/075F, 2013. See also, National Toxicology Program (NTP) (2012) NTP Monograph: Health Effects of Low-Level Lead. Available at <https://ntp.niehs.nih.gov/go/36443>.

⁸ EPA (2013) ISA for Lead. Executive Summary "Effects of Pb Exposure in Children." pp. lxxxvii-lxxxviii. EPA/600/R-10/075F, 2013.

⁹ EPA (2013) ISA for Lead. Section 1.9.4. "Pb Exposure and Neurodevelopmental Deficits in Children." p. I-75. EPA/600/R-10/075F, 2013.

³ E.O. 13045. Protection of Children From Environmental Health Risks and Safety Risks. 62 FR 19885 (April 23, 1997).

of their programs, policies, and activities on people of color populations and low-income populations in the United States.¹⁰ The EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.¹¹

Executive Order 14008 also calls on federal agencies to make achieving environmental justice part of their missions “by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.”¹² It also declares a policy “to secure environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure and health care.” Under Executive Order 13563, federal agencies may consider equity, human dignity, fairness, and distributional considerations, where appropriate and permitted by law.¹³

The United States has made substantial progress in reducing lead exposure, but disparities remain along racial, ethnic, and socioeconomic lines. For example, blood lead levels in children from low-income households remain higher than those in children from higher income households, and the

most exposed Black children still have higher blood lead levels than the most exposed non-Hispanic White children.^{14–15} Depending on the levels and associated risk, such blood lead levels may lead to lifelong health effects and barriers to social and economic well-being.¹⁶

In this action, the EPA is undertaking an evaluation, under section 231(a)(2)(A) of the Clean Air Act, of whether emissions of lead from engines in covered aircraft may cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. We are not proposing emission standards at this time, and therefore, our consideration of environmental justice is focused on describing populations living near airports in the United States. Section II.A.5 of this document, and the Technical Support Document¹⁷ for this action describe the scientific evidence and analyses conducted by the EPA that provide information about the disparity in residential location for some low-income populations, people of color and some indigenous peoples in the United States, particularly Alaska Natives, with regard to their proximity to some airports where covered aircraft operate. The information presented in Section II.A.5 of this document indicates that there is a greater prevalence of people of color and of low-income populations within 500 meters or one kilometer of some airports compared with people living more distant. If such differences were to contribute to disproportionate and adverse impacts on people of color and low-income populations, they could indicate a potential environmental justice concern.

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¹⁴ EPA (2013) ISA for Lead. Section 5.4. “Summary.” pp. 5–40 through 5–42. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁵ EPA (2022) “America’s Children and the Environment.” Summary of blood lead levels in children updated in 2022, available at <https://www.epa.gov/americanchildrenenvironment/biomonitoring-lead>. Data source: Centers for Disease Control and Prevention, National Report on Human Exposure to Environmental Chemicals. Blood Lead (2011–2018). Updated March 2022. Available at https://www.cdc.gov/exposurereport/report/pdf/cgroup2_LBXBPB_2011-p.pdf.

¹⁶ EPA (2013) ISA for Lead. Section 1.9.1. “Public Health Significance.” p. 1–68; Section 1.9.5. “Reversibility and Persistence of Neurotoxic Effects of Pb.” p. 1–76. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁷ EPA (2022) Technical Support Document (TSD) for the EPA’s Proposed Finding that Lead Emissions from Aircraft Engines that Operate on Leaded Fuel Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare. EPA, Washington, DC, EPA–420–R–22–025, 2022. Available in the docket for this action.

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- VII. Statutory Provisions and Legal Authority

I. Executive Summary

Pursuant to section 231(a)(2)(A) of the Clean Air Act (CAA or Act), the Administrator proposes to find that

¹⁰ 59 FR 7629 (Feb. 16, 1994).

¹¹ Fair treatment means that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental and commercial operations or programs and policies.” Meaningful involvement occurs when “(1) potentially affected populations have an appropriate opportunity to participate in decisions about a proposed activity [e.g., rulemaking] that will affect their environment and/or health; 2) the public’s contribution can influence the regulatory Agency’s decision; 3) the concerns of all participants involved will be considered in the decision-making process; and 4) [the EPA will] seek out and facilitate the involvement of those potentially affected.” A potential EJ concern is defined as “the actual or potential lack of fair treatment or meaningful involvement of minority populations, low-income populations, Tribes, and indigenous peoples in the development, implementation and enforcement of environmental laws, regulations and policies.” See, EPA’s Environmental Justice During the Development of an Action. Available at <https://www.epa.gov/sites/default/files/2015-06/documents/considering-ej-in-rulemaking-guide-final.pdf>. See also <https://www.epa.gov/environmentaljustice>.

¹² 86 FR 7619 (Feb. 1, 2021).

¹³ 76 FR 3821 (Jan. 18, 2011).

emissions of lead from covered aircraft engines cause or contribute to lead air pollution that may reasonably be anticipated to endanger public health and welfare. Covered aircraft would, for example, include smaller piston-engine aircraft such as the Cessna 172 (single-engine aircraft) and the Beechcraft Baron G58 (twin-engine aircraft), as well as the largest piston-engine aircraft—the Curtiss C-46 and the Douglas DC-6. Other examples of covered aircraft would include rotorcraft, such as the Robinson R44 helicopter, light-sport aircraft, and ultralight vehicles equipped with piston engines.

For purposes of this action, the EPA is proposing to define the “air pollution” referred to in section 231(a)(2)(A) of the CAA as lead, which we also refer to as the lead air pollution in this document.¹⁸ In proposing to find that the lead air pollution may reasonably be anticipated to endanger the public health and welfare, the EPA relies on the extensive scientific evidence critically assessed in the 2013 Integrated Science Assessment for Lead (2013 Lead ISA) and the previous Air Quality Criteria Documents (AQCDs) for Lead, which the EPA prepared to serve as the scientific foundation for periodic reviews of the National Ambient Air Quality Standards (NAAQS) for lead.^{19 20 21 22}

Further, for purposes of this action, the EPA is proposing to define the “air pollutant” referred to in CAA section 231(a)(2)(A) as lead, which we also refer to as the lead air pollutant in this document.²³ Accordingly, the Administrator is proposing to find that emissions of the lead air pollutant from covered aircraft engines cause or contribute to the lead air pollution that may reasonably be anticipated to endanger public health and welfare under CAA section 231(a)(2)(A).

In addition to the proposed findings and the science on which they are based, this document includes an overview and background context helpful to understanding the source sector in the context of this proposal, a

brief summary of some of the federal actions focused on reducing lead exposures, and the legal framework for this action.

II. Overview and Context for This Proposal

We summarize here background information that provides additional context for this proposed action. This includes information on the population of aircraft that have piston engines, information on the use of leaded aviation gasoline (avgas) in covered aircraft, physical and chemical characteristics of lead emissions from engines used in covered aircraft, concentrations of lead in air from these engine emissions, and the fate and transport of lead emitted by engines used in such aircraft. We also include here an analysis of populations residing near and attending school near airports and an analysis of potential environmental justice implications with regard to residential proximity to runways where covered aircraft operate. This section ends with a description of a broad range of federal actions to reduce lead exposure from a variety of environmental media and a summary of citizen petitions for rulemaking regarding lead emissions from covered aircraft and the EPA responses.

A. Background Information Helpful to Understanding This Proposal

This proposal draws extensively from the EPA’s scientific assessments for lead, which are developed as part of the EPA’s periodic reviews of the air quality criteria²⁴ for lead and the lead NAAQS.²⁵ These scientific assessments provide a comprehensive review,

²⁴ Under section 108(a)(2) of the CAA, air quality criteria are intended to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air” Section 109 of the CAA directs the Administrator to propose and promulgate “primary” and “secondary” NAAQS for pollutants for which air quality criteria are issued. Under CAA section 109(d)(1), EPA must periodically complete a thorough review of the air quality criteria and the NAAQS and make such revisions as may be appropriate in accordance with sections 108 and 109(b) of the CAA. A fuller description of these legislative requirements can be found, for example, in the ISA (see 2013 Lead ISA, p. lxi).

²⁵ Section 109(b)(1) defines a primary standard as one “the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health.” A secondary standard, as defined in section 109(b)(2), must “specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of [the] pollutant in the ambient air.”

synthesis, and evaluation of the most policy-relevant science that builds upon the conclusions of previous assessments. In the information that follows, we discuss and describe scientific evidence summarized in the most recent assessment, the 2013 Lead ISA²⁶ as well as information summarized in previous assessments, including the 1977, 1986, and 2006 AQCDs.^{27 28 29}

As described in the 2013 Lead ISA, lead emitted to ambient air is transported through the air and is distributed from air to other environmental media through deposition.³⁰ Lead emitted in the past can remain available for environmental or human exposure for extended time in some areas.³¹ Depending on the environment where it is deposited, it may to various extents be resuspended into the ambient air, integrated into the media on which it deposits, or transported in surface water runoff to other areas or nearby waterbodies.³² Lead in the environment today may have been airborne yesterday or emitted to the air long ago.³³ Over time, lead that was initially emitted to air can become less available for environmental circulation by sequestration in soil, sediment and other reservoirs.³⁴

The multimedia distribution of lead emitted into ambient air creates multiple air-related pathways of human and ecosystem exposure. These pathways may involve media other than air, including indoor and outdoor dust, soil, surface water and sediments, vegetation and biota. The human exposure pathways for lead emitted into air include inhalation of ambient air or ingestion of food, water or other materials, including dust and soil, that have been contaminated through a pathway involving lead deposition from

²⁶ EPA (2013) ISA for Lead. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁷ EPA (1977) AQC for Lead. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

²⁸ EPA (1986) AQC for Lead. EPA, Washington, DC, EPA-600/8-83/028aF-dF (NTIS PB87142386), 1986.

²⁹ EPA (2006) AQC for Lead. EPA, Washington, DC, EPA/600/R-5/144aF, 2006.

³⁰ EPA (2013) ISA for Lead. Section 3.1.1. “Pathways for Pb Exposure.” p. 3-1. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³¹ EPA (2013) ISA for Lead. Section 3.7.1. “Exposure.” p. 3-144. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³² EPA (2013) ISA for Lead. Section 6.2. “Fate and Transport of Pb in Ecosystems.” p. 6-62. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³³ EPA (2013) ISA for Lead. Section 2.3. “Fate and Transport of Pb.” p. 2-24. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³⁴ EPA (2013) ISA for Lead. Section 1.2.1. “Sources, Fate and Transport of Ambient Pb;” p. 1-6. Section 2.3. “Fate and Transport of Pb.” p. 2-24. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

¹⁸ As noted in Section IV.A of this notice, the lead air pollution that we are considering in this proposed finding can occur as elemental lead or in lead-containing compounds.

¹⁹ EPA (2013) ISA for Lead. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁰ EPA (2006) AQC for Lead. EPA, Washington, DC, EPA/600/R-5/144aF, 2006.

²¹ EPA (1986) AQC for Lead. EPA, Washington, DC, EPA-600/8-83/028aF-dF, 1986.

²² EPA (1977) AQC for Lead. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

²³ As noted in Section V.A of this notice, the lead air pollutant we are considering in this proposed finding can occur as elemental lead or in lead-containing compounds.

ambient air.³⁵ Ambient air inhalation pathways include both inhalation of air outdoors and inhalation of ambient air that has infiltrated into indoor environments.³⁶ The air-related ingestion pathways occur as a result of lead emissions to air being distributed to other environmental media, where humans can be exposed to it via contact with and ingestion of indoor and outdoor dusts, outdoor soil, food and drinking water.

The scientific evidence documents exposure to many sources of lead emitted to the air that have resulted in higher blood lead levels, particularly for people living or working near sources, including stationary sources, such as mines and smelters, and mobile sources, such as cars and trucks when lead was a gasoline additive.^{37 38 39 40 41 42} Similarly, with regard to emissions from engines used in covered aircraft there have been studies reporting positive associations of children's blood lead levels with proximity to airports and activity by covered aircraft,^{43 44} thus indicating potential for children's exposure to lead from covered aircraft engine emissions. A recent study evaluating cardiovascular mortality rates in adults 65 and older living within a few kilometers and downwind of runways, while not evaluating blood lead levels, found higher mortality rates in adults living near single-runway airports in years with more piston-engine air traffic, but not in adults living near multi-runway airports, suggesting

the potential for adverse adult health effects near some airports.⁴⁵

1. Piston-Engine Aircraft and the Use of Leaded Aviation Gasoline

Aircraft operating in the U.S. are largely powered by either turbine engines or piston engines, although other propulsion systems are in use and in development. Turbine-engine powered aircraft and a small percentage of piston-engine aircraft (*i.e.*, those with diesel engines) operate on fuel that does not contain a lead additive. Covered aircraft, which are predominantly piston-engine powered aircraft, operate on leaded avgas. Examples of covered aircraft include smaller piston-powered aircraft such as the Cessna 172 (single-engine aircraft) and the Beechcraft Baron G58 (twin-engine aircraft), as well as the largest piston-engine aircraft—the Curtiss C-46 and the Douglas DC-6. Additionally, some rotorcraft, such as the Robinson R44 helicopter, light-sport aircraft, and ultralight vehicles can have piston engines that operate using leaded avgas.

Lead is added to avgas in the form of tetraethyl lead. Tetraethyl lead helps boost fuel octane, prevents engine knock, and prevents valve seat recession and subsequent loss of compression for engines without hardened valves. There are three main types of leaded avgas: 100 Octane, which can contain up to 4.24 grams of lead per gallon (1.12 grams of lead per liter), 100 Octane Low Lead (100LL), which can contain up to 2.12 grams of lead per gallon (0.56 grams of lead per liter), and 100 Octane Very Low Lead (100VLL), which can contain up to 0.71 grams of lead per gallon (0.45 grams of lead per liter).⁴⁶ Currently, 100LL is the most commonly available and most commonly used type of avgas.⁴⁷ Tetraethyl lead was first used in piston-engine aircraft in 1927.⁴⁸ Commercial and military aircraft in the U.S. operated on 100 Octane leaded avgas into the 1950s, but in subsequent years, the commercial and military aircraft fleet largely converted to turbine-engine powered aircraft which

do not use leaded avgas.^{49 50} The use of avgas containing approximately 4 grams of lead per gallon continued in piston-engine aircraft until the early 1970s when 100LL became the dominant leaded fuel in use.

There are two sources of data from the federal government that provide annual estimates of the volume of leaded avgas supplied and consumed in the U.S.: the Department of Energy, Energy Information Administration (DOE EIA) provides information on the volume of leaded avgas supplied in the U.S.,⁵¹ and the FAA provides information on the volume of leaded avgas consumed in the U.S.⁵² Over the ten-year period from 2011 through 2020, DOE estimates of the annual volume of leaded avgas supplied averaged 184 million gallons, with year-on-year fluctuations in fuel supplied ranging from a 25 percent increase to a 29 percent decrease. Over the same period, from 2011 through 2020, the FAA estimates of the annual volume of leaded avgas consumed averaged 196 million gallons, with year-on-year fluctuations in fuel consumed ranging from an eight percent increase to a 14 percent decrease. The FAA forecast for consumption of leaded avgas in the U.S. ranges from 185 million gallons in 2026 to 179 million gallons in 2041, a decrease of three percent in that period.⁵³ As described later in this section, while the consumption of leaded avgas is expected to decrease three percent from 2026 to 2041, FAA projects increased activity at some airports and decreased activity at other airports out to 2045.

³⁵ EPA (2013) ISA for Lead. Section 3.1.1. "Pathways for Pb Exposure." p. 3–1. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³⁶ EPA (2013) ISA for Lead. Sections 1.3. "Exposure to Ambient Pb." p. 1–11. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³⁷ EPA (2013) ISA for Lead. Sections 3.4.1. "Pb in Blood." p. 3–85; Section 5.4. "Summary." p. 5–40. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

³⁸ EPA (2006) AQC for Lead. Chapter 3. EPA, Washington, DC, EPA/600/R-5/144aF, 2006.

³⁹ EPA (1986) AQC for Lead. Section 1.11.3. EPA, Washington, DC, EPA-600/8-83/028aF-dF (NTIS PB87142386), 1986.

⁴⁰ EPA (1977) AQC for Lead. Section 12.3.1.1. "Air Exposures." p. 12–10. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

⁴¹ EPA (1977) AQC for Lead. Section 12.3.1.2. "Air Exposures." p. 12–10. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

⁴² EPA (1977) AQC for Lead. Section 12.3.1.1. "Air Exposures." p. 12–10. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

⁴³ Miranda et al., 2011. A Geospatial Analysis of the Effects of Aviation Gasoline on Childhood Blood Lead Levels. *Environmental Health Perspectives*. 119:1513–1516.

⁴⁴ Zahran et al., 2017. The Effect of Leaded Aviation Gasoline on Blood Lead in Children. *Journal of the Association of Environmental and Resource Economists*. 4(2):575–610.

⁴⁵ Klemick et al., 2022. Cardiovascular Mortality and Leaded Aviation Fuel: Evidence from Piston-Engine Air Traffic in North Carolina. *International Journal of Environmental Research and Public Health*. 19(10):5941.

⁴⁶ ASTM International (May 1, 2021) Standard Specification for Leaded Aviation Gasolines D910–21.

⁴⁷ National Academies of Sciences, Engineering, and Medicine (NAS). 2021. Options for Reducing Lead Emissions from Piston-Engine Aircraft. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26050>.

⁴⁸ Ogston 1981. A Short History of Aviation Gasoline Development, 1903–1980. *Society of Automotive Engineers*. p. 810848.

⁴⁹ U.S. Department of Commerce Civil Aeronautics Administration. Statistical Handbook of Aviation (Years 1930–1959). <https://babel.hathitrust.org/cgi/pt?id=mdp.39015027813032&view=1up&seq=899>.

⁵⁰ U.S. Department of Commerce Civil Aeronautics Administration. Statistical Handbook of Aviation (Years 1960–1971). <https://babel.hathitrust.org/cgi/pt?id=mdp.39015004520279&view=1up&seq=9&skin=2021>.

⁵¹ DOE. EIA. Petroleum and Other Liquids; Supply and Disposition. Aviation Gasoline in Annual Thousand Barrels. Fuel production volume data obtained from https://www.eia.gov/dnav/pet/pet_sum_snd_a_eppv_mbb1_a_cur-1.htm and <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=C400000001&f=A> on Dec., 30, 2021.

⁵² Department of Transportation (DOT). FAA. Aviation Policy and Plans. FAA Aerospace Forecast Fiscal Years 2009–2025. p. 81. Available at http://www.faa.gov/data_research/aviation/aerospace_forecasts/2009-2025/media/2009%20Forecast%20Doc.pdf. This document provides historical data for 2000–2008 as well as forecast data.

⁵³ DOT. FAA. Aviation Policy and Plans. Table 23. p. 111. FAA Aerospace Forecast Fiscal Years 2021–2041. Available at https://www.faa.gov/sites/aa.gov/files/data_research/aviation/aerospace_forecasts/FY2021-41_FAA_Aerospace_Forecast.pdf.

The FAA's National Airspace System Resource (NASR)⁵⁴ provides a complete list of operational airport facilities in the U.S. Among the approximately 19,600 airports listed in the NASR, approximately 3,300 are included in the National Plan of Integrated Airport Systems (NPIAS) and support the majority of piston-engine aircraft activity that occurs annually in the U.S.⁵⁵ While less aircraft activity occurs at the remaining 15,336 airports, that activity is conducted predominantly by piston-engine aircraft. Approximately 6,000 airports have been in operation since the early 1970s when the leaded fuel being used contained up to 4.24 grams of lead per gallon of avgas.⁵⁶ The activity by piston-engine aircraft spans a range of purposes, as described further below. In Alaska this fleet of aircraft currently play a critical role in the transportation infrastructure.

As of 2019, there were 171,934 piston-engine aircraft in the U.S.⁵⁷ This total includes 128,926 single-engine aircraft, 12,470 twin-engine aircraft, and 3,089 rotorcraft.⁵⁸ The average age of single-engine aircraft in 2018 was 46.8 years and the average age of twin-engine aircraft in 2018 was 44.7 years old.⁵⁹ In 2019, 883 new piston-engine aircraft were manufactured in the U.S. some of which are exported.⁶⁰ For the period

from 2019 through 2041, the fleet of fixed wing⁶¹ piston-engine aircraft is projected to decrease at an annual average rate of 0.9 percent, and the hours flown by these aircraft is projected to decrease 0.9 percent per year from 2019 to 2041.⁶² An annual average growth rate in the production of piston-engine powered rotorcraft of 0.9 percent is forecast, with a commensurate 1.9 percent increase in hours flown in that period by piston-engine powered rotorcraft.⁶³ There were approximately 664,565 pilots certified to fly general aviation aircraft in the U.S. in 2021.⁶⁴ This included 197,665 student pilots and 466,900 non-student pilots. In addition, there were more than 301,000 FAA Non-Pilot Certificated mechanics.⁶⁵

Piston-engine aircraft are used to conduct flights that are categorized as either general aviation or air taxi. General aviation flights are defined as all aviation other than military and those flights by scheduled commercial airlines. Air taxi flights are short duration flights made by small commercial aircraft on demand. The hours flown by aircraft in the general aviation fleet are comprised of personal and recreational transportation (67 percent), business (12 percent), instructional flying (8 percent), medical transportation (less than one percent), and the remainder includes hours spent in other applications such as aerial observation and aerial application.⁶⁶ Aerial application for agricultural activity includes crop and timber production, which involve fertilizer and

pesticide application and seeding cropland. In 2019, aerial application in agriculture represented 883,600 hours flown by general aviation aircraft, and approximately 17.5 percent of these total hours were flown by piston-engine aircraft.⁶⁷

Approximately 71 percent of the hours flown that are categorized as general aviation activity are conducted by piston-engine aircraft, and 17 percent of the hours flown that are categorized as air taxi are conducted by piston-engine aircraft.⁶⁸ From the period 2012 through 2019, the total hours flown by piston-engine aircraft increased nine percent from 13.2 million hours in 2012 to 14.4 million hours in 2019.^{69 70}

As noted earlier, the U.S. has a dense network of airports where piston-engine aircraft operate, and a small subset of those airports have air traffic control towers which collect daily counts of aircraft operations at the facility (one takeoff or landing event is termed an "operation"). These daily operations are provided by the FAA in the Air Traffic Activity System (ATADS).⁷¹ The ATADS reports three categories of airport operations that can be conducted by piston-engine aircraft: Itinerant General Aviation, Local Civil, and Itinerant Air Taxi. The sum of Itinerant General Aviation and Local Civil at a facility is referred to as general aviation operations. Piston-engine aircraft operations in these categories are not reported separately from operations conducted by aircraft using other propulsion systems (e.g., turboprop). Because piston-engine aircraft activity generally comprises the majority of general aviation activity at an airport,

⁵⁴ See FAA. NASR. Available at https://www.faa.gov/air_traffic/flight_info/aeronav/aero_data/eNASR_Browser/.

⁵⁵ FAA (2020) National Plan of Integrated Airport Systems (NPIAS) 2021–2025 Published by the Secretary of Transportation Pursuant to Title 49 U.S. Code, Section 47103. Retrieved on Nov. 3, 2021 from: https://www.faa.gov/airports/planning_capacity/npias/current/media/NPIAS-2021-2025-Narrative.pdf.

⁵⁶ See FAA's NASR. Available at https://www.faa.gov/air_traffic/flight_info/aeronav/aero_data/eNASR_Browser/.

⁵⁷ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 1: Historical General Aviation and Air Taxi Measures. Table 1.1—General Aviation and Part 135 Number of Active Aircraft By Aircraft Type 2008–2019. Retrieved on Dec., 27, 2021 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/. Separately, FAA maintains a database of FAA-registered aircraft and as of January 6, 2022 there were 222,592 piston-engine aircraft registered with FAA. See: <https://registry.faa.gov/aircraftinquiry/>.

⁵⁸ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 1: Historical General Aviation and Air Taxi Measures. Table 1.1—General Aviation and Part 135 Number of Active Aircraft By Aircraft Type 2008–2019. Retrieved on Dec., 27, 2021 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

⁵⁹ General Aviation Manufacturers Association (GAMA) (2019) General Aviation Statistical Databook and Industry Outlook, p.27. Retrieved on October 7, 2021 from: https://gama.aero/wp-content/uploads/GAMA_2019Databook_Final-2020-03-20.pdf.

⁶⁰ GAMA (2019) General Aviation Statistical Databook and Industry Outlook, p.16. Retrieved on

October 7, 2021 from: https://gama.aero/wp-content/uploads/GAMA_2019Databook_Final-2020-03-20.pdf.

⁶¹ There are both fixed-wing and rotary-wing aircraft; and airplane is an engine-driven, fixed-wing aircraft and a rotorcraft is an engine-driven rotary-wing aircraft.

⁶² See FAA Aerospace Forecast Fiscal Years 2021–2041. p. 28. Available at https://www.faa.gov/sites/aa/files/data_research/aviation/aerospace_forecasts/FY2021-41_FAA_Aerospace_Forecast.pdf.

⁶³ FAA Aerospace Forecast Fiscal Years 2021–2041. Table 28. p. 116., and Table 29. p. 117. Available at https://www.faa.gov/sites/aa/files/data_research/aviation/aerospace_forecasts/FY2021-41_FAA_Aerospace_Forecast.pdf.

⁶⁴ FAA. U.S. Civil Airmen Statistics. 2021 Active Civil Airman Statistics. Retrieved from https://www.faa.gov/data_research/aviation_data_statistics/civil_airmen_statistics on May 20, 2022.

⁶⁵ FAA. U.S. Civil Airmen Statistics. 2021 Active Civil Airman Statistics. Retrieved from https://www.faa.gov/data_research/aviation_data_statistics/civil_airmen_statistics on May 20, 2022.

⁶⁶ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 1: Historical General Aviation and Air Taxi Measures. Table 1.4—General Aviation and Part 135 Total Hours Flown By Actual Use 2008–2019 (Hours in Thousands). Retrieved on Dec., 27, 2021 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

⁶⁷ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 3: Primary and Actual Use. Table 3.2—General Aviation and Part 135 Total Hours Flown by Actual Use 2008–2019 (Hours in Thousands). Retrieved on Mar., 22, 2022 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

⁶⁸ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 3: Primary and Actual Use. Table 3.2—General Aviation and Part 135 Total Hours Flown by Actual Use 2008–2019 (Hours in Thousands). Retrieved on Mar., 22, 2022 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

⁶⁹ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 3: Primary and Actual Use. Table 1.3—General Aviation and Part 135 Total Hours Flown by Aircraft Type 2008–2019 (Hours in Thousands). Retrieved on Dec., 27, 2021 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

⁷⁰ In 2012, the FAA Aerospace Forecast projected a 0.03 percent increase in hours flown by the piston-engine aircraft fleet for the period 2012 through 2032. FAA Aerospace Forecast Fiscal Years 2012–2032. p. 53. Available at https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/2012%20FAA%20Aerospace%20Forecast.pdf.

⁷¹ See FAA's Air Traffic Activity Data. Available at <https://aspm.faa.gov/opsnet/sys/airport.asp>.

general aviation activity is often used as a surrogate measure for understanding piston-engine activity.

In order to understand the trend in airport-specific piston-engine activity in the past ten years, we evaluated the trend in general aviation activity. We calculated the average activity at each of the airports in ATADS over three-year periods for the years 2010 through 2012 and for the years 2017 through 2019. We focused this trend analysis on the airports in ATADS because these data are collected daily at an airport-specific control tower (in contrast with annual activity estimates provided at airports without control towers). There were 513 airports in ATADS for which data were available to determine annual average activity for both the 2010–2012 period and the 2017–2019 time period. The annual average operations by general aviation at each of these airports in the period 2010 through 2012 ranged from 31 to 346,415, with a median of 34,368; the annual average operations by general aviation in the period from 2017 through 2019 ranged from 2,370 to 396,554, with a median of 34,365. Of the 513 airports, 211 airports reported increased general aviation activity over the period evaluated.⁷² The increase in the average annual number of operations by general aviation aircraft at these 211 facilities ranged from 151 to 136,872 (an increase of two percent and 52 percent, respectively).

While national consumption of leaded avgas is forecast to decrease three percent from 2026 to 2045, this change in fuel consumption is not expected to occur uniformly across airports in the U.S. The FAA produces the Terminal Area Forecast (TAF), which is the official forecast of aviation activity for the 3,300 U.S. airports that are in the NPIAS.⁷³ For the 3,306 airports in the TAF, we compared the average activity by general aviation at each airport from 2017–2019 with the FAA forecast for general aviation activity at those airports in 2045. The FAA forecasts that activity by general aviation will decrease at 234 of the airports in the TAF, remain the same at 1,960 airports, and increase at 1,112 of the airports. To evaluate the magnitude of potential increases in activity for the same 513 airports for which we evaluated activity

trends in the past ten years, we compared the 2017–2019 average general aviation activity at each of these airports with the forecasted activity for 2045 in the TAF.⁷⁴ The annual operations estimated for the 513 airports in 2045 ranges from 2,914 to 427,821 with a median of 36,883. The TAF forecasts an increase in activity at 442 of the 513 airports out to 2045, with the increase in operations at those facilities ranging from 18 to 83,704 operations annually (an increase of 0.2 percent and 24 percent, respectively).

2. Emissions of Lead From Piston-Engine Aircraft

This section describes the physical and chemical characteristics of lead emitted by covered aircraft, and the national, state, county and airport-specific annual inventories of these engine emissions of lead. Information regarding lead emissions from motor vehicle engines operating on leaded fuel is summarized in prior AQCDs for Lead, and the 2013 Lead ISA also includes information on lead emissions from piston-engine aircraft.^{75 76 77} Lead is added to avgas in the form of tetraethyl lead along with ethylene dibromide, both of which were used in leaded gasoline for motor vehicles in the past. Therefore, the summary of the science regarding emissions of lead from motor vehicles presented in the 1997 and 1986 AQCDs for Lead is relevant to understanding some of the properties of lead emitted from piston-engine aircraft and the atmospheric chemistry these emissions are expected to undergo. Recent studies relevant to understanding lead emissions from piston-engine aircraft have also been published and are discussed here.

a. Physical and Chemical Characteristics of Lead Emitted by Piston-Engine Aircraft

As with motor vehicle engines, when leaded avgas is combusted, the lead is oxidized to form lead oxide. In the absence of the ethylene dibromide lead scavenger in the fuel, lead oxide can

collect on the valves and spark plugs, and if the deposits become thick enough, the engine can be damaged. Ethylene dibromide reacts with the lead oxide, converting it to brominated lead and lead oxybromides. These brominated forms of lead remain volatile at high combustion temperatures and are emitted from the engine along with the other combustion by-products.⁷⁸ Upon cooling to ambient temperatures these brominated lead compounds are converted to particulate matter. The presence of lead dibromide particles in the exhaust from a piston-engine aircraft has been confirmed by Griffith (2020) and is the primary form of lead emitted by engines operating on leaded fuel.⁷⁹ In addition to lead bromides, ammonium salts of other lead halides were also emitted by motor vehicles and would be expected in the exhaust of piston-engine aircraft.⁸⁰

Uncombusted alkyl lead was also measured in the exhaust of motor vehicles operating on leaded gasoline and is therefore likely to be present in the exhaust from piston-engine aircraft.⁸¹ Alkyl lead is the general term used for organic lead compounds and includes the lead additive tetraethyl lead. Summarizing the available data regarding emissions of alkyl lead from piston-engine aircraft, the 2013 Lead ISA notes that lead in the exhaust that might be in organic form may potentially be 20 percent (as an upper bound estimate).⁸² In addition, tetraethyl lead is a highly volatile compound and therefore, a portion of tetraethyl lead in fuel exposed to air will partition into the vapor phase.⁸³

Particles emitted by piston-engine aircraft are in the submicron size range (less than one micron in diameter). The Swiss Federal Office of Civil Aviation (FOCA) published a study of piston-engine aircraft emissions including

⁷⁸ EPA (1986) AQC for Lead. EPA, Washington, DC, EPA-600/8-83/028aF-dF (NTIS PB87142386), 1986.

⁷⁹ Griffith 2020. Electron microscopic characterization of exhaust particles containing lead dibromide beads expelled from aircraft burning leaded gasoline. *Atmospheric Pollution Research* 11:1481–1486.

⁸⁰ EPA (1986) AQC for Lead. Volume 2: Chapters 5 & 6. EPA, Washington, DC, EPA-600/8-83/028aF-dF (NTIS PB87142386), 1986.

⁸¹ EPA (2013) ISA for Lead. Table 2-1. “Pb Compounds Observed in the Environment.” p. 2–8. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

⁸² EPA (2013) ISA for Lead. Section 2.2.2.1 “Pb Emissions from Piston-engine Aircraft Operating on Leaded Aviation Gasoline and Other Non-road Sources.” p. 2–10. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

⁸³ Memorandum to Docket EPA-HQ-OAR-2022-0389. Potential Exposure to Non-exhaust Lead and Ethylene Dibromide. June 15, 2022. Docket ID EPA-HQ-2022-0389.

⁷² Geidosch. Memorandum to Docket EPA-HQ-OAR-2022-0389. Past Trends and Future Projections in General Aviation Activity and Emissions. June 1, 2022. Docket ID EPA-HQ-2022-0389.

⁷³ FAA’s TAF Fiscal Years 2020–2045 describes the forecast method, data sources, and review process for the TAF estimates. The documentation for the TAF is available at <https://taf.faa.gov/Downloads/TAFSummaryFY2020-2045.pdf>.

⁷⁴ The TAF is prepared to assist the FAA in meeting its planning, budgeting, and staffing requirements. In addition, state aviation authorities and other aviation planners use the TAF as a basis for planning airport improvements. The TAF is available on the internet. The TAF database can be accessed at: <https://taf.faa.gov>.

⁷⁵ EPA (1977) AQC for Lead. EPA, Washington, DC, EPA-600/8-77-017 (NTIS PB280411), 1977.

⁷⁶ EPA (1986) AQC for Lead. EPA, Washington, DC, EPA-600/8-83/028aF-dF (NTIS PB87142386), 1986.

⁷⁷ EPA (2013) ISA for Lead. Section 2.2.2.1 “Pb Emissions from Piston-engine Aircraft Operating on Leaded Aviation Gasoline and Other Non-road Sources.” p. 2–10. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

measurements of lead.⁸⁴ The Swiss FOCA reported the mean particle diameter of particulate matter emitted by one single-engine piston-powered aircraft ranged from 0.049 to 0.108 microns under different power conditions (lead particles would be expected to be present, but these particles were not separately identified in this study). The particle number concentration ranged from 5.7x10⁶ to 8.6x10⁶ particles per cm³. The authors noted that these particle emission rates are comparable to those from a typical diesel passenger car engine without a particle filter.⁸⁵ Griffith (2020) collected exhaust particles from a piston-engine aircraft operating on leaded avgas and examined the particles using electron microscopy. Griffith reported that the

mean diameter of particles collected in exhaust was 13 nanometers (0.013 microns) consisting of a 4 nanometer (0.004 micron) lead dibromide particle surrounded by hydrocarbons.

b. Inventory of Lead Emitted by Piston-Engine Aircraft

Lead emissions from covered aircraft are the largest single source of lead to air in the U.S. in recent years, contributing over 50 percent of lead emissions to air starting in 2008 (Table 1).⁸⁶ In 2017, approximately 470 tons of lead were emitted by engines in piston-powered aircraft, which constituted 70 percent of the annual emissions of lead to air in that year.⁸⁷ Lead is emitted at and near thousands of airports in the U.S. as described in Section II.A.1 of

this document. The EPA’s method for developing airport-specific lead estimates is described in the EPA’s Advance Notice of Proposed Rulemaking on Lead Emissions from Piston-Engine Aircraft Using Leaded Aviation Gasoline⁸⁸ and in the document titled “Calculating Piston-Engine Aircraft Airport Inventories for Lead for the 2008 National Emissions Inventory.”⁸⁹ The EPA’s National Emissions Inventory (NEI) reports airport estimates of lead emissions as well as estimates of lead emitted in-flight, which are allocated to states based on the fraction of piston-engine aircraft activity estimated for each state. These inventory data are briefly summarized here at the state, county, and airport level.⁹⁰

TABLE 1—PISTON-ENGINE EMISSIONS OF LEAD TO AIR

	2008	2011	2014	2017
Piston-engine emissions of lead to air, tons	560	490	460	470
Total U.S. lead emissions, tons	950	810	720	670
Piston-engine emissions as a percent of the total U.S. lead inventory	59%	60%	64%	70%

At the state level, the EPA estimates of lead emissions from piston-engine aircraft range from 0.3 tons (Rhode Island) to 50.5 tons (California), 47 percent of which is emitted in the landing and takeoff cycle and 53 percent of which the EPA estimates is emitted in-flight, outside the landing and takeoff cycle.⁹¹ Among the counties in the U.S. where the EPA estimates engine emissions of lead from covered aircraft, lead inventories range from 0.00005 tons per year to 4.1 tons per year and constitute the only source of air-related lead in 1,140 counties (the county estimates of lead emissions include the

lead emitted during the landing and takeoff cycle and not lead emitted in-flight).⁹² In the counties where engine emissions of lead from aircraft are the sole source of lead to these estimates, annual lead emissions from the landing and takeoff cycle ranged from 0.00015 to 0.74 tons. Among the 1,872 counties in the U.S. with multiple sources of lead, including engine emission from covered aircraft, the contribution of aircraft engine emissions ranges from 0.0006 to 0.26 tons, comprising 0.0065 to 99.98 percent of the county total, respectively.

The EPA estimates that among the approximately 20,000 airports in the

U.S., airport lead inventories range from 0.00005 tons per year to 0.9 tons per year.⁹³ In 2017, the EPA’s NEI includes 638 airports where the EPA estimates engine emissions of lead from covered aircraft were 0.1 ton or more of lead annually. Using the FAA’s forecasted activity in 2045 for the approximately 3,300 airports in the NPIAS (as described in Section II.A.1 of this document), the EPA estimates airport-specific inventories may range from 0.00003 tons to 1.28 tons of lead (median of 0.03 tons), with 656 airports

⁸⁴ Swiss FOCA (2007) Aircraft Piston Engine Emissions Summary Report. 33–05–003 Piston Engine Emissions_Swiss FOCA_Summary_Report_070612_rit. Available at <https://www.bazl.admin.ch/bazl/en/home/specialists/regulations-and-guidelines/environment/pollutant-emissions/aircraft-engine-emissions/report-appendices-database-and-data-sheets.html>.

⁸⁵ Swiss FOCA (2007) Aircraft Piston Engine Emissions Summary Report. 33–05–003 Piston Engine Emissions_Swiss FOCA_Summary_Report_070612_rit. Section 2.2.3.a. Available at <https://www.bazl.admin.ch/bazl/en/home/specialists/regulations-and-guidelines/environment/pollutant-emissions/aircraft-engine-emissions/report-appendices-database-and-data-sheets.html>.

⁸⁶ The lead inventories for 2008, 2011 and 2014 are provided in the U.S. EPA (2018b) Report on the Environment Exhibit 2. Anthropogenic lead emissions in the U.S. Available at <https://cfpub.epa.gov/roe/indicator.cfm?i=13#2>.

⁸⁷ EPA 2017 NEI. Available at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

⁸⁸ Advance Notice of Proposed Rulemaking on Lead Emissions from Piston-Engine Aircraft Using

Leaded Aviation Gasoline. 75 FR 2440 (April 28, 2010).

⁸⁹ Airport lead annual emissions data used were reported in the 2017 NEI. Available at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>. The methods used to develop these inventories are described in EPA (2010) Calculating Piston-Engine Aircraft Airport Inventories for Lead for the 2008 NEI. EPA, Washington, DC, EPA–420–B–10–044, 2010. (Also available in the docket for this action, EPA–HQ–OAR–2022–0389).

⁹⁰ The 2017 NEI utilized 2014 aircraft activity data to develop airport-specific lead inventories. Details can be found on page 3–17 of the document located here: https://www.epa.gov/sites/default/files/2021-02/documents/nei2017_tsd_full_jan2021.pdf#page=70&zoom=100,68,633.

⁹¹ Lead emitted in-flight is assigned to states based on their overall fraction of total piston-engine aircraft operations. The state-level estimates of engine emissions of lead include both lead emitted in the landing and takeoff cycle as well as lead emitted in-flight. The method used to develop these estimates is described in EPA (2010) Calculating Piston-Engine Aircraft Airport Inventories for Lead

for the 2008 NEI, available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1009I13.PDF?Dockey=P1009I13.PDF>.

⁹² Airport lead annual emissions data used were reported in the 2017 NEI. Available at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>. In addition to the triennial NEI, the EPA collects from state, local, and Tribal air agencies point source data for larger sources every year (see <https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr> for specific emissions thresholds). While these data are not typically published as a new NEI, they are available publicly upon request and are also included in <https://www.epa.gov/air-emissions-modeling/emissions-modeling-platforms> that are created for years other than the triennial NEI years. County estimates of lead emissions from non-aircraft sources used in this action are from the 2019 inventory. There are 3,012 counties and statistical equivalent areas where EPA estimates engine emissions of lead occur.

⁹³ See EPA lead inventory data available at <https://www.epa.gov/air-emissions-modeling/emissions-modeling-platforms>.

estimated to have inventories above 0.1 tons in 2045.⁹⁴

We estimate that piston-engine aircraft have consumed approximately 38.6 billion gallons of leaded avgas in the U.S. since 1930, excluding military aircraft use of this fuel, emitting approximately 113,000 tons of lead to the air.⁹⁵

3. Concentrations of Lead in Air Attributable to Emissions From Piston-Engine Aircraft

In this section, we describe the concentrations of lead in air resulting from emissions of lead from covered aircraft. Air quality monitoring and modeling studies for lead at and near airports have identified elevated concentrations of lead in air from piston-engine aircraft exhaust at, and downwind of, airports where these aircraft are active.^{96 97 98 99 100 101} This section provides a summary of the literature regarding the local-scale impact of aircraft emissions of lead on concentrations of lead at and near airports, with specific focus on the results of air monitoring for lead that the

EPA required at a subset of airports and an analysis conducted by the EPA to estimate concentrations of lead at 13,000 airports in the U.S., titled “Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports.”^{102 103}

Gradient studies evaluate how lead concentrations change with distance from an airport where piston-engine aircraft operate. These studies indicate that concentrations of lead in air are estimated to be one to two orders of magnitude higher at locations proximate to aircraft emissions, compared to nearby locations not impacted by a source of lead air emissions (concentrations for periods of approximately 18 hours to three-month averages).^{104 105 106 107 108 109} The magnitude of lead concentrations at and near airports is highly influenced by the amount of aircraft activity (*i.e.*, the number of take-off and landing operations, particularly if concentrated at one runway) and the time spent by aircraft in specific modes of operation. The most significant emissions in terms of ground-based activity, and therefore

ground-level concentrations of lead in air, occur near the areas with greatest fuel consumption where the aircraft are stationary and running.^{110 111 112} For piston-engine aircraft these areas are most commonly locations in which pilots conduct engine tests during run-up operations prior to take-off (*e.g.*, magneto checks during the run-up operation mode). Run-up operations are conducted while the brakes are engaged so the aircraft is stationary and are often conducted adjacent to the runway end from which the aircraft will take off. Additional modes of operation by piston-engine aircraft, such as taxiing or idling near the runway, may result in additional hotspots of elevated lead concentration (*e.g.*, start-up and idle, maintenance run-up).¹¹³

The lead NAAQS was revised in 2008.¹¹⁴ The 2008 decision revised the level, averaging time and form of the standards to establish the current primary and secondary standards, which are both 0.15 micrograms per cubic meter of air, in terms of consecutive three-month average of lead in total suspended particles.¹¹⁵ In conjunction with strengthening the lead NAAQS in 2008, the EPA enhanced the existing lead monitoring network by requiring monitors to be placed in areas with sources such as industrial facilities and airports with estimated lead emissions of 1.0 ton or more per year. Lead monitoring was conducted at two airports following from these requirements (Deer Valley Airport, AZ and the Van Nuys Airport, CA). In 2010, the EPA made further revisions to the monitoring requirements such that state and local air quality agencies are now required to monitor near industrial facilities with estimated lead emissions of 0.50 tons or more per year and at airports with estimated emissions of 1.0

⁹⁴ EPA used the method describe in EPA (2010) Calculating Piston-Engine Aircraft Airport Inventories for Lead for the 2008 NEI to estimate airport lead inventories in 2045. This document is available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1009I13.PDF?Dockey=P1009I13.PDF>.

⁹⁵ Geidosch. Memorandum to Docket EPA-HQ-OAR-2022-0389. Lead Emissions from the use of Leaded Aviation Gasoline from 1930 through 2020. June 1, 2022. Docket ID EPA-HQ-2022-0389.

⁹⁶ Carr et al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment*, 45 (32), 5795–5804. DOI: <https://dx.doi.org/10.1016/j.atmosenv.2011.07.017>.

⁹⁷ Feinberg et al., 2016. Modeling of Lead Concentrations and Hot Spots at General Aviation Airports. *Journal of the Transportation Research Board*, No. 2569, Transportation Research Board, Washington, DC, pp. 80–87. DOI: 10.3141/2569-09.

⁹⁸ Municipality of Anchorage (2012). *Merrill Field Lead Monitoring Report*. Municipality of Anchorage Department of Health and Human Services. Anchorage, Alaska. Available at https://www.muni.org/Departments/health/Admin/environment/AirQ/Documents/Merrill%20Field%20Lead%20Monitoring%20Study_2012/Merrill%20Field%20Lead%20Study%20Report%20-%20final.pdf.

⁹⁹ Environment Canada (2000) Airborne Particulate Matter, Lead and Manganese at Buttonville Airport. Toronto, Ontario, Canada: Conor Pacific Environmental Technologies for Environmental Protection Service, Ontario Region.

¹⁰⁰ Fine et al., 2010. *General Aviation Airport Air Monitoring Study*. South Coast Air Quality Management District. Available at <https://www.aqmd.gov/docs/default-source/air-quality/air-quality-monitoring-studies/general-aviation-study/study-of-air-toxins-near-van-nuys-and-santa-monica-airport.pdf>.

¹⁰¹ Lead emitted from piston-engine aircraft in the particulate phase would also be measured in samples collected to evaluate total ambient PM_{2.5} concentrations.

¹⁰² EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020. Available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG52.pdf>. EPA responses to peer review comments on the report are available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YIWD.pdf>. These documents are also available in the docket for this action (Docket EPA-HQ-OAR-2022-0389).

¹⁰³ EPA (2022) Technical Support Document (TSD) for the EPA’s Proposed Finding that Lead Emissions from Aircraft Engines that Operate on Leaded Fuel Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare. EPA, Washington, DC, EPA-420-R-22-025, 2022. Available in the docket for this action.

¹⁰⁴ These studies report monitored or modeled data for averaging times ranging from approximately 18 hours to three-month averages.

¹⁰⁵ Carr et al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment*, 45 (32), 5795–5804. DOI: <https://dx.doi.org/10.1016/j.atmosenv.2011.07.017>.

¹⁰⁶ Heiken et al., 2014. Quantifying Aircraft Lead Emissions at Airports. ACRP Report 133. Available at <https://www.nap.edu/catalog/22142/quantifying-aircraft-lead-emissions-at-airports>.

¹⁰⁷ Hudda et al., 2022. Substantial Near-Field Air Quality Improvements at a General Aviation Airport Following a Runway Shortening. *Environmental Science & Technology*. DOI: 10.1021/acs.est.1c06765.

¹⁰⁸ Fine et al., 2010. *General Aviation Airport Air Monitoring Study*. South Coast Air Quality Management District. Available at <https://www.aqmd.gov/docs/default-source/air-quality/air-quality-monitoring-studies/general-aviation-study/study-of-air-toxins-near-van-nuys-and-santa-monica-airport.pdf>.

¹⁰⁹ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹¹⁰ EPA (2010) Development and Evaluation of an Air Quality Modeling Approach for Lead Emissions from Piston-Engine Aircraft Operating on Leaded Aviation Gasoline. EPA, Washington, DC, EPA-420-R-10-007, 2010. <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1007H4Q.PDF?Dockey=P1007H4Q.PDF>.

¹¹¹ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020. EPA responses to peer review comments on the report are available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YIWD.pdf>.

¹¹² Feinberg et al., 2016. Modeling of Lead Concentrations and Hot Spots at General Aviation Airports. *Journal of the Transportation Research Board*, No. 2569, Transportation Research Board, Washington, DC, pp. 80–87. DOI: 10.3141/2569-09.

¹¹³ Feinberg et al., 2016. Modeling of Lead Concentrations and Hot Spots at General Aviation Airports. *Journal of the Transportation Research Board*, No. 2569, Transportation Research Board, Washington, DC, pp. 80–87. DOI: 10.3141/2569-09.

¹¹⁴ 73 FR 66965 (Nov. 12, 2008).

¹¹⁵ 40 CFR 50.16 (Nov. 12, 2008).

ton or more per year.¹¹⁶ As part of this 2010 requirement to expand lead monitoring, the EPA also required a one-year monitoring study of 15 additional airports with estimated lead emissions between 0.50 and 1.0 ton per year in an effort to better understand how these emissions affect concentrations of lead in the air at and near airports. Further, to help evaluate airport characteristics that could lead to ambient lead concentrations that approach or exceed the lead NAAQS, airports for this one-year monitoring study were selected based on factors such as the level of piston-engine aircraft activity and the predominant use of one runway due to wind patterns.

As a result of these requirements, state and local air authorities collected and certified lead concentration data for at least one year at 17 airports with most monitors starting in 2012 and generally continuing through 2013. The data presented in Table 2 are based on the certified data for these sites and represent the maximum concentration monitored in a rolling three-month average for each location.^{117 118}

TABLE 2—LEAD CONCENTRATIONS MONITORED AT 17 AIRPORTS IN THE U.S.

Airport, State	Lead design value, ¹¹⁹ µg/m ³
Auburn Municipal Airport, WA ..	0.06
Brookhaven Airport, NY	0.03
Centennial Airport, CO	0.02
Deer Valley Airport, AZ	0.04
Gillespie Field, CA	0.07
Harvey Field, WA	0.02
McClellan-Palomar Airport, CA	0.17
Merrill Field, AK	0.07
Nantucket Memorial Airport, MA	0.01
Oakland County International Airport, MI	0.02
Palo Alto Airport, CA	0.12
Pryor Field Regional Airport, AL	0.01
Reid-Hillview Airport, CA	0.10
Republic Airport, NY	0.01
San Carlos Airport, CA	0.33
Stinson Municipal, TX	0.03
Van Nuys Airport, CA	0.06

¹¹⁶ 75 FR 81226 (Dec. 27, 2010).

¹¹⁷ EPA (2015) Program Overview: Airport Lead Monitoring. EPA, Washington, DC, EPA-420-F-15-003, 2015. Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100LJDW.PDF?Dockey=P100LJDW.PDF>.

¹¹⁸ EPA (2022) Technical Support Document (TSD) for the EPA's Proposed Finding that Lead Emissions from Aircraft Engines that Operate on Leaded Fuel Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare. EPA, Washington, DC, EPA-420-R-22-025, 2022. Available in the docket for this action.

Monitored lead concentrations violated the lead NAAQS at two airports in 2012: the McClellan-Palomar Airport and the San Carlos Airport. At both of these airports, monitors were located in close proximity to the area at the end of the runway most frequently used for pre-flight safety checks (*i.e.*, run-up). Alkyl lead emitted by piston-engine aircraft would be expected to partition into the vapor phase and would not be collected by the monitoring conducted in this study, which is designed to quantitatively collect particulate forms of lead.¹²⁰

Airport lead monitoring and modeling studies have identified the sharp decrease in lead concentrations with distance from the run-up area and therefore the importance of considering monitor placement relative to the run-up area when evaluating the maximum impact location attributable to lead emissions from piston-engine aircraft. The monitoring data in Table 2 reflect differences in monitor placement relative to the run-up area as well as other factors; this study also provided evidence that air lead concentrations at and downwind from airports could be influenced by factors such as the use of more than one run-up area, wind speed, and the number of operations conducted by single- versus twin-engine aircraft.¹²¹

The EPA recognized that the airport lead monitoring study provided a small sample of the potential locations where emissions of lead from piston-engine aircraft could potentially cause

¹¹⁹ A design value is a statistic that summarizes the air quality data for a given area in terms of the indicator, averaging time, and form of the standard. Design values can be compared to the level of the standard and are typically used to designate areas as meeting or not meeting the standard and assess progress towards meeting the NAAQS.

¹²⁰ As noted earlier, when summarizing the available data regarding emissions of alkyl lead from piston-engine aircraft, the 2013 Lead ISA notes that an upper bound estimate of lead in the exhaust that might be in organic form may potentially be 20 percent (2013 Lead ISA, p. 2–10). Organic lead in engine exhaust would be expected to influence receptors within short distances of the point of emission from piston-engine aircraft. Airports with large flight schools and/or facilities with substantial delays for aircraft queued for takeoff could experience higher concentrations of alkyl lead in the vicinity of the aircraft exhaust.

¹²¹ The data in Table 2 represent concentrations measured at one location at each airport and monitors were not consistently placed in close proximity to the run-up areas. As described in Section II.A.3, monitored concentrations of lead in air near airports are highly influenced by proximity of the monitor to the run-up area. In addition to monitor placement, there are individual airport factors that can influence lead concentrations (*e.g.*, the use of multiple run-up areas at an airport, fleet composition, and wind speed). The monitoring data reported in Table 2 reflect a range of lead concentrations indicative of the location at which measurements were made and the specific operations at an airport.

concentrations of lead in ambient air to exceed the lead NAAQS. Because we anticipated that additional airports and conditions could lead to exceedances of the lead NAAQS at and near airports where piston-engine aircraft operate, and in order to understand the range of lead concentrations at airports nationwide, we developed an analysis of 13,000 airports in the peer-reviewed report titled, “Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports.”^{122 123} This report provides estimated ranges of lead concentrations that may occur at and near airports where leaded avgas is used. The study extrapolated modeling results from one airport to estimate air lead concentrations at the maximum impact area near the run-up location for over 13,000 U.S. airports.¹²⁴ The model-extrapolated lead estimates in this study indicate that some additional U.S. airports may have air lead concentrations above the NAAQS at this area of maximum impact. The report also indicates that, at the levels of activity analyzed at the 13,000 airports, estimated lead concentrations decrease to below the standard within 50 meters from the location of highest concentration.

To estimate the potential ranges of lead concentrations at and downwind of the anticipated area of highest concentration at airports in the U.S., the relationship between piston-engine aircraft activity and lead concentration at and downwind of the maximum impact site at one airport was applied to piston-engine aircraft activity estimates for each U.S. airport.¹²⁵ This approach for conducting a nationwide analysis of airports was selected due to the impact of piston-engine aircraft run-up

¹²² EPA (2020) Model-Extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹²³ EPA (2022) Technical Support Document (TSD) for the EPA's Proposed Finding that Lead Emissions from Aircraft Engines that Operate on Leaded Fuel Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare. EPA, Washington, DC, EPA-420-R-22-025, 2022. Available in the docket for this action.

¹²⁴ In this study, the EPA defined the maximum impact site as 15 meters downwind of the tailpipe of an aircraft conducting run-up operations in the area designated for these operations at a runway end. The maximum impact area was defined as approximately 50 meters surrounding the maximum impact site.

¹²⁵ Prior to this model extrapolation study, the EPA developed and evaluated an air quality modeling approach (this study is available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1007H4Q.PDF?Dockey=P1007H4Q.PDF>), and subsequently applied the approach to a second airport and again performed an evaluation of the model output using air monitoring data (this second study is available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100Y5G2.pdf>).

operations on ground-level lead concentrations, which creates a maximum impact area that is expected to be generally consistent across airports. Specifically, these aircraft consistently take off into the wind and typically conduct run-up operations immediately adjacent to the take-off runway end, and thus, modeling lead concentrations from this source is constrained by variation in a few key parameters. These parameters include: (1) Total amount of piston-engine aircraft activity, (2) the proportion of activity conducted at one runway end, (3) the proportion of activity conducted by multi-piston-engine aircraft, (4) the duration of run-up operations, (5) the concentration of lead in avgas, (6) wind speed at the model airport relative to the extrapolated airport, and (7) additional meteorological, dispersion model, or operational parameters. These parameters were evaluated through sensitivity analyses as well as quantitative or qualitative uncertainty analyses. To generate robust concentration estimates, the EPA evaluated these parameters, conducted wind-speed correction of extrapolated estimates, and used airport-specific information regarding airport layout and prevailing wind directions for the 13,000 airports.¹²⁶

Results of this national analysis show that model-extrapolated three-month average lead concentrations in the maximum impact area may potentially exceed the lead NAAQS at airports with activity ranging from 3,616–26,816 Landing and Take-Off events (LTOs) in a three-month period.¹²⁷ The lead concentration estimates from this model-extrapolation approach account for lead engine emissions from aircraft only, and do not include other sources of air-related lead. The broad range in LTOs that may lead to concentrations of lead exceeding the lead NAAQS is due to the piston-engine aircraft fleet mix at individual airports such that airports where the fleet is dominated by twin-engine aircraft would potentially reach concentrations of lead exceeding the lead NAAQS with fewer LTOs compared with airports where single-engine aircraft dominate the piston-

engine fleet.¹²⁸ Model-extrapolated three-month average lead concentrations from aircraft engine emissions were estimated to extend to a distance of at least 500 meters from the maximum impact area at airports with activity ranging from 1,275–4,302 LTOs in that three-month period.¹²⁹ In a separate modeling analysis at an airport at which hundreds of take-off and landing events by piston-engine aircraft occur per day, the EPA found that modeled 24-hour concentrations of lead were estimated above background extending almost 1,000 meters downwind from the runway.¹³⁰

Model-extrapolated estimates of lead concentrations in the EPA report “Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports” were compared with monitored values and show general agreement, suggesting that the extrapolation method presented in this report provides reasonable estimates of the range in concentrations of lead in air attributable to three-month activity periods of piston-engine aircraft at airports. The assessment included detailed evaluation of the potential impact of run-up duration, the concentration of lead in avgas, and the impact of meteorological parameters on model-extrapolated estimates of lead concentrations attributable to engine emissions of lead from piston-powered aircraft. Additionally, this study included a range of sensitivity analyses as well as quantitative and qualitative uncertainty analyses. The EPA invites comment on the approach used in this model-extrapolation analysis.

The EPA’s model-extrapolation analysis of lead concentrations from engine emissions resulting from covered aircraft found that the lowest annual airport emissions of lead estimated to result in air lead concentrations approaching or potentially exceeding the NAAQS was 0.1 tons per year. There are key pieces of airport-specific data that are needed to fully evaluate the potential for piston-engine aircraft operating at an airport to cause concentrations of lead in the air to exceed the lead NAAQS, and the EPA’s report “Model-extrapolated Estimates of

Airborne Lead Concentrations at U.S. Airports” provides quantitative and qualitative analyses of these factors.¹³¹ The EPA’s estimate of airports that have annual lead inventories of 0.1 ton or more are illustrative of, and provide one approach for an initial screening evaluation of locations where engine emissions of lead from aircraft increase localized lead concentrations in air. Airport-specific assessments would be needed to determine the magnitude of the potential range in lead concentrations at and downwind of each facility.

As described in Section II.A.1 of this document, the FAA forecasts 0.9 percent decreases in piston-engine aircraft activity out to 2041, however these decreases are not projected to occur uniformly across airports. Among the more than 3,300 airports in the FAA TAF, the FAA forecasts both decreases and increases in general aviation, which is largely comprised of piston-engine aircraft. If the current conditions on which the forecast is based persist, then lead concentrations in the air may increase at the airports where general aviation activity is forecast to increase.

In addition to airport-specific modeled estimates of lead concentrations, the EPA also provides annual estimates of lead concentrations for each census tract in the U.S. as part of the Air Toxics Screening Assessment (AirToxScreen).¹³² The census tract concentrations are averages of the area-weighted census block concentrations within the tract. Lead concentrations reported in the AirToxScreen are based on emissions estimates from anthropogenic and natural sources, including aircraft engine emissions.¹³³ The 2017 AirToxScreen provides lead concentration estimates in air for 73,449

¹³¹ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 6. p.53. EPA, Washington, DC, EPA-420-R-20-003, 2020. EPA responses to peer review comments on the report are available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YIWD.pdf>.

¹³² See EPA’s 2017 AirToxScreen. Available at <https://www.epa.gov/AirToxScreen>.

¹³³ These concentration estimates are not used for comparison to the level of the Lead NAAQS due to different temporal averaging times and underlying assumptions in modeling. The AirToxScreen estimates are provided to help state, local and Tribal air agencies and the public identify which pollutants, emission sources and places they may wish to study further to better understand potential risks to public health from air toxics. There are uncertainties inherent in these estimates described by the EPA, some of which are relevant to these estimates of lead concentrations; however, these estimates provide perspective on the potential influence of piston-engine emissions of lead on air quality. See <https://www.epa.gov/AirToxScreen/airtoxscreen-limitations>.

¹²⁶ EPA (2022) Technical Support Document (TSD) for the EPA’s Proposed Finding that Lead Emissions from Aircraft Engines that Operate on Leaded Fuel Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare. EPA, Washington, DC, EPA-420-R-22-025, 2022. Available in the docket for this action.

¹²⁷ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 6. p. 53. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹²⁸ See methods used in EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 2. p.23. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹²⁹ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 6. p.53. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹³⁰ Carr et al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment* 45: 5795–5804.

census tracts in the U.S.¹³⁴ Lead emissions from piston-engine aircraft comprised more than 50 percent of these census block area-weighted lead concentrations in over half of the census tracts, which included tracts in all 50 states, as well as Puerto Rico and the Virgin Islands.

4. Fate and Transport of Emissions of Lead From Piston-Engine Aircraft

This section summarizes the chemical transformation that piston-engine aircraft lead emissions are anticipated to undergo in the atmosphere and describes what is known about the deposition of piston-engine aircraft lead, and potential impacts on soil, food, and aquatic environments.

a. Atmospheric Chemistry and Transport of Emissions of Lead From Piston-Engine Aircraft

Lead emitted by piston-engine aircraft can have impacts in the local environment and, due to their small size (*i.e.*, typically less than one micron in diameter),¹³⁵ ¹³⁶ lead-bearing particles emitted by piston engines may disperse widely in the environment. However, lead emitted during the landing and takeoff cycle, particularly during ground-based operations such as start-up, idle, preflight run-up checks, taxi and the take-off roll on the runway, may deposit to the local environment and/or infiltrate into buildings.¹³⁷ Depending on ambient conditions (*e.g.*, ozone and hydroxyl concentrations in the atmosphere), alkyl lead may exist in the atmosphere for hours to days¹³⁸ and may therefore be transported off airport property into nearby communities.

Lead halides emitted by motor vehicles operating on leaded fuel were reported to undergo compositional changes upon cooling and mixing with the ambient air as well as during

transport, and we would anticipate lead bromides emitted by piston-engine aircraft to behave similarly in the atmosphere. The water-solubility of these lead-bearing particles was reported to be higher for the smaller lead-bearing particles.¹³⁹ Lead halides emitted in motor vehicle exhaust were reported to break down rapidly in the atmosphere via redox reactions in the presence of atmospheric acids.¹⁴⁰ Tetraethyl lead has an atmospheric residence time ranging from a few hours to a few days. Tetraethyl lead reacts with the hydroxyl radical in the gas phase to form a variety of products that include ionic trialkyl lead, dialkyl lead and metallic lead. Trialkyl lead is slow to react with the hydroxyl radical and is quite persistent in the atmosphere.¹⁴¹

b. Deposition of Lead Emissions From Piston-Engine Aircraft and Soil Lead Concentrations to Which Piston-Engine Aircraft May Contribute

Lead is removed from the atmosphere and deposited on soil, into aquatic systems and on other surfaces via wet or dry deposition.¹⁴² Meteorological factors (*e.g.*, wind speed, convection, rain, humidity) influence local deposition rates. With regard to deposition of lead from aircraft engine emissions, the EPA modeled the deposition rate for aircraft lead emissions at one airport in a temperate climate in California with dry summer months. In this location, the average lead deposition rate from aircraft emissions of lead was 0.057 milligrams per square meter per year.¹⁴³

Studies summarized in the 2013 Lead ISA suggest that soil is a reservoir for contemporary and historical emissions of lead to air.¹⁴⁴ Once deposited to soil, lead can be absorbed onto organic material, can undergo chemical and physical transformation depending on a number of factors (*e.g.*, pH of the soil and the soil organic content), and can participate in further cycling through air

or other media.¹⁴⁵ The extent of atmospheric deposition of lead from aircraft engine emissions would be expected to depend on a number of factors including the size of the particles emitted (smaller particles, such as those in aircraft emissions, have lower settling velocity and may travel farther distances before being deposited compared with larger particles), the temperature of the exhaust (the high temperature of the exhaust creates plume buoyancy), as well as meteorological factors (*e.g.*, wind speed, precipitation rates). As a result of the size of the lead particulate matter emitted from piston-engine aircraft and as a result of these emissions occurring at various altitudes, lead emitted from these aircraft may distribute widely through the environment.¹⁴⁶ Murphy et al. (2008) reported weekend increases in ambient lead monitored at remote locations in the U.S. that the authors attributed to weekend increases in piston-engine powered general aviation activity.¹⁴⁷

Heiken et al. (2014) assessed air lead concentrations potentially attributable to resuspended lead that previously deposited onto soil relative to air lead concentrations resulting directly from aircraft engine emissions.¹⁴⁸ Based on comparisons of lead concentrations in total suspended particulate (TSP) and fine particulate matter (PM_{2.5}) measured at the three airports, coarse particle lead was observed to account for about 20–30 percent of the lead found in TSP. The authors noted that based on analysis of lead isotopes present in the air samples collected at these airports, the original source of the lead found in the coarse particle range appeared to be from aircraft exhaust emissions of lead that previously deposited to soil and were resuspended by wind or aircraft-induced turbulence. Results from lead isotope analysis in soil samples collected at the same three airports led the authors to conclude that lead emitted from piston-engine aircraft was not the dominant source of lead in soil in the samples measured at the airports they studied. The authors note the

¹³⁴ As airports are generally in larger census blocks within a census tract, concentrations for airport blocks dominate the area-weighted average in cases where an airport is the predominant lead emissions source in a census tract.

¹³⁵ Swiss FOCA (2007) Aircraft Piston Engine Emissions Summary Report. 33–05–003 Piston Engine Emissions. Swiss FOCA Summary Report_070612 rit. Available at <https://www.bazl.admin.ch/bazl/en/home/specialists/regulations-and-guidelines/environment/pollutant-emissions/aircraft-engine-emissions/report-appendices-database-and-data-sheets.html>.

¹³⁶ Griffith 2020. Electron microscopic characterization of exhaust particles containing lead dibromide beads expelled from aircraft burning leaded gasoline. *Atmospheric Pollution Research* 11:1481–1486.

¹³⁷ EPA (2013) ISA for Lead. Section 1.3. “Exposure to Ambient Pb.” p. 1–11. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹³⁸ EPA (2006) AQC for Lead. Section E.6. p. 2–5. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹³⁹ EPA (1977) AQC for Lead. Section 6.2.2.1. EPA, Washington, DC, EPA–600/8–77–017, 1977.

¹⁴⁰ EPA (2006) AQC for Lead. Section E.6. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹⁴¹ EPA (2006) AQC for Lead. Section 2. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹⁴² EPA (2013) ISA for Lead. Section 1.2.1. “Sources, Fate and Transport of Ambient Pb;” p. 1–6; and Section 2.3. “Fate and Transport of Pb.” p. 2–24 through 2–25. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁴³ Memorandum to Docket EPA–HQ–OAR–2022–0389. Deposition of Lead Emitted by Piston-engine Aircraft. June 15, 2022. Docket ID EPA–HQ–2022–0389.

¹⁴⁴ EPA (2013) ISA for Lead. Section 2.6.1. “Soils.” p. 2–118. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁴⁵ EPA (2013) ISA for Lead. Chapter 6. “Ecological Effects of Pb.” p. 6–57. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁴⁶ Murphy et al., 2008. Weekly patterns of aerosol in the United States. *Atmospheric Chemistry and Physics*. 8:2729–2739.

¹⁴⁷ Lead concentrations collected as part of the Interagency Monitoring of Protected Visual Environments (IMPROVE) network and the National Oceanic and Atmospheric Administration (NOAA) monitoring sites.

¹⁴⁸ Heiken et al., 2014. ACRP Web-Only Document 21: Quantifying Aircraft Lead Emissions at Airports. Contractor’s Final Report for ACRP 02–34. Available at <https://www.trb.org/Publications/Blurbs/172599.aspx>.

complex history of topsoil can create challenges in understanding the extent to which aircraft lead emissions impact soil lead concentrations at and near airports (e.g., the source of topsoil can change as a result of site renovation, construction, landscaping, natural events such as wildfire and hurricanes, and other activities). Concentrations of lead in soil at and near airports servicing piston-engine aircraft have been measured using a range of approaches.^{149 150 151 152 153 154} Kavouras et al. (2013) collected soil samples at three airports and reported that construction at an airport involving removal and replacement of topsoil complicated interpretation of the findings at that airport and that the number of runways at an airport may influence resulting lead concentrations in soil (i.e., multiple runways may provide for more wide-spread dispersal of the lead over a larger area than that potentially affected at a single-runway airport).

c. Potential for Lead Emissions From Piston-Engine Aircraft To Impact Agricultural Products

Studies conducted near stationary sources of lead emissions (e.g., smelters) have shown that atmospheric lead sources can lead to contamination of agricultural products, such as vegetables.^{155 156} In this way, air lead sources may contribute to dietary exposure pathways.¹⁵⁷ As described in

¹⁴⁹ McCumber and Strevett 2017. A Geospatial Analysis of Soil Lead Concentrations Around Regional Oklahoma Airports. *Chemosphere* 167:62–70.

¹⁵⁰ Kavouras et al., 2013. Bioavailable Lead in Topsoil Collected from General Aviation Airports. *The Collegiate Aviation Review International* 31(1):57–68. Available at <https://doi.org/10.22488/okstate.18.100438>.

¹⁵¹ Heiken et al., 2014. ACRP Web-Only Document 21: Quantifying Aircraft Lead Emissions at Airports. Contractor's Final Report for ACRP 02–34. Available at <https://www.trb.org/Publications/Blurbs/172599.aspx>.

¹⁵² EPA (2010) Development and Evaluation of an Air Quality Modeling Approach for Lead Emissions from Piston-Engine Aircraft Operating on Leaded Aviation Gasoline. EPA, Washington, DC, EPA–420–R–10–007, 2010. <https://nepis.epa.gov/Exec/zyPDF.cgi/P1007H4Q.PDF?Dockey=P1007H4Q.PDF>.

¹⁵³ Environment Canada (2000) Airborne Particulate Matter, Lead and Manganese at Buttonville Airport. Toronto, Ontario, Canada: Conor Pacific Environmental Technologies for Environmental Protection Service, Ontario Region.

¹⁵⁴ Lejano and Ericson 2005. Tragedy of the Temporal Commons: Soil-Bound Lead and the Anachronicity of Risk. *Journal of Environmental Planning and Management*. 48(2):301–320.

¹⁵⁵ EPA (2013) ISA for Lead. Section 3.1.3.3. “Dietary Pb Exposure.” p. 3–20 through 3–24. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁵⁶ EPA (2006) AQC for Lead. Section 8.2.2. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹⁵⁷ EPA (2006) AQC for Lead. Section 8.2.2. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

Section II.A.1 of this document, piston-engine aircraft are used in the application of pesticides, fertilizers and seeding crops for human and animal consumption and as such, provide a potential route of exposure for lead in food. To minimize drift of pesticides and other applications from the intended target, pilots are advised to maintain a height between eight and 12 feet above the target crop during application.¹⁵⁸ The low flying height is needed to minimize the drift of the fertilizer and pesticide particles away from their intended target. An unintended consequence of this practice is that exhaust emissions of lead have a substantially increased potential for directly depositing on vegetation and surrounding soil. Lead halides, the primary form of lead emitted by engines operating on leaded fuel,¹⁵⁹ are slightly water soluble and, therefore, may be more readily absorbed by plants than other forms of inorganic lead.

The 2006 AQCD indicated that surface deposition of lead onto plants may be significant.¹⁶⁰ Atmospheric deposition of lead provides a pathway for lead in vegetation as a result of contact with above-ground portions of the plant.^{161 162 163} Livestock may subsequently be exposed to lead in vegetation (e.g., grasses and silage) and in surface soils via incidental ingestion of soil while grazing.¹⁶⁴

d. Potential for Lead Emissions From Piston-Engine Aircraft To Impact Aquatic Ecosystems

As discussed in Section 6.4 of the 2013 Lead ISA, lead bioaccumulates in the tissues of aquatic organisms through ingestion of food and water or direct uptake from the environment (e.g., across membranes such as gills or

¹⁵⁸ O'Connor-Marer. Aerial Applicator's Manual: A National Pesticide Applicator Certification Study Guide. p. 40. National Association of State Departments of Agriculture Research Foundation. Available at https://www.agaviation.org/Files/RelatedEntities/Aerial_Applicators_Manual.pdf.

¹⁵⁹ The additive used in the fuel to scavenge lead determines the chemical form of the lead halide emitted; because ethylene dibromide is added to leaded aviation gasoline used in piston-engine aircraft, the lead halide emitted is in the form of lead dibromide.

¹⁶⁰ EPA (2006) AQC for Lead. pp. 7–9 and AXZ7–39. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹⁶¹ EPA (2006) AQC for Lead. p. AXZ7–39. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

¹⁶² EPA (1986) AQC for Lead. Sections 6.5.3. EPA, Washington, DC, EPA–600/8–83/028aF–dF (NTIS PB87142386), 1986.

¹⁶³ EPA (1986) AQC for Lead. Section 7.2.2.1. EPA, Washington, DC, EPA–600/8–83/028aF–dF (NTIS PB87142386), 1986.

¹⁶⁴ EPA (1986) AQC for Lead. Section 7.2.2.2. EPA, Washington, DC, EPA–600/8–83/028aF–dF (NTIS PB87142386), 1986.

skin).¹⁶⁵ Alkyl lead, in particular, has been identified by the EPA as a Persistent, Bioaccumulative, and Toxic (PBT) pollutant.¹⁶⁶ There are 527 seaport facilities in the U.S., and landing and take-off activity by seaplanes at these facilities provides a direct pathway for emission of organic and inorganic lead to the air near/above inland waters and ocean seaports where these aircraft operate.¹⁶⁷ Inland airports may also provide a direct pathway for emission of organic and inorganic lead to the air near/above inland waters. Lead emissions from piston-engine aircraft operating at seaplane facilities as well as airports and heliports near water bodies can enter the aquatic ecosystem by either deposition from ambient air or runoff of lead deposited to surface soils.

In addition to deposition of lead from engine emissions by piston-powered aircraft, lead may enter aquatic systems from the pre-flight inspection of the fuel for contaminants that pilots conduct. While some pilots return the checked fuel to their fuel tank or dispose of it in a receptacle provided on the airfield, some pilots discard the fuel onto the tarmac, ground, or water, in the case of a fuel check being conducted on a seaplane. Lead in the fuel discarded to the environment may evaporate to the air and may be taken up by the surface on which it is discarded. Lead on tarmac or soil surfaces is available for runoff to surface water. Tetraethyl lead in the avgas directly discarded to water will be available for uptake and bioaccumulation in aquatic life. The National Academy of Sciences Airport Cooperative Research Program (ACRP) conducted a survey study of pilots' fuel sampling and disposal practices. Among the 146 pilots responding to the survey, 36 percent indicated they discarded all fuel check samples to the ground regardless of contamination status and 19 percent of the pilots indicated they discarded only contaminated fuel to the ground.¹⁶⁸ Leaded avgas discharged to the ground and water includes other

¹⁶⁵ EPA (2013) ISA for Lead. Section 6.4.2. “Biogeochemistry and Chemical Effects of Pb in Freshwater and Saltwater Systems.” p. 6–147. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁶⁶ EPA (2002) Persistent, Bioaccumulative, and Toxic Pollutants (PBT) Program. PBT National Action Plan for Alkyl-Pb. Washington, DC. June. 2002.

¹⁶⁷ See FAA's NASR. Available at https://www.faa.gov/air_traffic/flight_info/aeronav/aero_data/eNASR_Browser/.

¹⁶⁸ National Academies of Sciences, Engineering, and Medicine 2014. Best Practices for General Aviation Aircraft Fuel-Tank Sampling. Washington, DC: The National Academies Press. <https://doi.org/10.17226/22343>.

hazardous fuel components such as ethylene dibromide.¹⁶⁹

5. Consideration of Environmental Justice and Children in Populations Residing Near Airports

This section provides a description of how many people live in close proximity to airports where they may be exposed to airborne lead from aircraft engine emissions of lead (referred to here as the “near-airport” population). This section also provides the demographic composition of the near-airport population, with attention to implications related to environmental justice (EJ) and the population of children in this near-source environment. Consideration of EJ implications in the population living near airports is important because blood lead levels in children from low-income households remain higher than those in children from higher income households, and the most exposed Black children still have higher blood lead levels than the most exposed non-Hispanic White children.^{170 171 172}

Executive Orders 12898 (59 FR 7629, February 16, 1994) and 14008 (86 FR 7619, February 1, 2021) direct Federal agencies, to the greatest extent practicable and permitted by law, to make achieving EJ part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on people of color populations and low-income populations in the United States. The EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

¹⁶⁹ Memorandum to Docket EPA–HQ–OAR–2022–0389. Potential Exposure to Non-exhaust Lead and Ethylene Dibromide. June 15, 2022. Docket ID EPA–HQ–2022–0389.

¹⁷⁰ EPA (2013) ISA for Lead. Section 5.4. “Summary.” p. 5–40. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

¹⁷¹ EPA. America’s Children and the Environment. Summary of blood lead levels in children updated in 2022, available at <https://www.epa.gov/americaschildrenenvironment/biomonitoring-lead>. Data source: Centers for Disease Control and Prevention, National Report on Human Exposure to Environmental Chemicals. Blood Lead (2011–2018). Updated March 2022. Available at https://www.cdc.gov/exposurereport/report/pdf/cgroup2_LBXPBP_2011-p.pdf.

¹⁷² The relative contribution of lead emissions from covered aircraft engines to these disparities has not been determined and is not a goal of the evaluation described here.

For the reasons described in **SUPPLEMENTARY INFORMATION** Section D, our consideration of EJ implications here is focused on describing conditions relevant to the most recent year for which demographic data are available. The analysis described here provides information regarding whether some demographic groups are more highly represented in the near-airport environment compared with people who live farther from airports. Residential proximity to airports implies that there is an increased potential for exposure to lead from covered aircraft engine emissions.¹⁷³ As described in Section II.A.3 of this document, several studies have measured higher concentrations of lead in air near airports with piston-engine aircraft activity. Additionally, as noted in Section II.A of this document, two studies have reported increased blood lead levels in children with increasing proximity to airports.^{174 175}

We first summarize here the literature on disparity with regard to those who live in proximity to airports. Then we describe the analyses the EPA has conducted to evaluate potential disparity in the population groups living near runways where piston-engine aircraft operate compared to those living elsewhere.

Numerous studies have found that environmental hazards such as air pollution are more prevalent in areas where people of color and low-income populations represent a higher fraction of the population compared with the general population, including near transportation sources.^{176 177 178 179 180}

¹⁷³ Residential proximity to a source of a specific air pollutant(s) is a widely used surrogate measure to evaluate the potential for higher exposures to that pollutant (EPA Technical Guidance for Assessing Environmental Justice in Regulatory Analysis, Section 4.2.1). Data presented in Section II.A.3 demonstrate that lead concentrations in air near the runup area can exceed the lead NAAQS and concentrations decrease sharply with distance from the ground-based aircraft exhaust and vary with the amount of aircraft activity at an airport. Not all people living within 500 meters of a runway are expected to be equally exposed to lead.

¹⁷⁴ Miranda et al., 2011. A Geospatial Analysis of the Effects of Aviation Gasoline on Childhood Blood Lead Levels. *Environmental Health Perspectives*. 119:1513–1516.

¹⁷⁵ Zahran et al., 2017. The Effect of Leaded Aviation Gasoline on Blood Lead in Children. *Journal of the Association of Environmental and Resource Economists*. 4(2):575–610.

¹⁷⁶ Rowangould 2013. A census of the near-roadway population: public health and environmental justice considerations. *Transportation Research Part D* 25:59–67. <https://dx.doi.org/10.1016/j.trd.2013.08.003>.

¹⁷⁷ Marshall et al., 2014. Prioritizing environmental justice and equality: diesel emissions in Southern California. *Environmental*

The literature includes studies that have reported on communities in close proximity to airports that are disproportionately represented by people of color and low-income populations. McNair (2020) described nineteen major airports that underwent capacity expansion projects between 2000 and 2010, thirteen of which had a large concentration or presence of persons of color, foreign-born persons or low-income populations nearby.¹⁸¹ Woodburn (2017) reported on changes in communities near airports from 1970–2010, finding suggestive evidence that at many hub airports over time, the presence of marginalized groups residing in close proximity to airports increased.¹⁸² Rissman et al. (2013) reported that with increasing proximity to the Hartsfield-Jackson Atlanta International Airport, exposures to particulate matter were higher, and there were lower home values, income, education, and percentage of white residents.¹⁸³

The EPA used two approaches to understand whether some members of the population (e.g., children five and under, people of color, indigenous populations, low-income populations) represent a larger share of the people living in proximity to airports where piston-engine aircraft operate compared with people who live farther away from these airports. In the first approach, we evaluated people living within, and children attending school within, 500 meters of all of the approximately 20,000 airports in the U.S., using methods described in the EPA’s report titled “National Analysis of the Populations Residing Near or Attending

Science & Technology 48: 4063–4068. <https://doi.org/10.1021/es405167f>.

¹⁷⁸ Marshall 2008. Environmental inequality: air pollution exposures in California’s South Coast Air Basin. *Atmospheric Environment* 21:5499–5503. <https://doi.org/10.1016/j.atmosenv.2008.02.005>.

¹⁷⁹ Tessum et al., 2021. PM_{2.5} polluters disproportionately and systemically affect people of color in the United States. *Science Advances* 7:eabf4491.

¹⁸⁰ Mohai et al., 2009. Environmental justice. *Annual Reviews* 34:405–430. Available at <https://doi.org/10.1146/annurev-environ-082508-094348>.

¹⁸¹ McNair 2020. Investigation of environmental justice analysis in airport planning practice from 2000 to 2010. *Transportation Research Part D* 81:102286.

¹⁸² Woodburn 2017. Investigating neighborhood change in airport-adjacent communities in multi-airport regions from 1970 to 2010. *Journal of the Transportation Research Board*, 2626, 1–8.

¹⁸³ Rissman et al., 2013. Equity and health impacts of aircraft emissions at the Hartsfield-Jackson Atlanta International Airport. *Landscape and Urban Planning*, 120: 234–247.

School Near U.S. Airports.”¹⁸⁴ In the second approach, we evaluated people living near the NPIAS airports in the conterminous 48 states. As noted in Section II.A.1 of this document, the NPIAS airports support the majority of piston-engine aircraft activity that occurs in the U.S. Among the NPIAS airports, we compared the demographic composition of people living within one kilometer of runways with the demographic composition of people living at a distance of one to five kilometers from the same airports.

The distances analyzed for those people living closest to airports (*i.e.*, distances of 500 meters and 1,000 meters) were chosen for evaluation following from the air quality monitoring and modeling data presented in Section II.A.3 of this document. Specifically, the EPA’s modeling and monitoring data indicate that concentrations of lead from piston-engine aircraft emissions can be elevated above background levels at distances of 500 meters over a rolling three-month period. On individual days, concentrations of lead from piston-engine aircraft emissions can be elevated above background levels at distances of 1,000 meters on individual

days downwind of a runway, depending on aircraft activity and prevailing wind direction.^{185 186 187}

Because the U.S. has a dense network of airports, many of which have neighboring communities, we first quantified the number of people living and children attending school within 500 meters of the approximately 20,000 airports in the U.S. The results of this analysis are summarized at the national scale in the EPA’s report titled “National Analysis of the Populations Residing Near or Attending School Near U.S. Airports.”¹⁸⁸ From this analysis, the EPA estimates that approximately 5.2 million people live within 500 meters of an airport runway, 363,000 of whom are children age five and under. The EPA also estimates that 573 schools attended by 163,000 children in kindergarten through twelfth grade are within 500 meters of an airport runway.¹⁸⁹

In order to identify potential disparities in the near-airport population, we first evaluated populations at the state level. Using the U.S. Census population data for each State in the U.S., we compared the percent of people by age, race and indigenous peoples (*i.e.*, children five

and under, Black, Asian, and Native American or Alaska Native) living within 500 meters of an airport runway with the percent by age, race, and indigenous peoples comprising the state population.¹⁹⁰ Using the methodology described in Clarke (2022), the EPA identified states in which children, Black, Asian, and Native American or Alaska Native populations represent a greater fraction of the population compared with the percent of these groups in the state population.¹⁹¹ Results of this analysis are presented in the following tables.¹⁹² This state-level analysis presents summary information for a subset of potentially relevant demographic characteristics. We present data in this section regarding a wider array of demographic characteristics when evaluating populations living near NPIAS airports.

Among children five and under, there were three states (Nevada, South Carolina, and South Dakota), in which the percent of children five and under living within 500 meters of a runway represent a greater fraction of the population by a difference of one percent or greater compared with the percent of children five and under in the state population (Table 3).

TABLE 3—THE POPULATION OF CHILDREN FIVE YEARS AND UNDER WITHIN 500 METERS OF AN AIRPORT RUNWAY COMPARED TO THE STATE POPULATION OF CHILDREN FIVE YEARS AND UNDER

State	Percent of children aged five years and under within 500 meters	Percent of children aged five years and under within the state	Number of children aged five years and under within 500 meters	Number of children aged five years and under in the state
Nevada	10	8	1,000	224,200
South Carolina	9	8	400	361,400
South Dakota	11	9	3,000	71,300

There were nine states in which the Black population represented a greater fraction of the population living in the

near-airport environment by a difference of one percent or greater compared with the state as a whole. These states were

California, Kansas, Kentucky, Louisiana, Mississippi, Nevada, South Carolina, West Virginia, and Wisconsin (Table 4).

¹⁸⁴ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020. EPA responses to peer review comments on the report are available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YISM.pdf>.

¹⁸⁵ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. EPA, Washington, DC, EPA-420-R-20-003, 2020.

¹⁸⁶ Carr et. al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment*, 45 (32), 5795–5804. DOI: <https://dx.doi.org/10.1016/j.atmosenv.2011.07.017>.

¹⁸⁷ We do not assume or expect that all people living within 500m or 1,000m of a runway are exposed to lead from piston-engine aircraft

emissions, and the wide range of activity of piston-engine aircraft at airports nationwide suggests that exposure to lead from aircraft emissions is likely to vary widely.

¹⁸⁸ In this analysis, we included populations living in census blocks that intersected the 500-meter buffer around each runway in the U.S. Potential uncertainties in this approach are described in our report National Analysis of the Populations Residing Near or Attending School Near U.S. Airports. EPA-420-R-20-001, available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG4A.pdf>, and in the EPA responses to peer review comments on the report, available here: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YISM.pdf>.

¹⁸⁹ EPA (2020) National Analysis of the Populations Residing Near or Attending School Near U.S. Airports. EPA-420-R-20-001. Available

at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG4A.pdf>.

¹⁹⁰ Clarke. Memorandum to Docket EPA-HQ-OAR-2022-0389. Estimation of Population Size and Demographic Characteristics among People Living Near Airports by State in the United States. May 31, 2022. Docket ID EPA-HQ-2022-0389.

¹⁹¹ Clarke. Memorandum to Docket EPA-HQ-OAR-2022-0389. Estimation of Population Size and Demographic Characteristics among People Living Near Airports by State in the United States. May 31, 2022. Docket ID EPA-HQ-2022-0389.

¹⁹² These data are presented in tabular form for all states in this memorandum located in the docket: Clarke. Memorandum to Docket EPA-HQ-OAR-2022-0389. Estimation of Population Size and Demographic Characteristics among People Living Near Airports by State in the United States. May 31, 2022. Docket ID EPA-HQ-2022-0389.

TABLE 4—THE BLACK POPULATION WITHIN 500 METERS OF AN AIRPORT RUNWAY AND THE BLACK POPULATION, BY STATE

State	Percent Black within 500 meters	Percent Black within the state	Black population within 500 meters	Black population in the state
California	8	7	18,981	2,486,500
Kansas	8	6	1,240	173,300
Kentucky	9	8	3,152	342,800
Louisiana	46	32	14,669	1,463,000
Mississippi	46	37	8,542	1,103,100
Nevada	12	9	1,794	231,200
South Carolina	31	28	10,066	1,302,900
West Virginia	10	3	1,452	63,900
Wisconsin	9	6	4,869	367,000

There were three states with a greater fraction of Asians in the near-airport environment compared with the state as a whole by a difference of one percent or greater: Indiana, Maine, and New Hampshire (Table 5).

TABLE 5—THE ASIAN POPULATION WITHIN 500 METERS OF AN AIRPORT RUNWAY AND THE ASIAN POPULATION, BY STATE

State	Percent Asian within 500 meters	Percent Asian within the state	Asian population within 500 meters	Asian population in the state
Indiana	4	2	1,681	105,500
Maine	2	1	406	13,800
New Hampshire	4	2	339	29,000

Among Native Americans and Alaska Natives, there were five states (Alaska, Arizona, Delaware, South Dakota, and New Mexico) where the near-airport population had greater representation by Native Americans and Alaska Natives compared with the portion of the population they comprise at the state level by a difference of one percent or greater. In Alaska, as anticipated due to the critical nature of air travel for the transportation infrastructure in that state, the disparity in residential proximity to a runway was the largest; 16,000 Alaska Natives were estimated to live within 500 meters of a runway, representing 48 percent of the population within 500 meters of an airport runway compared with 15 percent of the Alaska state population (Table 6).

TABLE 6—THE NATIVE AMERICAN AND ALASKA NATIVE POPULATION WITHIN 500 METERS OF AN AIRPORT RUNWAY AND THE NATIVE AMERICAN AND ALASKA NATIVE POPULATION, BY STATE

State	Percent Native American and Alaska Native within 500 meters	Percent Native American and Alaska Native within the state	Native American and Alaska Native population within 500 meters	Native American and Alaska Native population in the state
Alaska	48	15	16,020	106,300
Arizona	18	5	5,017	335,300
Delaware	2	1	112	5,900
New Mexico	21	10	2,265	208,900
South Dakota	22	9	1,606	72,800

In a separate analysis, the EPA focused on evaluating the potential for disparities in populations residing near the NPIAS airports. The EPA compared the demographic composition of people living within one kilometer of runways at 2,022 of the approximately 3,300 NPIAS airports with the demographic composition of people living at a distance of one to five kilometers from

the same airports.^{193 194} In this analysis,

¹⁹³ For this analysis, we evaluated the 2,022 airports with a population of greater than 100 people inside the zero to one kilometer distance to avoid low population counts distorting the assessment of percent contributions of each group to the total population within the zero to one kilometer distance.

¹⁹⁴ Kamal et al., Memorandum to Docket EPA–HQ–OAR–2022–0389. Analysis of Potential Disparity in Residential Proximity to Airports in the Conterminous United States. May 24, 2022. Docket ID EPA–HQ–2022–0389. Methods used are described in this memo and include the use of block group resolution data to evaluate the

over one-fourth of airports (*i.e.*, 515) were identified at which children under five were more highly represented in the zero to one kilometer distance compared with the percent of children under five living one to five kilometers away (Table 7). There were 666 airports where people of color had a greater presence in the zero to one kilometer area closest

representation of different demographic groups near-airport and for those living one to five kilometers away.

to airport runways than in populations farther away. There were 761 airports where people living at less than two-times the Federal Poverty Level

represented a higher proportion of the overall population within one kilometer of airport runways compared with the proportion of people living at less than

two-times the Federal Poverty Level among people living one to five kilometers away.

TABLE 7—NUMBER OF AIRPORTS (AMONG THE 2,022 AIRPORTS EVALUATED) WITH DISPARITY FOR CERTAIN DEMOGRAPHIC POPULATIONS WITHIN ONE KILOMETER OF AN AIRPORT RUNWAY IN RELATION TO THE COMPARISON POPULATION BETWEEN ONE AND FIVE KILOMETERS FROM AN AIRPORT RUNWAY

Demographic group	Number of airports with disparity ^a				
	Total airports with disparity	Disparity 1–5%	Disparity 5–10%	Disparity 10–20%	Disparity 20%+
Children under five years of age	515	507	7	1	0
People with income less than twice the Federal Poverty Level	761	307	223	180	51
People of Color (all races, ethnicities and indigenous peoples)	666	377	126	123	40
Non-Hispanic Black	405	240	77	67	21
Hispanic	551	402	85	47	17
Non-Hispanic Asian	268	243	18	4	3
Non-Hispanic Native American or Alaska Native ¹⁹⁵	144	130	6	7	1
Non-Hispanic Hawaiian or Pacific Islander	18	17	1	0	0
Non-Hispanic Other Race	11	11	0	0	0
Non-Hispanic Two or More Races	226	226	0	0	0

To understand the extent of the potential disparity among the 2,022 NPIAS airports, Table 7 provides information about the distribution in the percent differences in the proportion of children, individuals with incomes below two-times the Federal Poverty Level, and people of color living within one kilometer of a runway compared with those living one to five kilometers away. For children, Table 7 indicates that for the vast majority of these airports where there is a higher percentage of children represented in the near-airport population, differences are relatively small (e.g., less than five percent). For the airports where disparity is evident on the basis of poverty, race and ethnicity, the disparities are potentially large, ranging up to 42 percent for those with incomes below two-times the Federal Poverty Level, and up to 45 percent for people of color.¹⁹⁶

There are uncertainties in the results provided here inherent to the proximity-based approach used. These uncertainties include the use of block group data to provide population numbers for each demographic group analyzed, and uncertainties in the Census data, including from the use of data from different analysis years (e.g., 2010 Census Data and 2018 income data). These uncertainties are described,

¹⁹⁵ This analysis of 2,022 NPIAS airports did not include airports in Alaska.

¹⁹⁶ Kamal et.al., Memorandum to Docket EPA–HQ–OAR–2022–0389. Analysis of Potential Disparity in Residential Proximity to Airports in the Conterminous United States. May 24, 2022. Docket ID EPA–HQ–2022–0389.

and their implications discussed in Kamal et.al. (2022).¹⁹⁷

The data summarized here indicate that there is a greater prevalence of children under five years of age, an at-risk population for lead effects, within 500 meters or one kilometer of some airports compared to more distant locations. This information also indicates that there is a greater prevalence of people of color and of low-income populations within 500 meters or one kilometer of some airports compared with people living more distant. If such differences were to contribute to disproportionate and adverse impacts on people of color and low-income populations, they could indicate a potential EJ concern. Given the number of children in close proximity to runways, including those in EJ populations, there is a potential for substantial implications for children’s health. The EPA invites comment on the potential EJ impacts of aircraft lead emissions from aircraft engines and on the potential impacts on children in close proximity to runways where piston-engine aircraft operate.

B. Federal Actions To Reduce Lead Exposure

The federal government has a longstanding commitment to programs to reduce exposure to lead, particularly for children. In December 2018, the President’s Task Force on

¹⁹⁷ Kamal et.al., Memorandum to Docket EPA–HQ–OAR–2022–0389. Analysis of Potential Disparity in Residential Proximity to Airports in the Conterminous United States. May 24, 2022. Docket ID EPA–HQ–2022–0389.

Environmental Health Risks and Safety Risks to Children released the Federal Lead Action Plan, detailing the federal government’s commitments and actions to reduce lead exposure in children, some of which are described in this section.¹⁹⁸ In this section, we describe some of the EPA’s actions to reduce lead exposures from air, water, lead-based paint, and contaminated sites.

In 1976, the EPA listed lead under CAA section 108, making it what is called a “criteria air pollutant.”¹⁹⁹ Once lead was listed, the EPA issued primary and secondary NAAQS under sections 109(b)(1) and (2), respectively. The EPA issued the first NAAQS for lead in 1978 and revised the lead NAAQS in 2008 by reducing the level of the standard from 1.5 micrograms per cubic meter to 0.15 micrograms per cubic meter, and revising the averaging time and form to an average over a consecutive three-month period, as described in 40 CFR 50.16.²⁰⁰ The EPA’s 2016 **Federal Register** notice describes the Agency’s decision to retain the existing Lead

¹⁹⁸ Federal Lead Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts. (2018) President’s Task Force on Environmental Health Risks and Safety Risks to Children. Available at https://www.epa.gov/sites/default/files/2018-12/documents/fedactionplan_lead_final.pdf.

¹⁹⁹ 41 FR 14921 (April 8, 1976). See also, e.g., 81 FR at 71910 (Oct. 18, 2016) for a description of the history of the listing decision for lead under CAA section 108.

²⁰⁰ 73 FR 66965 (Nov. 12, 2008).

NAAQS.²⁰¹ The Lead NAAQS is currently undergoing review.²⁰²

States are primarily responsible for ensuring attainment and maintenance of the NAAQS. Under section 110 of the Act and related provisions, states are to submit, for EPA review and, if appropriate, approval, state implementation plans that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The states, in conjunction with the EPA, also administer the Prevention of Significant Deterioration program for these pollutants.

Additional EPA programs to address lead in the environment include the Federal Motor Vehicle Control program under Title II of the Act, which involves controls for motor vehicles and nonroad engines and equipment; the new source performance standards under section 111 of the Act; and emissions standards for solid waste incineration units and the national emission standards for hazardous air pollutants (NESHAP) under sections 129 and 112 of the Act, respectively.

The EPA has taken a number of actions associated with these air pollution control programs, including completion of several regulations requiring reductions in lead emissions from stationary sources regulated under the CAA sections 112 and 129. For example, in January 2012, the EPA updated the NESHAP for the secondary lead smelting source category.²⁰³ These amendments to the original maximum achievable control technology standards apply to facilities nationwide that use furnaces to recover lead from lead-bearing scrap, mainly from automobile batteries. Regulations completed in 2013 for commercial and industrial solid waste incineration units also require reductions in lead emissions.²⁰⁴

A broad range of Federal programs beyond those that focus on air pollution control provide for nationwide reductions in environmental releases and human exposures to lead. For example, pursuant to section 1417 of the Safe Drinking Water Act (SDWA), any pipe, pipe or plumbing fitting or fixture, solder, or flux for potable water applications may not be used in new installations or repairs or introduced into commerce unless it is considered “lead free” as defined by that Act.²⁰⁵

Also under section 1412 of the SDWA, the EPA’s 1991 Lead and Copper Rule²⁰⁶ regulates lead in public drinking water systems through corrosion control and other utility actions which work together to minimize lead levels at the tap.²⁰⁷ On January 15, 2021, the agency published the Lead and Copper Rule Revisions (LCRR)²⁰⁸ and subsequently reviewed the rule in accordance with Executive Order 13990.²⁰⁹ While the LCRR took effect in December 2021, the agency concluded that there are significant opportunities to improve the LCRR.²¹⁰ The EPA is developing a new proposed rule, the Lead and Copper Rule Improvements (LCRI),²¹¹ that would further strengthen the lead drinking water regulations. The EPA identified priority improvements for the LCRI: proactive and equitable lead service line replacement (LSLR), strengthening compliance tap sampling to better identify communities most at risk of lead in drinking water and to compel lead reduction actions, and reducing the complexity of the regulation through improvement of “methods to identify and trigger action in communities that are most at risk of elevated drinking water levels.”²¹² The EPA intends to propose the LCRI and take final action on it prior to October 16, 2024.

Federal programs to reduce exposure to lead in paint, dust, and soil are specified under the comprehensive federal regulatory framework developed under the Residential Lead-Based Paint Hazard Reduction Act (Title X). Under Title X (codified, in part, as Title IV of the Toxic Substances Control Act [TSCA]), the EPA has established regulations and associated programs in six categories: (1) Training, certification and work practice requirements for persons engaged in lead-based paint activities (abatement, inspection and risk assessment); accreditation of training providers; and authorization of state and Tribal lead-based paint programs; (2) training, certification, and work practice requirements for persons

engaged in home renovation, repair and painting (RRP) activities; accreditation of RRP training providers; and authorization of state and Tribal RRP programs; (3) ensuring that, for most housing constructed before 1978, information about lead-based paint and lead-based paint hazards flows from sellers to purchasers, from landlords to tenants, and from renovators to owners and occupants; (4) establishing standards for identifying dangerous levels of lead in paint, dust and soil; (5) providing grant funding to establish and maintain state and Tribal lead-based paint programs; and (6) providing information on lead hazards to the public, including steps that people can take to protect themselves and their families from lead-based paint hazards.

The most recent rules issued under Title IV of TSCA revised the dust-lead hazard standards (DLHS) and dust-lead clearance levels (DLCL) which were established in a 2001 final rule entitled “Identification of Dangerous Levels of Lead.”²¹³ The DLHS are incorporated into the requirements and risk assessment work practice standards in the EPA’s Lead-Based Paint Activities Rule, codified at 40 CFR part 745, subpart L. They provide the basis for risk assessors to determine whether dust-lead hazards are present in target housing (*i.e.*, most pre-1978 housing) and child-occupied facilities (pre-1978 nonresidential properties where children 6 years of age or under spend a significant amount of time such as daycare centers and kindergartens). If dust-lead hazards are present, the risk assessor will identify acceptable options for controlling the hazards in the respective property, which may include abatements and/or interim controls. In July 2019, the EPA published a final rule revising the DLHS from 40 micrograms per square foot and 250 micrograms per square foot to 10 micrograms per square foot and 100 micrograms per square foot of lead in dust on floors and windowsills, respectively.²¹⁴ The DLCL are used to evaluate the effectiveness of a cleaning following an abatement. If the dust-lead levels are not below the clearance levels, the components (*i.e.*, floors, windowsills, troughs) represented by the failed sample(s) shall be recleaned and retested. In January 2021, the EPA published a final rule revising the DLCL to match the DLHS, lowering them from 40 micrograms per square foot and 250 micrograms per square foot to 10 micrograms per square foot and 100 micrograms per square foot on floors

lowered. *See*, Section 1417 of the Safe Drinking Water Act: Prohibition on Use of Lead Pipes, Solder, and Flux at <https://www.epa.gov/sdwa/use-lead-free-pipes-fittings-fixtures-solder-and-flux-drinking-water>.

²⁰⁶ 40 CFR 141 Subpart I (June 7, 1991).

²⁰⁷ 40 CFR 141 Subpart I (June 7, 1991).

²⁰⁸ 86 FR 4198. (Jan. 15, 2021).

²⁰⁹ E.O. 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. 86 FR 7037 (Jan. 20, 2021).

²¹⁰ 86 FR 31939. (Dec. 17, 2021).

²¹¹ *See* <https://www.epa.gov/ground-water-and-drinking-water/review-national-primary-drinking-water-regulation-lead-and-copper>. Accessed on Nov. 30, 2021.

²¹² 86 FR 31939 (Dec. 17, 2021).

²¹³ 66 FR 1206 (Jan. 5, 2001).

²¹⁴ 84 FR 32632 (July 9, 2019).

²⁰¹ 81 FR 71912–71913 (Oct. 18, 2016).

²⁰² Documents pertaining to the current review of the NAAQS for Lead can be found here: <https://www.epa.gov/naaqs/lead-pb-air-quality-standards>.

²⁰³ 77 FR 555 (Jan. 5, 2012).

²⁰⁴ 78 FR 9112 (Feb. 7, 2013).

²⁰⁵ Effective in Jan. 2014, the amount of lead permitted in pipes, fittings, and fixtures was

and windowsills, respectively.²¹⁵ The EPA is now reconsidering the 2019 and 2021 rules in accordance with Executive Order 13990²¹⁶ and in response to a May 2021 decision by U.S. Court of Appeals for the Ninth Circuit.

Programs associated with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund)²¹⁷ and Resource Conservation Recovery Act (RCRA)²¹⁸ also implement removal and remedial response programs that reduce exposures to the release or threat of a release of lead and other hazardous substances. The EPA develops and implements protective levels for lead in soil at Superfund sites and, together with states, at RCRA corrective action facilities. The Office of Land and Emergency Management develops policy and guidance for addressing multimedia lead contamination and determining appropriate response actions at lead sites. Federal programs, including those implementing RCRA, provide for management of hazardous substances in hazardous and municipal solid waste (e.g., 66 FR 58258, November 20, 2001).

C. History of Lead Endangerment Petitions for Rulemaking and the EPA Responses

The Administrator's proposed findings further respond to several citizen petitions on this subject including the following: petition for rulemaking submitted by Friends of the Earth in 2006, petition for rulemaking submitted by Friends of the Earth, Oregon Aviation Watch and Physicians for Social Responsibility in 2012, petition for reconsideration submitted by Friends of the Earth, Oregon Aviation Watch, and Physicians for Social Responsibility in 2014, and petition for rulemaking from Alaska Community Action on Toxics, Center for Environmental Health, Friends of the Earth, Montgomery-Gibbs Environmental Coalition, Oregon Aviation Watch, the County of Santa Clara, CA, and the Town of Middleton, WI in 2021. These petitions and the EPA's responses are described here.²¹⁹

In a 2003 letter to the EPA, Friends of the Earth initially raised the issue of the potential for lead emissions from the

use of leaded avgas in general aviation aircraft using piston engines to cause or contribute to endangerment of public health or welfare.²²⁰ In 2006, Friends of the Earth filed a petition with the EPA requesting that the Administrator find endangerment or, if there was insufficient information to find endangerment, commence a study of lead emissions from piston-engine aircraft. In 2007, the EPA issued a **Federal Register** notice on the petition requesting comments and information related to a wide range of issues regarding the use of leaded avgas and potential public health and welfare exposure issues.²²¹ The EPA did not receive new information to inform the evaluation of whether lead emissions from aircraft engines using leaded avgas cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.

In 2010, the EPA further responded to the 2006 petition from Friends of the Earth by issuing an Advance Notice of Proposed Rulemaking on Lead Emissions from Piston-Engine Aircraft Using Leaded Aviation Gasoline (ANPR).²²² In the ANPR, the EPA described information currently available and information being collected that would be used by the Administrator to issue a subsequent proposal regarding whether, in the Administrator's judgment, aircraft lead emissions from aircraft using leaded avgas cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. After issuing the ANPR, the EPA continued the data collection and evaluation of information that is described in Sections II.A, IV and V of this action.

In 2012, Friends of the Earth, Physicians for Social Responsibility, and Oregon Aviation Watch filed a new petition claiming that, among other things, the EPA had unreasonably delayed in responding to the 2006 petition from Friends of the Earth because it had failed to determine whether emissions of lead from general aviation aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.²²³ The EPA

responded to the 2012 petition with our plan for collecting the necessary information and conducting a proceeding under CAA section 231 regarding whether lead emissions from piston-engine aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Friends of the Earth, Physicians for Social Responsibility, and Oregon Aviation Watch submitted a petition for reconsideration in 2014²²⁴ to which the EPA responded in 2015.²²⁵

In 2021, Alaska Community Action on Toxics, Center for Environmental Health, Friends of the Earth, Montgomery-Gibbs Environmental Coalition, Oregon Aviation Watch, the County of Santa Clara, CA, and the Town of Middleton, WI, again petitioned the EPA to conduct a proceeding under CAA section 231 regarding whether lead emissions from piston-engine aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.²²⁶ The EPA responded in 2022 noting our intent to develop this proposal regarding whether lead emissions from piston-engine aircraft cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.²²⁷

III. Legal Framework for This Action

In this action, the EPA is proposing to make two separate determinations—an endangerment finding and a cause or contribute finding—under section 231(a)(2)(A) of the Clean Air Act. The EPA has, most recently, finalized such findings under CAA section 231 for greenhouse gases (GHGs) in 2016 (Findings), and in that action the EPA

EPA's motion for summary judgment on the remaining claims, the court concluded that making the endangerment determination is not a nondiscretionary act or duty and thus that it lacked jurisdiction to grant the relief requested by plaintiffs. *Friends of the Earth v. EPA*, 934 F. Supp. 2d 40, 55 (D.D.C. 2013).

²²⁴ The petition for reconsideration submitted to EPA by Friends of the Earth, Physicians for Social Responsibility, and Oregon Aviation Watch is available at <https://www.epa.gov/sites/default/files/2016-09/documents/avgas-petition-reconsider-04-21-14.pdf>.

²²⁵ The 2015 EPA response to the 2014 petition for reconsideration is available at <https://www.epa.gov/sites/default/files/2016-09/documents/ltr-response-av-ld-foe-psr-oaw-2015-1-23.pdf>.

²²⁶ The 2021 petition is available at <https://www.epa.gov/system/files/documents/2022-01/aviation-leaded-avgas-petition-exhibits-final-2021-10-12.pdf>.

²²⁷ EPA's response to the 2021 petition is available at <https://www.epa.gov/system/files/documents/2022-01/ltr-response-aircraft-lead-petitions-aug-oct-2022-01-12.pdf>.

²²⁰ Friends of the Earth (formerly Bluewater Network) comment dated Dec. 12, 2003, submitted to EPA's 68 FR 56226, published Sept. 30, 2003.

²²¹ See 72 FR 64570 (Nov. 16, 2007).

²²² 75 FR 22440–68 (Apr. 28, 2010).

²²³ Petitioners filed a complaint in district court seeking to compel EPA to respond to their 2006 petition for rulemaking and to issue an endangerment finding and promulgate regulations. The EPA then issued its response to the petition, mooted that claim of the complaint. In response to

²¹⁵ 86 FR 983 (Jan. 7, 2021).

²¹⁶ 86 FR 7037 (Jan. 20, 2021).

²¹⁷ For more information about the EPA's CERCLA program, see www.epa.gov/superfund.

²¹⁸ For more information about the EPA's RCRA program, see <https://www.epa.gov/rcra>.

²¹⁹ See <https://www.epa.gov/regulations-emissions-vehicles-and-engines/petitions-and-epa-response-memorandums-related-lead>. Accessed on Dec. 12, 2021.

provided a detailed explanation of the legal framework for making such findings and the statutory interpretations and caselaw supporting its approach.²²⁸ In this proposal, the Administrator is using the same approach of applying a two-part test under section 231(a)(2)(A) as described in the 2016 Findings and is relying on the same interpretations supporting that approach, which are briefly described in this Section, and set forth in greater detail in the 2016 Findings.²²⁹ This is also the same approach that the EPA used in making endangerment and cause and contribute findings for GHGs under section 202(a) of the CAA in 2009 (2009 Findings),²³⁰ which was affirmed by the U.S. Court of Appeals for the D.C. Circuit in 2012.²³¹ As explained further in the 2016 Findings, the text of the CAA section concerning aircraft emissions in section 231(a)(2)(A) mirrors the text of CAA section 202(a) that was the basis for the 2009 Findings.²³² Accordingly, for the same reasons as discussed in the 2016 Findings, the EPA believes it is reasonable to use the same approach under section 231(a)(2)(A)'s similar text as was used under section 202(a) for the 2009 Findings, and it is proposing to act consistently with that framework for purposes of these proposed section 231 findings.²³³ As this approach has been previously discussed at length in the 2016 and 2009 Findings, the EPA provides only a brief description in this proposal.

A. Statutory Text and Basis for This Proposal

Section 231(a)(2)(A) of the CAA provides that the “The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.”²³⁴ In this proposal, the EPA

is addressing the predicate for regulatory action under CAA section 231 through a two-part test, which as noted previously, is the same as the test used in the 2016 Findings and in the 2009 Findings.

As the first step of the two-part test, the Administrator must decide whether, in his judgment, the air pollution under consideration may reasonably be anticipated to endanger public health or welfare. As the second step, the Administrator must decide whether, in his judgment, emissions of an air pollutant from certain classes of aircraft engines cause or contribute to this air pollution. If the Administrator answers both questions in the affirmative, he will issue standards under section 231.²³⁵

In accordance with the EPA's interpretation of the text of section 231(a)(2)(A), as described in the 2016 Findings, the phrase “may reasonably be anticipated” and the term “endanger” in section 231(a)(2)(A) authorize, if not require, the Administrator to act to prevent harm and to act in conditions of uncertainty.²³⁶ They do not limit him to merely reacting to harm or to acting only when certainty has been achieved; indeed, the references to anticipation and to endangerment imply that the failure to look to the future or to less than certain risks would be to abjure the Administrator's statutory responsibilities. As the D.C. Circuit explained, the language “may reasonably be anticipated to endanger public health or welfare” in CAA section 202(a) requires a “precautionary, forward-looking scientific judgment about the risks of a particular air pollutant, consistent with the CAA's precautionary and preventive orientation.”²³⁷ The court determined that “[r]equiring that the EPA find ‘certain’ endangerment of public health or welfare before regulating greenhouse gases would effectively prevent the EPA from doing the job that Congress gave it in [section] 202(a)—utilizing emission standards to prevent reasonably anticipated endangerment from

maturing into concrete harm.”²³⁸ The same language appears in section 231(a)(2)(A), and the same interpretation applies in that context.

Moreover, by instructing the Administrator to consider whether emissions of an air pollutant cause or contribute to air pollution in the second part of the two-part test, the Act makes clear that he need not find that emissions from any one sector or class of sources are the sole or even the major part of the air pollution considered. This is clearly indicated by the use of the term “contribute.” Further, the phrase “in his judgment” authorizes the Administrator to weigh risks and to consider projections of future possibilities, while also recognizing uncertainties and extrapolating from existing data.

Finally, when exercising his judgment in making both the endangerment and cause-or-contribute findings, the Administrator balances the likelihood and severity of effects. Notably, the phrase “in his judgment” modifies both “may reasonably be anticipated” and “cause or contribute.”

Often, past endangerment and cause or contribute findings have been proposed concurrently with proposed standards under various sections of the CAA, including section 231.²³⁹ Comment has been taken on these proposed findings as part of the notice and comment process for the emission standards.²⁴⁰ However, there is no requirement that the Administrator propose the endangerment and cause or contribute findings concurrently with proposed standards and, most recently under section 231, the EPA made separate endangerment and cause or contribute findings for GHGs before proceeding to set standards.

The Administrator is applying the rulemaking provisions of CAA section 307(d) to this action, pursuant to CAA section 307(d)(1)(V), which provides that the provisions of 307(d) apply to “such other actions as the Administrator may determine.”²⁴¹ Any subsequent

²²⁸ FR 54422–54475 (Aug. 15, 2016).

²²⁹ See e.g., 81 FR at 55434–54440 (Aug. 19, 2016).

²³⁰ 74 FR 66496, 66505–10 (Dec. 15, 2009).

²³¹ *Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102 (D.C. Cir. 2012) (*CRR*) (subsequent history omitted).

²³² 81 FR at 55434 (Aug. 19, 2016).

²³³ 81 FR at 55434 (Aug. 19, 2016).

²³⁴ Regarding “welfare,” the CAA states that “[a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.” CAA

section 302(h). Regarding “public health,” there is no definition of “public health” in the Clean Air Act. The Supreme Court has discussed the concept of “public health” in the context of whether costs can be considered when setting NAAQS. *Whitman v. American Trucking Ass'n*, 531 U.S. 457 (2001). In *Whitman*, the Court imbued the term with its most natural meaning: “the health of the public.” *Id.* at 466.

²³⁵ See *Massachusetts v. EPA*, 549 U.S. 497, 533 (2007) (interpreting an analogous provision in CAA section 202).

²³⁶ See 81 FR at 54435 (Aug. 19, 2016).

²³⁷ *CRR*, 684 F.3d at 122 (internal citations omitted) (June 26, 2012).

²³⁸ *CRR*, 684 F.3d at 122 (internal citations omitted) (June 26, 2012).

²³⁹ 81 FR at 54425 (Aug. 19, 2016).

²⁴⁰ See, e.g., Rulemaking for non-road compression-ignition engines under section 213(a)(4) of the CAA, Proposed Rule at 58 FR 28809, 28813–14 (May 17, 1993), Final Rule at 59 FR 31306, 31318 (June 17, 1994); Rulemaking for highway heavy-duty diesel engines and diesel sulfur fuel under sections 202(a) and 211(c) of the CAA, Proposed Rule at 65 FR 35430 (June 2, 2000), and Final Rule at 66 FR 5002 (Jan. 18, 2001).

²⁴¹ As the Administrator is applying the provisions of CAA section 307(d) to this action under section 307(d)(1)(V), we need not determine whether those provisions would apply to this action under section 307(d)(1)(F).

standard setting rulemaking under CAA section 231 will also be subject to the notice and comment rulemaking procedures under CAA section 307(d), as provided in CAA section 307(d)(1)(F) (applying the provisions of CAA section 307(d) to the promulgation or revision of any aircraft emission standard under CAA section 231). Thus, these proposed findings will be subject to the same procedural requirements that would apply if the proposed findings were part of a standard-setting rulemaking.

B. Considerations for the Endangerment and Cause or Contribute Analyses Under Section 231(a)(2)(A)

In the context of this proposal, the EPA understands section 231(a)(2)(A) of the CAA to call for the Administrator to exercise his judgment and make two separate determinations: first, whether the relevant kind of air pollution (here, lead air pollution) may reasonably be anticipated to endanger public health or welfare, and second, whether emissions of any air pollutant from classes of the sources in question (here, any aircraft engine that is capable of using leaded aviation gasoline), cause or contribute to this air pollution.²⁴²

This analysis entails a scientific judgment by the Administrator about the potential risks posed by lead emissions to public health and welfare. In this proposed action, the EPA is using the same approach in making scientific judgments regarding endangerment as it has previously described in the 2016 Findings, and its analysis is guided by the same five principles that guided the Administrator's analysis in those Findings.²⁴³

Similarly, the EPA is taking the same approach to the cause or contribute analysis as was previously explained in the 2016 Findings.²⁴⁴ For example, as previously noted, section 231(a)(2)(A)'s instruction to consider whether emissions of an air pollutant cause or contribute to air pollution makes clear that the Administrator need not find that emissions from any one sector or class of sources are the sole or even the major part of an air pollution problem.²⁴⁵ Moreover, like the CAA section 202(a) language that governed the 2009 Findings, the statutory language in section 231(a)(2)(A) does not contain a modifier on its use of the

term “contribute.”²⁴⁶ Unlike other CAA provisions, it does not require “significant” contribution. Compare, e.g., CAA sections 111(b); 213(a)(2), (4). Congress made it clear that the Administrator is to exercise his judgment in determining contribution, and authorized regulatory controls to address air pollution even if the air pollution problem results from a wide variety of sources.²⁴⁷ While the endangerment test looks at the air pollution being considered as a whole and the risks it poses, the cause or contribute test is designed to authorize the EPA to identify and then address what may well be many different sectors, classes, or groups of sources that are each part of the problem.²⁴⁸

Moreover, as the EPA has previously explained, the Administrator has ample discretion in exercising his reasonable judgment and determining whether, under the circumstances presented, the cause or contribute criterion has been met.²⁴⁹ As noted in the 2016 Findings, in addressing provisions in section 202(a), the D.C. Circuit has explained that the Act at the endangerment finding step did not require the EPA to identify a precise numerical value or “a minimum threshold of risk or harm before determining whether an air pollutant endangers.”²⁵⁰ Accordingly, the EPA “may base an endangerment finding on ‘a lesser risk of greater harm . . . or a greater risk of lesser harm’ or any combination in between.”²⁵¹ As the language in section 231(a)(2)(A) is analogous to that in section 202(a), it is reasonable to apply this interpretation to the endangerment determination under section 231(a)(2)(A).²⁵² Moreover, the logic underlying this interpretation supports the general principle that under CAA section 231 the EPA is not required to identify a specific minimum threshold of contribution from potentially subject source categories in determining whether their emissions “cause or contribute” to the endangering air pollution.²⁵³ The reasonableness of this principle is further supported by the fact that section 231 does not impose on the EPA a requirement to find that such contribution is “significant,” let alone

the sole or major cause of the endangering air pollution.²⁵⁴

Finally, as also described in the 2016 Findings, there are a number of possible ways of assessing whether air pollutants cause or contribute to the air pollution which may reasonably be anticipated to endanger public health and welfare, and no single approach is required or has been used exclusively in previous cause or contribute determinations under title II of the CAA.²⁵⁵

C. Regulatory Authority for Emission Standards

Though the EPA is not proposing standards in this action, should the EPA finalize these findings, the EPA would then proceed to propose emission standards under CAA section 231. As noted in Section III.A of this document, section 231(a)(2)(A) of the CAA directs the Administrator of the EPA to, from time to time, propose aircraft engine emission standards applicable to the emission of any air pollutant from classes of aircraft engines which in his or her judgment causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare.

CAA section 231(a)(2)(B) further directs the EPA to consult with the Administrator of the FAA on such standards, and it prohibits the EPA from changing aircraft emission standards if such a change would significantly increase noise and adversely affect safety. CAA section 231(a)(3) provides that after we provide notice and an opportunity for a public hearing on standards, the Administrator shall issue such standards “with such modifications as he deems appropriate.” In addition, under CAA section 231(b), the EPA determines, in consultation with the U.S. Department of Transportation (DOT), that the effective date of any standard provides the necessary time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance.

Once the EPA adopts standards, CAA section 232 then directs the Secretary of Transportation to prescribe regulations to ensure compliance with the EPA's standards. Finally, section 233 of the CAA vests the authority to promulgate emission standards for aircraft or aircraft engines only in the federal government. States are preempted from adopting or enforcing any standard respecting aircraft or aircraft engine

²⁴² See *CRR*, 684 F.3d at 117 (explaining two-part analysis under section 202(a)) (June 26, 2012).

²⁴³ See, e.g., 81 FR 54422, 54434–55435 (Aug. 15, 2016).

²⁴⁴ See, e.g., 81 FR at 54437–54438 (September 4, 2013).

²⁴⁵ See, e.g., 81 FR at 54437–54438 (Aug. 15, 2016).

²⁴⁶ See, e.g., 81 FR at 54437–54438 (Aug. 15, 2016).

²⁴⁷ See 81 FR at 54437–54438 (Aug. 15, 2016).

²⁴⁸ See 81 FR at 54437–54438 (Aug. 15, 2016).

²⁴⁹ See 81 FR at 54437–54438 (Aug. 15, 2016).

²⁵⁰ *CRR*, 684 F.3d at 122–123 (June 26, 2012).

²⁵¹ *CRR*, 684 F.3d at 122–123, (quoting Ethyl Corp., 541 F.2d at 18) (June 26, 2012).

²⁵² 81 FR at 54438 (Aug. 15, 2016).

²⁵³ 81 FR at 54438 (Aug. 15, 2016).

²⁵⁴ 81 FR at 54438 (Aug. 15, 2016).

²⁵⁵ See 81 FR at 54462 (Aug. 15, 2016).

emissions unless such standard is identical to the EPA's standards.²⁵⁶

IV. The Proposed Endangerment Finding Under CAA Section 231

A. Scientific Basis of the Endangerment Finding

1. Lead Air Pollution

Lead is emitted and exists in the atmosphere in a variety of forms and compounds and is emitted by a wide range of sources.²⁵⁷ Lead is persistent in the environment. Atmospheric transport distances of airborne lead vary depending on its form and particle size, as discussed in Section II.A of this document, with coarse lead-bearing particles deposited to a greater extent near the source, while fine lead-bearing particles can be transported long distances before being deposited. Through atmospheric deposition, lead is distributed to other environmental media, including soils and surface water bodies.²⁵⁸ Lead is retained in soils and sediments, where it provides a historical record and, depending on several factors, can remain available in some areas for extended periods for environmental or human exposure, with any associated potential public health and public welfare impacts.

For purposes of this action, the EPA is proposing to define the "air pollution" referred to in section 231(a)(2)(A) of the CAA as lead, which we also refer to as the lead air pollution in this document.²⁵⁹

2. Health Effects and Lead Air Pollution

As noted in Section II.A of this document, in 2013, the EPA completed the Integrated Science Assessment for Lead which built on the findings of previous AQCDs for Lead. These documents critically assess and integrate relevant scientific information regarding the health and welfare effects

of lead and have undergone extensive critical review by the EPA, the Clean Air Scientific Advisory Committee (CASAC), and the public. As such, these assessments provide the primary scientific and technical basis on which the Administrator is proposing to find that lead air pollution is reasonably anticipated to endanger public health and welfare.^{260 261}

As summarized in Section II.A of this document, human exposure to lead that is emitted into the air can occur by multiple pathways. Ambient air inhalation pathways include both inhalation of air outdoors and inhalation of ambient air that has infiltrated into indoor environments. Additional exposure pathways may involve media other than air, including indoor and outdoor dust, soil, surface water and sediments, vegetation and biota. While the bioavailability of air-related lead is modified by several factors in the environment (e.g., the chemical form of lead, environmental fate of lead emitted to air), as described in Section II.A of this document, it is well-documented that exposures to air-related lead can result in increased blood lead levels, particularly for children living near air lead sources, who may have increased blood lead levels due to their proximity to these sources of exposure.²⁶²

As described in the EPA's 2013 Lead ISA and in prior Criteria Documents, lead has been demonstrated to exert a broad array of deleterious effects on multiple organ systems. The 2013 Lead ISA characterizes the causal nature of relationships between lead exposure and health effects using a weight-of-evidence approach.²⁶³ We summarize here those health effects for which the

EPA in the 2013 Lead ISA has concluded that the evidence supports a determination of either a "causal relationship," or a "likely to be causal relationship," or for which the evidence is "suggestive of a causal relationship" between lead exposure and a health effect.²⁶⁴ In the discussion that follows, we summarize findings regarding effects observed in children, effects observed in adults, and additional effects observed that are not specific to an age group.

The EPA has concluded that there is a "causal relationship" between lead exposure during childhood (pre and postnatal) and a range of health effects in children, including the following: Cognitive function decrements; the group of externalizing behaviors comprising attention, increased impulsivity, and hyperactivity; and developmental effects (i.e., delayed pubertal onset).²⁶⁵ In addition, the EPA has concluded that the evidence supports a conclusion that there is a "likely to be causal relationship" between lead exposure and conduct disorders in children and young adults, internalizing behaviors such as depression, anxiety and withdrawn behavior, auditory function decrements, and fine and gross motor function decrements.²⁶⁶

Multiple epidemiologic studies conducted in diverse populations of children consistently demonstrate the harmful effects of lead exposure on cognitive function (as measured by decrements in intelligence quotient [IQ], decreased academic performance, and poorer performance on tests of executive function). These findings are supported by extensively documented toxicological evidence substantiating the plausibility of these findings in the epidemiological literature and provide information on the likely mechanisms underlying these neurotoxic effects.²⁶⁷

Intelligence quotient is a well-established, widely recognized and rigorously standardized measure of neurocognitive function which has been

²⁵⁶ CAA Section 233 (Dec. 31, 1970).

²⁵⁷ EPA (2013) ISA for Lead. Section 2.2. "Sources of Atmospheric Pb." p. 2-1. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁵⁸ EPA (2013) ISA for Lead. Executive Summary. "Sources, Fate and Transport of Lead in the Environment, and the Resulting Human Exposure and Dose." pp. lxxviii-lxxix. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁵⁹ The lead air pollution that we are considering in this proposed finding can occur as elemental lead or in lead-containing compounds, and this proposed definition of the air pollution recognizes that lead in air (whatever form it is found in, including in inorganic and organic compounds containing lead) has the potential to elicit public health and welfare effects. We note, for example, that the 2013 Lead ISA and 2008 AQCD described the toxicokinetics of inorganic and organic forms of lead and studies evaluating lead-related health effects commonly measure total lead level (i.e., all forms of lead in various biomarker tissues such as blood).

²⁶⁰ EPA (2013) ISA for Lead. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶¹ EPA (2006) AQC for Lead. EPA, Washington, DC, EPA/600/R-5/144aF, 2006.

²⁶² EPA (2013) ISA for Lead. Section 5.4. "Summary." p. 5-40. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶³ The causal framework draws upon the assessment and integration of evidence from across scientific disciplines, spanning atmospheric chemistry, exposure, dosimetry and health effects studies (i.e., epidemiologic, controlled human exposure, and animal toxicological studies), and assessment of the related uncertainties and limitations that ultimately influence our understanding of the evidence. This framework employs a five-level hierarchy that classifies the overall weight-of-evidence with respect to the causal nature of relationships between criteria pollutant exposures and health and welfare effects using the following categorizations: causal relationship; likely to be causal relationship; suggestive of, but not sufficient to infer, a causal relationship; inadequate to infer the presence or absence of a causal relationship; and not likely to be a causal relationship. EPA (2013) ISA for Lead. Preamble Section. p. xlv. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶⁴ EPA (2013) ISA for Lead. Table ES-1.

"Summary of causal determinations for the relationship between exposure to Pb and health effects." pp. lxxxiii-lxxxvii. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶⁵ EPA (2013) ISA for Lead. Table ES-1. "Summary of causal determinations for the relationship between exposure to Pb and health effects." p. lxxxiii and p. lxxxvi. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶⁶ EPA (2013) ISA for Lead. Table ES-1. "Summary of causal determinations for the relationship between exposure to Pb and health effects." pp. lxxxiii-lxxxiv. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

²⁶⁷ EPA (2013) ISA for Lead. Executive Summary. "Effects of Pb Exposure in Children." pp. lxxxvii-lxxxviii. EPA, Washington, DC, EPA/600/R-10/075F, 2013.

used extensively as a measure of the negative effects of exposure to lead.^{268 269} Examples of other measures of cognitive function negatively associated with lead exposure include measures of intelligence and cognitive development and cognitive abilities, such as learning, memory, and executive functions, as well as academic performance and achievement.²⁷⁰

In summarizing the evidence related to neurocognitive impacts of lead at different childhood lifestages, the 2013 Lead ISA notes that “in individual studies, postnatal (early childhood and concurrent [with IQ testing]) blood lead levels are also consistently associated with cognitive function decrements in children and adolescents.”²⁷¹ The 2013 Lead ISA additionally notes that the findings from experimental animal studies indicate that lead exposures during multiple early lifestages and periods are observed to induce impairments in learning, and that these findings “are consistent with the understanding that the nervous system continues to develop (*i.e.*, synaptogenesis and synaptic pruning remains active) throughout childhood and into adolescence.”²⁷² The 2013 Lead ISA further notes that “it is clear that lead exposure in childhood presents a risk; further, there is no evidence of a threshold below which there are no harmful effects on cognition from lead exposure,” and additionally recognizes uncertainty about the lead exposures that are part of the effects and blood lead levels observed in epidemiologic studies (uncertainties which are greater in studies of older children and adults than in studies of younger children).²⁷³ Evidence suggests that while some neurocognitive effects of lead in children may be transient, some lead-related cognitive effects may be irreversible and persist into adulthood,²⁷⁴ potentially affecting lower

educational attainment and financial well-being.²⁷⁵

The 2013 Lead ISA concluded that neurodevelopmental effects in children were among the effects best substantiated as occurring at the lowest blood lead levels, and that these categories of effects were clearly of the greatest concern with regard to potential public health impact.²⁷⁶ For example, in considering population risk, the 2013 Lead ISA notes that “[s]mall shifts in the population mean IQ can be highly significant from a public health perspective”.²⁷⁷ Specifically, if lead-related decrements are manifested uniformly across the range of IQ scores in a population, “a small shift in the population mean IQ may be significant from a public health perspective because such a shift could yield a larger proportion of individuals functioning in the low range of the IQ distribution, which is associated with increased risk of educational, vocational, and social failure” as well as a decrease in the proportion with high IQ scores.²⁷⁸

With regard to lead effects identified for the adult population, the 2013 Lead ISA concluded that there is a “causal relationship” between lead exposure and hypertension and coronary heart disease in adults. The 2013 Lead ISA concluded that cardiovascular effects in adults were those of greatest public health concern for adults because the evidence indicated that these effects occurred at the lowest blood lead levels, compared to other health effects, although the role of past versus current exposures to lead is unclear.²⁷⁹

With regard to evidence of cardiovascular effects and other effects of lead on adults, the 2013 Lead ISA notes that “[a] large body of evidence from both epidemiologic studies of adults and experimental studies in animals demonstrates the effect of long-term lead exposure on increased blood pressure and hypertension.”²⁸⁰ In

addition to its effect on blood pressure, “lead exposure can also lead to coronary heart disease and death from cardiovascular causes and is associated with cognitive function decrements, symptoms of depression and anxiety, and immune effects in adult humans.”²⁸¹ The extent to which the effects of lead on the cardiovascular system are reversible is not well-characterized. Additionally, the frequency, timing, level, and duration of lead exposure causing the effects observed in adults has not been pinpointed, and higher exposures earlier in life may play a role in the development of health effects measured later in life.²⁸² The 2013 Lead ISA states that “[i]t is clear however, that lead exposure can result in harm to the cardiovascular system that is evident in adulthood and may also affect a broad array of organ systems.”²⁸³ In summarizing the public health significance of lead on the adult population, the 2013 Lead ISA notes that “small lead-associated increases in the population mean blood pressure could result in an increase in the proportion of the population with hypertension that is significant from a public health perspective.”²⁸⁴

In addition to the effects summarized here, the EPA has concluded there is a “likely to be causal relationship” between lead exposure and both cognitive function decrements and psychopathological effects in adults. The 2013 Lead ISA also concludes that there is a “causal relationship” between lead exposure and decreased red blood cell survival and function, altered heme synthesis, and male reproductive function. The EPA has also concluded there is a “likely to be causal relationship” between lead exposure and decreased host resistance, resulting in increased susceptibility to bacterial infection and suppressed delayed type hypersensitivity, and cancer.²⁸⁵

Additionally, the evidence is suggestive of lead exposure and some additional effects. These include auditory function decrements and

²⁶⁸ EPA (2013) ISA for Lead. Section 4.3.2. “Cognitive Function.” p. 4–59. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁶⁹ EPA (2006) AQC for Lead. Sections 6.2.2 and 8.4.2. EPA, Washington, DC, EPA/600/R–5/144aF, 2006.

²⁷⁰ EPA (2013) ISA for Lead. Section 4.3.2. “Cognitive Function.” p. 4–59. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷¹ EPA (2013) ISA for Lead. Section 1.9.4. “Pb Exposure and Neurodevelopmental Deficits in Children.” p. 1–76. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷² EPA (2013) ISA for Lead. Section 1.9.4. “Pb Exposure and Neurodevelopmental Deficits in Children.” p. 1–76. EPA/600/R–10/075F, 2013.

²⁷³ EPA (2013) ISA for Lead. Executive Summary. “Effects of Pb Exposure in Children.” pp. lxxxvii–lxxxviii. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁴ EPA (2013) ISA for Lead. Section 1.9.5. “Reversibility and Persistence of Neurotoxic Effects

of Pb.” p. 1–76. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁵ EPA (2013) ISA for Lead. Section 4.3.14. “Public Health Significance of Associations between Pb Biomarkers and Neurodevelopmental Effects.” p. 4–279. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁶ EPA (2013) ISA for Lead. Section 1.9.1. “Public Health Significance.” p. 1–68. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁷ EPA (2013) ISA for Lead. Executive Summary. “Public Health Significance.” p. xciii. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁸ EPA (2013) ISA for Lead. Section 1.9.1. “Public Health Significance.” p. 1–68. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁷⁹ EPA (2013) ISA for Lead. Section 1.9.1. “Public Health Significance.” p. 1–68. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁸⁰ EPA (2013) ISA for Lead. Executive Summary. “Effects of Pb Exposure in Adults.” p. lxxxviii. EPA/600/R–10/075F, 2013.

²⁸¹ EPA (2013) ISA for Lead. Executive Summary. “Effects of Pb Exposure in Adults.” p. lxxxviii. EPA/600/R–10/075F, 2013.

²⁸² EPA (2013) ISA for Lead. Executive Summary. “Effects of Pb Exposure in Adults.” p. lxxxviii. EPA/600/R–10/075F, 2013.

²⁸³ EPA (2013) ISA for Lead. Executive Summary. “Effects of Pb Exposure in Adults.” p. lxxxviii. EPA/600/R–10/075F, 2013.

²⁸⁴ EPA (2013) ISA for Lead. Executive Summary. “Public Health Significance.” p. xciii. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁸⁵ EPA (2013) ISA for Lead. Table ES–1. “Summary of causal determinations for the relationship between exposure to Pb and health effects.” pp. lxxxiv–lxxxvii. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

subclinical atherosclerosis, reduced kidney function, birth outcomes (*e.g.*, low birth weight, spontaneous abortion), and female reproductive function.²⁸⁶

The EPA has identified factors that may increase the risk of health effects of lead exposure due to susceptibility and/or vulnerability; these are termed “at-risk” factors. The 2013 Lead ISA describes the systematic approach the EPA uses to evaluate the coherence of evidence to determine the biological plausibility of associations between at-risk factors and increased vulnerability and/or susceptibility. An overall weight of evidence is used to determine whether a specific factor results in a population being at increased risk of lead-related health effects.²⁸⁷ The 2013 Lead ISA concludes that “there is adequate evidence that several factors—childhood, race/ethnicity, nutrition, residential factors, and proximity to lead sources—confer increased risk of lead-related health effects.”²⁸⁸

3. Welfare Effects and Lead Air Pollution

The 2013 Lead ISA characterizes the causal nature of relationships between lead exposure and welfare effects using a five-level hierarchy that classifies the overall weight-of-evidence.²⁸⁹ We summarize here the welfare effects for which the EPA has concluded that the evidence supports a determination of either a “causal relationship,” or a “likely to be causal relationship,” with exposure to lead, or that the evidence is “suggestive of a causal relationship” with lead exposure. The discussion that follows is organized to first provide a summary of the effects of lead in the terrestrial environment, followed by a summary of effects of lead in freshwater and saltwater ecosystems. The 2013 Lead ISA further describes the scales or levels at which these determinations between lead exposure and effects on

plants, invertebrates, and vertebrates were made (*i.e.*, community-level, ecosystem-level, population-level, organism-level or sub-organism level).²⁹⁰

In terrestrial environments, the EPA determined that “causal relationships” exist between lead exposure and reproductive and developmental effects in vertebrates and invertebrates, growth in plants, survival for invertebrates, hematological effects in vertebrates, and physiological stress in plants.²⁹¹ The EPA also determined that there were “likely to be causal relationships” between lead exposure and community and ecosystem effects, growth in invertebrates, survival in vertebrates, neurobehavioral effects in invertebrates and vertebrates, and physiological stress in invertebrates and vertebrates.

In freshwater environments, the EPA found that “causal relationships” exist between lead exposure and reproductive and developmental effects in vertebrates and invertebrates, growth in invertebrates, survival for vertebrates and invertebrates, and hematological effects in vertebrates. The EPA also determined that there were “likely to be causal relationships” between lead exposure and community and ecosystem effects, growth in plants, neurobehavioral effects in invertebrates and vertebrates, hematological effects in invertebrates, and physiological stress in plants, invertebrates, and vertebrates.²⁹²

The EPA also determined that the evidence for saltwater ecosystems was “suggestive of a causal relationship” between lead exposure and reproductive and developmental effects in invertebrates, hematological effects in vertebrates, and physiological stress in invertebrates.²⁹³

The 2013 Lead ISA concludes, “With regard to the ecological effects of lead, uptake of lead into fauna and subsequent effects on reproduction, growth and survival are established and

are further supported by more recent evidence. These may lead to effects at the population, community, and ecosystem level of biological organization. In both terrestrial and aquatic organisms, gradients in response are observed with increasing concentration of lead and some studies report effects within the range of lead detected in environmental media over the past several decades. Specifically, effects on reproduction, growth, and survival in sensitive freshwater invertebrates are well-characterized from controlled studies at concentrations at or near lead concentrations occasionally encountered in U.S. fresh surface waters. Hematological and stress related responses in some terrestrial and aquatic species were also associated with elevated lead levels in polluted areas. However, in natural environments, modifying factors affect lead bioavailability and toxicity and there are considerable uncertainties associated with generalizing effects observed in controlled studies to effects at higher levels of biological organization. Furthermore, available studies on community and ecosystem-level effects are usually from contaminated areas where lead concentrations are much higher than typically encountered in the environment. The contribution of atmospheric lead to specific sites is not clear and the connection between air concentration of lead and ecosystem exposure continues to be poorly characterized.”²⁹⁴

B. Proposed Endangerment Finding

The Administrator proposes to find, for purposes of CAA section 231(a)(2)(A), that lead air pollution may reasonably be anticipated to endanger the public health and welfare. This proposal is based on consideration of the extensive scientific evidence, described in this section, that has been amassed over decades and rigorously peer reviewed by CASAC.

V. The Proposed Cause or Contribute Finding Under CAA Section 231

A. Proposed Definition of the Air Pollutant

Under section 231, the Administrator is to determine whether emissions of any air pollutant from any class or classes of aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. As in the 2016 Findings that the EPA made under

²⁸⁶ EPA (2013) ISA for Lead. Table ES–1. “Summary of causal determinations for the relationship between exposure to Pb and health effects.” pp. lxxxiv-lxxxvi. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁸⁷ EPA (2013) ISA for Lead. Chapter 5. “Approach to Classifying Potential At-Risk Factors.” p. 5–2. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁸⁸ EPA (2013) ISA for Lead. Section 5.4. “Summary.” p. 5–44. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁸⁹ Causal determinations for ecological effects were based on integration of information on biogeochemistry, bioavailability, biological effects, and exposure-response relationships of lead in terrestrial, freshwater, and saltwater environments. This framework employs a five-level hierarchy that classifies the overall weight-of-evidence with respect to the causal nature of relationships between criteria pollutant exposures and health and welfare effects using the categorizations described in the 2013 Lead NAAQS.

²⁹⁰ EPA (2013) ISA for Lead. Table ES–2. “Schematic representation of the relationships between the various MOAs by which Pb exerts its effects.” p. lxxxii. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁹¹ EPA (2013) ISA for Lead. Table ES–2. “Summary of causal determinations for the relationship between Pb exposure and effects on plants, invertebrates, and vertebrates.” p. xc. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁹² EPA (2013) ISA for Lead. Table ES–2. “Summary of causal determinations for the relationship between Pb exposure and effects on plants, invertebrates, and vertebrates.” p. xc. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁹³ EPA (2013) ISA for Lead. Table ES–2. “Summary of causal determinations for the relationship between Pb exposure and effects on plants, invertebrates, and vertebrates.” p. xc. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

²⁹⁴ EPA (2013) ISA for Lead. “Summary.” p. xcvi. EPA, Washington, DC, EPA/600/R–10/075F, 2013.

section 231 for greenhouse gases, in making this proposed cause or contribute finding under section 231(a)(2), the Administrator first defines the air pollutant being evaluated. The Administrator has reasonably and logically considered the relationship between the lead air pollution and the air pollutant when considering emissions of lead from engines used in covered aircraft. The Administrator proposes to define the air pollutant to match the proposed definition of the air pollution, such that the air pollutant analyzed for contribution would mirror the air pollution considered in the endangerment finding. Accordingly, for purposes of this action, the Administrator is proposing to define the “air pollutant” referred to in section 231(a)(2)(A) as lead, which we also refer to as the lead air pollutant in this document.²⁹⁵ As noted in Section II.A.2 of this document, lead emitted to the air from covered aircraft engines is predominantly in particulate form as lead dibromide; however, some chemical compounds of lead that are expected in the exhaust from these engines, including alkyl lead compounds, would occur in the air in gaseous form.

Under section 231(a), the Administrator is required to set “emission standards applicable to the emission of any air pollutant” from classes of aircraft engines that the Administrator determines causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare. If the Administrator makes a final determination under section 231 that the emissions of the lead air pollutant from certain classes of aircraft engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare, then he is called on to set standards applicable to the emission of this air pollutant. The term “standards applicable to the emission of any air pollutant” is not defined, and the Administrator has the discretion to interpret it in a reasonable manner to effectuate the purposes of section 231. We anticipate that the Administrator would consider a variety of factors in determining what approach to take in setting the standard or standards, and the EPA would provide notice and an opportunity to comment on the

²⁹⁵ The lead air pollutant we are considering in this proposed finding can occur as elemental lead or in lead-containing compounds, and this definition of the air pollutant recognizes the range of chemical forms of lead emitted by engines in covered aircraft.

proposed standards before finalizing them.

B. The Data Used To Evaluate the Proposed Cause or Contribute Finding

The Administrator’s assessment of whether emissions from the engines used in covered aircraft cause or contribute to lead air pollution is informed by estimates of lead emissions from the covered aircraft, lead concentrations in air at and near airports that are attributable to lead emissions from piston engines used in covered aircraft, and potential future conditions.

As used in this proposal, the term, “covered aircraft” refers to all aircraft and ultralight vehicles equipped with covered engines which, in this context, means any aircraft engine that is capable of using leaded avgas. Examples of covered aircraft would include smaller piston-powered aircraft such as the Cessna 172 (single-engine aircraft) and the Beechcraft Baron G58 (twin-engine aircraft), as well as the largest piston-engine aircraft—the Curtiss C–46 and the Douglas DC–6. Other examples of covered aircraft would include rotorcraft, such as the Robinson R44 helicopter, light-sport aircraft, and ultralight vehicles equipped with piston engines. The vast majority of covered aircraft are piston-engine powered.

In recent years, covered aircraft are estimated to be the largest single source of lead to air in the U.S. Since 2008, as described in Section II.A.2.b of this document, lead emissions from covered aircraft are estimated to have contributed over 50 percent of all lead emitted to the air nationally. The EPA estimates 470 tons of lead were emitted by covered aircraft in 2017, comprising 70 percent of lead emitted to air nationally that year.²⁹⁶ In approximately 1,000 counties in the U.S., the EPA’s emissions inventory identifies covered aircraft as the sole source of lead emissions. Among the 1,872 counties in the U.S. for which the inventory identifies multiple sources of lead emissions, including engine emissions from covered aircraft, the contribution of aircraft engine emissions ranges from 0.0006 to 0.26 tons per year, comprising 0.0065 to 99.98 percent (respectively) of total lead emissions to air in those counties from covered aircraft.²⁹⁷

²⁹⁶ The lead inventories for 2008, 2011 and 2014 are provided in the EPA (2018b) Report on the Environment Exhibit 2. Anthropogenic lead emissions in the U.S. Available at <https://cfpub.epa.gov/roe/indicator.cfm?i=13#2>. The lead inventories for 2017 are available at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data#data>.

²⁹⁷ Airport lead annual emissions data used were reported in the 2017 NEI. Available at <https://>

Covered aircraft activity, as measured by the number of hours flown nationwide, increased nine percent in the period from 2012 through 2019.²⁹⁸ General aviation activity, largely conducted by covered aircraft, increased up to 52 percent at airports that are among the busiest in the U.S.²⁹⁹ In future years, while piston-engine aircraft activity overall is projected to decrease slightly, this change in activity is not projected to occur uniformly across airports in the U.S.; some airports are forecast to have increased activity by general aviation aircraft, the majority of which is conducted by piston-engine aircraft.³⁰⁰ Although there is some uncertainty in these projections, they indicate that lead emissions from covered aircraft may increase at some airports in the future.³⁰¹

Additionally, engine emissions of lead from covered aircraft may deposit in the local environment and, due to the small size of the lead-bearing particles emitted by engines in covered aircraft, these particles may disperse widely in the environment. Therefore, because lead is a persistent pollutant in the environment, we anticipate current and future emissions of lead from covered aircraft engines may contribute to exposures and uptake by humans and biota into the future.

In evaluating the contributions of engine emissions from covered aircraft

www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data. In addition to the triennial NEI, the EPA collects from state, local, and Tribal air agencies point source data for larger sources every year (see <https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr> for specific emissions thresholds). While these data are not typically published as a new NEI, they are available publicly upon request and are also included in <https://www.epa.gov/air-emissions-modeling/emissions-modeling-platforms>, which are created for years other than the triennial NEI years. County estimates of lead emissions from non-aircraft sources used in this action are from the 2019 inventory. There are 3,012 counties and statistical equivalent areas where EPA estimates engine emissions of lead occur.

²⁹⁸ FAA. General Aviation and Part 135 Activity Surveys—CY 2019. Chapter 3: Primary and Actual Use. Table 1.3—General Aviation and Part 135 Total Hours Flown by Aircraft Type 2008–2019 (Hours in Thousands). Retrieved on Dec., 27, 2021 at https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/CY2019/.

²⁹⁹ Geidosch. Memorandum to Docket EPA–HQ–OAR–2022–0389. Past Trends and Future Projections in General Aviation Activity and Emissions. June 1, 2022. Docket ID EPA–HQ–2022–0389.

³⁰⁰ Geidosch. Memorandum to Docket EPA–HQ–OAR–2022–0389. Past Trends and Future Projections in General Aviation Activity and Emissions. June 1, 2022. Docket ID EPA–HQ–2022–0389.

³⁰¹ FAA TAF Fiscal Years 2020–2045 describes the forecast method, data sources, and review process for the TAF estimates. The documentation for the TAF is available at <https://taf.faa.gov/Downloads/TAFSummaryFY2020-2045.pdf>.

to lead air pollution, as defined in Section V.A of this document, the EPA also considers lead concentrations in the ambient air—monitored concentrations, modeled concentrations, and model-extrapolated estimates of lead concentrations. Lead concentrations monitored in the ambient air typically quantify lead compounds collected as suspended particulate matter. The information gained from air monitoring and air quality modeling provides insight into how lead emissions from piston engines used in covered aircraft can affect lead concentrations in air.

As described in Section II.A.3 of this document, the EPA has conducted air quality modeling at two airports and extrapolated modeled estimates of lead concentrations to 13,000 airports with piston-engine aircraft activity. These studies indicate that over a three-month averaging time (the averaging time for the Lead NAAQS), the engine emissions of lead from covered aircraft are estimated to contribute to air lead concentrations to a distance of at least 500 meters downwind from a runway.^{302 303} Additional studies have reported that lead emissions from covered aircraft may have increased concentrations of lead in air by one to two orders of magnitude at locations proximate to aircraft emissions compared to nearby locations not impacted by a source of lead air emissions.^{304 305 306}

In 2008 and 2010, the EPA enhanced the lead monitoring network by requiring monitors to be placed in areas with sources such as industrial facilities and airports, as described further in Section II.A.3 of this document.^{307 308} As

part of this 2010 requirement to expand lead monitoring nationally, the EPA required a 1-year monitoring study of 15 additional airports with estimated lead emissions between 0.50 and 1.0 ton per year in an effort to better understand how these emissions affect concentrations of lead in the air at and near airports. Further, to help evaluate airport characteristics that could lead to ambient lead concentrations that approach or exceed the lead NAAQS, airports for this 1-year monitoring study were selected based on factors such as the level of activity of covered aircraft and the predominant use of one runway due to wind patterns. Monitored lead concentrations in ambient air are highly sensitive to monitor location relative to the location of the run-up areas for piston-engine aircraft and other localized areas of elevated lead concentrations relative to the air monitor locations.

The lead monitoring study at airports began in 2011. In 2012, air monitors were placed in close proximity to the run-up areas at the San Carlos Airport (starting on March 10, 2012) and the McClellan-Palomar Airport (starting on March 16, 2012). The concentrations of lead measured at both of these airports in 2012 were above the level of the lead NAAQS, with the highest measured levels of lead in total suspended particles over a rolling three-month average of 0.33 micrograms per cubic meter of air at the San Carlos Airport and 0.17 micrograms per cubic meter of air at the McClellan-Palomar Airport. These concentrations violate the primary and secondary lead NAAQS, which are set at a level of 0.15 micrograms per cubic meter of air measured in total suspended particles, as an average of three consecutive monthly concentrations.

In recognition of the potential for lead concentrations to exceed the lead NAAQS in ambient air near the area of maximum concentration at airports, the EPA further conducted an assessment of airports nationwide, titled “Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports” and described in Section II.A.3 of this document.³⁰⁹ The model-extrapolated lead concentrations estimated in this study are attributable solely to emissions from engines in covered aircraft operating at the airports evaluated and did not include other sources of lead emissions to air. The

EPA identified four airports with the potential for lead concentrations above the lead NAAQS due to lead emissions from engines used in covered aircraft.

Additional information regarding the contribution of engine emissions of lead from covered aircraft to lead air pollution is provided by the EPA’s Air Toxics Screening Assessment. As described and summarized in Section II.A.3 of this document, the EPA’s Air Toxics Screening Assessment estimates that piston engines used in aircraft contribute more than 50 percent of the lead concentration in over half of the census tracts in the U.S.³¹⁰

The EPA also notes that lead emissions from engines in covered aircraft are present in three of the ten areas in the U.S. currently designated as nonattainment for the 2008 lead NAAQS. These areas are Arecibo, PR, and Hayden, AZ, each of which include one airport servicing covered aircraft, and the Los Angeles County-South Coast Air Basin, CA, which contains at least 22 airports within its nonattainment area boundary.^{311 312} Although the lead emissions from aircraft are not the predominant source of airborne lead in these areas, the emissions from covered aircraft may increase ambient air lead concentrations in these areas.

C. Proposed Cause or Contribution Finding for Lead

Taking into consideration the data and information summarized in Section V of this document, the Administrator proposes to find that engine emissions of the lead air pollutant from covered aircraft cause or contribute to the lead air pollution that may reasonably be anticipated to endanger public health and welfare. In reaching this proposed conclusion, the Administrator notes that piston-engine aircraft operate on leaded avgas. That operation emits lead-

³¹⁰ EPA’s 2017 AirToxScreen is available at <https://www.epa.gov/AirToxScreen>.

³¹¹ South Coast Air Quality Management District (2012) Adoption of 2012 Lead SIP Los Angeles County by South Coast Governing Board, p.3–11, Table 3–3. Available at <https://www.aqmd.gov/home/air-quality/clean-air-plans/lead-state-implementation-plan>. The South Coast Air Quality Management District identified 22 airports in the Los Angeles County-South Coast Air Basin nonattainment area; the Whiteman Airport is among those in the nonattainment area and the EPA estimated activity at this airport may increase lead concentrations to levels above the lead NAAQS in the report, Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 7. EPA, Washington, DC, EPA-420-R-20-003, 2020. Available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG52.pdf>.

³¹² EPA provides updated information regarding nonattainment areas at this website: <https://www.epa.gov/green-book/green-book-lead-2008-area-information>.

³⁰² Carr et al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment*, 45 (32), 5795–5804. DOI: <https://dx.doi.org/10.1016/j.atmosenv.2011.07.017>.

³⁰³ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports. Table 6. EPA-420-R-20-003, 2020. Available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG52.pdf>.

³⁰⁴ Carr et al., 2011. Development and evaluation of an air quality modeling approach to assess near-field impacts of lead emissions from piston-engine aircraft operating on leaded aviation gasoline. *Atmospheric Environment*, 45 (32), 5795–5804. DOI: <https://dx.doi.org/10.1016/j.atmosenv.2011.07.017>.

³⁰⁵ Heiken et al., 2014. Quantifying Aircraft Lead Emissions at Airports. ACRP Report 133. Available at <https://www.nap.edu/catalog/22142/quantifying-aircraft-lead-emissions-at-airports>.

³⁰⁶ Hudda et al., 2022. Substantial Near-Field Air Quality Improvements at a General Aviation Airport Following a Runway Shortening. *Environmental Science & Technology*. DOI: 10.1021/acs.est.1c06765.

³⁰⁷ 73 FR 66965 (Nov. 12, 2008).

³⁰⁸ 75 FR 81226 (Dec. 27, 2010).

³⁰⁹ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports Table 6. EPA-420-R-20-003, 2020. Available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG52.pdf>.

containing compounds into the air, contributing to lead air pollution in the environment. As explained in Section II.A of this document, once emitted from covered aircraft, lead may be transported and distributed to other environmental media, and present the potential for human exposure through air and non-air pathways before the lead is removed to deeper soils or waterbody sediments. In reaching this proposed finding, the Administrator takes into consideration different air quality scenarios in which emissions of the lead air pollutant from engines in covered aircraft may cause or contribute to lead air pollution. Among these considerations, he places weight on the fact that current lead emissions from covered aircraft are an important source of air-related lead in the environment and that engine emissions of lead from covered aircraft are the largest single source of lead to air in the U.S. in recent years. In this regard, he notes that these emissions contributed over 50 percent of lead emissions to air starting in 2008, when approximately 560 tons of lead was emitted by engines in covered aircraft, and more recently, in 2017, when approximately 470 tons of lead was emitted by engines in covered aircraft.³¹³

Additionally, he takes into account the fact that in some situations lead emissions from covered aircraft have contributed and may continue to contribute to air quality that exceeds the lead NAAQS. The NAAQS are standards that have been set to protect public health, including the health of sensitive groups, with an adequate margin of safety, and to protect public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air. For example, the EPA's monitoring data show that lead concentrations at two airports, McClellan-Palomar and San Carlos, violated the lead NAAQS. The EPA's model-extrapolated estimates of lead also indicate that some U.S. airports may have air lead concentrations above the NAAQS in the area of maximum impact from operation of covered aircraft.³¹⁴ Given that the lead NAAQS are established to protect

public health and welfare, contributions to concentrations that exceed the lead NAAQS are of particular concern to the Administrator and add support for the proposed conclusion that lead emissions from engines in covered aircraft cause or contribute to the endangering air pollution.

The Administrator is also concerned about the likelihood for these emissions to continue to be an important source of air-related lead in the environment in the future, if uncontrolled. While recognizing that national consumption of leaded avgas is forecast to decrease slightly from 2026 to 2041 commensurate with overall piston-engine aircraft activity, the Administrator also notes that these changes are not expected to occur uniformly across the U.S. For example, he takes note of the FAA forecasts for airport-specific aircraft activity out to 2045 that project decreases in activity by general aviation at some airports, while projecting increases at other airports. Although there is some uncertainty in these projections, they indicate that lead emissions from covered aircraft may increase at some airports in the future. Thus, even assuming that consumption of leaded avgas and general aviation activity decrease somewhat overall, as projected, the Administrator anticipates that current concerns about these sources of air-related lead will continue into the future, without controls. Accordingly, the Administrator is considering both current levels of emissions and anticipated future levels of emissions from covered aircraft. In doing so, the Administrator is proposing to find that current levels cause or contribute to pollution that may reasonably be anticipated to endanger public health and welfare. He also is taking into consideration the projections that some airports may see increases in activity while others see decreases, as well as the uncertainties in these predictions. The Administrator therefore considers all this information and data collectively to inform his judgment on whether lead emissions from covered aircraft cause or contribute to endangering air pollution.

Accordingly, for all the reasons described, the Administrator proposes to conclude that emissions of the lead air pollutant from engines in covered aircraft cause or contribute to the lead air pollution that may reasonably be anticipated to endanger public health and welfare.

VI. Statutory Authority and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is a "significant regulatory action" because of the cross-agency nature of this issue. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866. This action proposes a finding that emissions of the lead air pollutant from engines in covered aircraft cause or contribute to the lead air pollution that may be reasonably anticipated to endanger public health and welfare. Any changes made in response to OMB recommendations have been documented in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. The proposed endangerment and cause or contribute findings under CAA section 231(a)(2)(A) do not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The proposed endangerment and cause or contribute findings under CAA section 231(a)(2)(A) do not in-and-of-themselves impose any new requirements but rather set forth the Administrator's proposed finding that emissions of the lead air pollutant from engines in covered aircraft cause or contribute to lead air pollution that may be reasonably anticipated to endanger public health and welfare. Accordingly, this action affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the proposal.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector.

³¹³ The lead inventories for 2008, 2011 and 2014 are provided in the U.S. EPA (2018b) Report on the Environment Exhibit 2. Anthropogenic lead emissions in the U.S. Available at <https://cfpub.epa.gov/roe/indicator.cfm?i=13#2>. The lead inventories for 2017 are available at <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data#dataq>.

³¹⁴ EPA (2020) Model-extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports Table 7. EPA-420-R-20-003, 2020. Available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YG52.pdf>.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. The proposed endangerment and cause or contribute findings under CAA section 231(a)(2)(A) do not in-and-of-themselves impose any new requirements but rather set forth the Administrator's proposed finding that emissions of the lead air pollutant from engines in covered aircraft cause or contribute to lead air pollution that may be reasonably anticipated to endanger public health and welfare. Thus, Executive Order 13175 does not apply to this action.

Tribes have previously submitted comments to the EPA noting their concerns regarding potential impacts of lead emitted by piston-engine aircraft operating on leaded avgas at airports on, and near, their Reservation Land.³¹⁵ The EPA plans to continue engaging with Tribal stakeholders on this issue and will offer a government-to-government consultation upon request.

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

The EPA interprets E.O. 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the E.O. has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not propose to establish an environmental standard intended to mitigate health or safety risks. Although the Administrator considered health and safety risks as part of the proposed endangerment and cause or contribute findings under CAA

section 231(a)(2)(A), the proposed findings themselves, if finalized, would not impose a standard intended to mitigate those risks. While this action is not subject to Executive Order 13045 in this scenario, the Agency's Policy on Children's Health³¹⁶ still applies. The Administrator considered lead exposure risks to children as part of this proposed endangerment finding under CAA section 231(a)(2)(A). This action's discussion of the impacts of lead exposure on public health and welfare is found in Section IV of this document, and specific discussion with regard to children are contained in Supplemental Information Section C, as well as Sections II.A.5, and IV of this document. A copy of the documents pertaining to the impacts on children's health from emissions of lead from piston-engine aircraft that the EPA references in this action have been placed in the public docket for this action (Docket EPA-HQ-OAR-2022-0389).

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

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Further, we have concluded that this action is not likely to have any adverse energy effects because the proposed endangerment and cause or contribute findings under section 231(a)(2)(A) do not in-and-of themselves impose any new requirements but rather set forth the Administrator's proposed finding that emissions of the lead air pollutant from engines in covered aircraft cause or contribute to lead air pollution that may be reasonably anticipated to endanger public health and welfare.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

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

The EPA believes this action will not have potentially disproportionately high and adverse human health or

environmental effects on people of color, low-income, or indigenous populations because this action does not affect the level of protection provided to human health or the environment. The Administrator considered the potential for lead exposure risks to people of color, low-income, and indigenous populations as part of this proposed endangerment finding under CAA section 231(a)(2)(A). This action's discussion of lead exposure impacts on public health and welfare is found in Section IV of this document. Specific discussion focused on environmental justice with regard to people of color, low-income, and indigenous populations are found in Supplemental Information Section D, as well as Sections II.A.5, and Section IV of this document. A copy of the documents pertaining to the EPA's analysis of potential environmental justice concerns related to this action have been placed in the public docket for this action (Docket EPA-HQ-OAR-2022-0389).

K. Determination Under Section 307(d)

Section 307(d)(1)(V) of the CAA provides that the provisions of section 307(d) apply to "such other actions as the administrator may determine." Pursuant to section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of section 307(d).

VII. Statutory Provisions and Legal Authority

Statutory authority for this action comes from 42 U.S.C. 7571, 7601 and 7607.

List of Subjects

40 CFR Parts 87 and 1031

Environmental protection, Air pollution control, Aircraft, Aircraft engines.

40 CFR Part 1068

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

Michael S. Regan,
Administrator.

[FR Doc. 2022-22223 Filed 10-14-22; 8:45 am]

BILLING CODE 6560-50-8

³¹⁵ See Docket ID Number EPA-HQ-OAR-2006-0735. The Tribes that submitted comments were: The Bad River Band of Lake Superior Tribe of Chippewa Indians, The Quapaw Tribe of Oklahoma, The Leech Lake Band of Ojibwe, The Lone Pine Paiute-Shoshone Reservation, The Fond du Lac Band of Lake Superior Chippewa, and The Mille Lacs Band of Ojibwe.

³¹⁶ EPA (2021) EPA Policy on Children's Health. Available at <https://www.epa.gov/system/files/documents/2021-10/2021-policy-on-childrens-health.pdf>.

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting; Partnership for Peace Fund Advisory Board

AGENCY: United States Agency for International Development.

ACTION: Request for public comment and notice of public meeting.

SUMMARY: The United States Agency for International Development (USAID) announces a public meeting, co-hosted with the U.S. Institute for Peace, and requests public comment for the second meeting of the Partnership for Peace Fund (PPF) Advisory Board to (1) review progress following the first year of PPF programming; (2) discuss approaches to programming in the next fiscal year; and (3) discuss plans to engage the international donor community in peacebuilding work.

DATES:

1. Written comments and information are requested on or before October 20, 2022, at 5 p.m. EDT.

2. The public meeting will take place on Thursday, October 27, 2022, from 1:15 p.m. to 3:30 p.m. EDT via the Zoom platform (https://usaid.zoomgov.com/webinar/register/WN_9L05MuZsT5imiGiRDn6fdw).

3. The meeting does not require pre-registration.

ADDRESSES: You may submit comments regarding the work of the PPF Advisory Board by email to MEPPA@usaid.gov. Include “Public Comment, PPF Advisory Board Meeting, October 27” in the subject line. All public comments and questions will be included in the official record of the meeting and posted publicly on the USAID website.

Please email MEPPA@usaid.gov to request reasonable accommodations for the public meeting. Include “Request for Reasonable Accommodation, PPF Advisory Board Meeting, October 27” in the subject line.

FOR FURTHER INFORMATION CONTACT: Dan McDonald, 202–712–4938, meppa@usaid.gov.

SUPPLEMENTARY INFORMATION: In December 2020, Congress passed the Nita M. Lowey Middle East Partnership for Peace Act, or MEPPA, with bipartisan support. The Act directs USAID and the U.S. International Development Finance Corporation (DFC), in coordination with the Department of State, to program \$250 million over five years to build the foundation for peaceful coexistence between Israelis and Palestinians through a new PPF, managed by USAID, and a Joint Investment Initiative, managed by the DFC.

MEPPA serves as a recognition that economic, social, and political connections between Israelis and Palestinians are the best way to foster mutual understanding and provide the strongest basis for a sustainable, two-state solution. USAID’s Middle East Bureau has been working with Congress, interagency colleagues, and partners in Israel, the West Bank, and Gaza to implement the Act. MEPPA also calls for the establishment of a board to advise USAID on the strategic direction of the PPF.

Composed of up to 15 members, the PPF Advisory Board includes development experts, private sector leaders and faith-based leaders who are appointed by members of Congress and the USAID Administrator. As stated in its charter, the Board’s role is to:

1. To consult with, provide information to and advise USAID, and other U.S. agencies, as appropriate, on matters and issues relating to the PPF, including on:
 - the efficacy of United States and international support for grassroots, people-to-people efforts aimed at fostering tolerance, countering extremist propaganda and incitement in the State of Israel, the West Bank, and Gaza;
 - strengthening engagement between Palestinians and Israelis, including through people-to-people peacebuilding programs to increase the bonds of friendship and understanding; and
 - investing in cooperation that develops the Palestinian economy and results in joint economic ventures;
2. To make recommendations on the types of projects USAID should seek to further the purposes of the People-to-People PPF;

3. To make recommendations on partnerships with foreign governments and international organizations to leverage the impact of the PPF; and

4. To inform USAID’s required reporting to the appropriate Congressional committees.

The following are the current members of the Advisory Board:

- Chair: The Honorable George R. Salem
- The Honorable Elliott Abrams
- Rabbi Angela Buchdahl
- Rabbi Michael M. Cohen
- Sander Gerber
- Ambassador Mark Green (ret.)
- Hiba Hussein
- Heather Johnston
- Harley Lippman
- The Honorable Nita M. Lowey
- Dina Powell McCormick
- Jen Stewart
- The Honorable Robert Wexler

PPF Advisory Board meetings are held twice a year and are public. More information about how USAID is implementing MEPPA to increase people-to-people partnerships between Israelis and Palestinians is available at: <https://www.usaid.gov/west-bank-and-gaza/meppa>.

The purpose of this meeting is for the Advisory Board to gain a better understanding of the progress so far to program funds under the PPF to bring Israelis and Palestinians together to increase understanding and advance the goal of a two-state solution.

During this meeting, the Board will (1) review progress following the first year of PPF programming; (2) discuss options for approaches to programming in the next fiscal year; and (3) discuss plans to engage the international donor community in peacebuilding work.

Request for Public Comment

To inform the direction and advice of the Board, USAID invites written comments from the public on areas for focus and strategies for people-to-people peacebuilding under the PPF.

Written comments and information are requested on or before Thursday, October 20, 2022, at 5:00 p.m. EDT. Include “Public Comment, PPF Advisory Board Meeting, October 27” in the subject line. Please submit comments and information as a Word or PDF attachment to your email. You are encouraged to submit written comments even if you plan to attend the public meeting. All public comments and

questions will be included in the official record of the meeting and posted publicly on the USAID website.

Public Meeting

A public meeting will take place Thursday, October 27, 2022, from 1:15 p.m. to 3:30 p.m. EDT. This meeting is free and open to the public. Persons wishing to attend the meeting should use the following link: (https://usaid.zoomgov.com/webinar/register/WN_9L05MuZsT5imiGiRDn6fdw).

American Sign Language interpretation will be provided during the public meeting. Requests for reasonable accommodations should be directed to Daniel McDonald at MEPPA@usaid.gov. Please include "Request for Reasonable Accommodation, PPF Advisory Board Meeting, October 27" in the subject line.

Megan Doherty,

USAID Designated Federal Officer for the PPF Advisory Board, Bureau for the Middle East, U.S. Agency for International Development.

[FR Doc. 2022-22409 Filed 10-14-22; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2021-0078]

Notice of Proposed Revision to Requirements for the Importation of Grapes From Chile Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk assessment (PRA) and a commodity import evaluation document (CIED) relative to the importation into the United States of fresh table grapes from regions of Chile where European grapevine moth (*Lobesia botrana*, EGVM) is either absent or at very low prevalence. Chile grapes are currently subject to methyl bromide fumigation for EGVM and Chilean false red mite (*Brevipalpus chilensis*). Based on the PRA and the findings of the CIED, we are also proposing to authorize the importation of grapes from Chile under a systems approach or irradiation for EGVM and *B. chilensis*; current mitigation measures for *Ceratitis capitata*, or Medfly, would remain unchanged. We are making the PRA and CIED available to the public for review and comment.

DATES: We will consider all comments that we receive on or before December 16, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS-2021-0078 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2021-0078, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at www.regulations.gov or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, RCC, IRM, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737-1236; (301) 851-2353; Claudia.Ferguson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in "Subpart L-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56-4 of the regulations provides the requirements for authorizing the importation of fruits and vegetables into the United States, as well as revising existing requirements for the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet at <https://epermits.aphis.usda.gov/manual>; this address provides access to the Agricultural Commodity Import Requirements database, or ACIR.¹ It also

¹ This address had previously provided access to the Fruit and Vegetable Import Requirements

provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk documentation and determination available for public comment.

Chile table grapes (*Vitis vinifera* L.) are currently listed in ACIR as authorized for importation into the United States subject to methyl bromide fumigation. This requirement was first adopted in 1960 as a risk mitigation measure against the Chilean false red mite (*Brevipalpus chilensis*), subsequently revised to apply only if quarantine pests were intercepted, and, following frequent pest interceptions, reinstated in 1996 for all shipments. Chile table grapes from areas of Chile under quarantine for Medfly (*Ceratitis capitata*) are subject to additional pest mitigation measures, which we are not proposing to change.²

On August 27, 2008, we published in the **Federal Register** (73 FR 50577-50582, Docket No. APHIS-2007-0152) a proposed rule³ to allow the importation of fresh table grapes from Chile into the continental United States under a systems approach. Following an outbreak of European grapevine moth (*Lobesia botrana*, EGVM) in Chile that same year, and subsequent public comments on the proposed rule regarding the outbreak, APHIS elected not to finalize the proposed rule, as the proposed systems approach did not include EGVM-specific measures. Since that time, we have continued to require that table grapes imported from Chile receive methyl bromide fumigation, which also mitigates the risk of EGVM.

The national plant protection organization (NPPO) of Chile has requested that APHIS revise the import requirements for grapes from Chile to the United States to allow the export of table grapes from areas of Chile where EGVM is either absent or at very low prevalence (the Arica and Parinacota, Tarapacá, Antofagasta, Atacama, Coquimbo, and Valparaíso regions of Chile) under a systems approach or irradiation.

database, or FAVIR. However, on September 30, 2022, the FAVIR database was replaced by the ACIR database.

² We would, however, clarify that irradiation is an approved phytosanitary treatment for Medfly. This is specified in our PPQ Treatment Manual, but not currently reflected in ACIR.

³ To view the proposed rule, go to <https://www.regulations.gov/document/APHIS-2007-0152-0001>.

In response to this request, APHIS prepared a new pest risk assessment (PRA) that evaluates the risks associated with importation of commercially produced fresh grapes (*Vitis vinifera* L.) for consumption from Chile into the entire United States. Based on the PRA, a commodity import evaluation document (CIED) was prepared to identify phytosanitary measures that could be applied to grapes from Chile to mitigate pest risk. The CIED recommends that commercially produced shipments of fresh table grapes originating from the Arica and Parinacota, Tarapacá, Antofagasta, Atacama, Coquimbo, and Valparaíso regions of Chile could be imported into the United States under a systems approach or irradiation without the risk of introducing quarantine pests.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our PRA and CIED for public review and comment. Those documents, as well as a description of the economic considerations associated with revising the conditions for the importation of table grapes from Chile, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the PRA and CIED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding whether to revise the requirements for the importation of table grapes from Chile in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will revise the requirements for the importation of table grapes from Chile as specified in the CIED.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of October 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–22518 Filed 10–14–22; 8:45 am]

BILLING CODE 3410–34-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2022–0029]

Proposed Framework for Controlling Salmonella in Poultry

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notification of public meeting.

SUMMARY: FSIS is hosting a virtual public meeting to discuss a regulatory framework that the Agency is considering for a new strategy to control *Salmonella* in poultry products and more effectively reduce foodborne *Salmonella* infections linked to these products. The framework under consideration has been shaped by months of information-gathering and discussions with a wide range of stakeholders, researchers, and scientists. FSIS is seeking input from stakeholders on this proposed framework, both at the public meeting and in written comments submitted in response to this **Federal Register** notice before FSIS moves forward with any proposed changes to the Agency's *Salmonella* strategy.

DATES: The virtual public meeting will be held on Thursday, November 3, 2022, from 10 a.m.–4 p.m. EST. Submit comments on or before November 16, 2022.

ADDRESSES: The meeting will be virtual and will be viewed via the Zoom link provided by email when you register for the meeting. Attendees must be pre-registered for the meeting. See the pre-registration instructions under “Registration and Meeting Materials.”

Comments on this notice may be by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.

- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–

2022–0029. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, email docketclerk@usda.gov or call 202–692–4235 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Email Congressional and Public Affairs at: SM.FSIS.SALMONELLAMEETING@USDA.GOV.

SUPPLEMENTARY INFORMATION:

Background

FSIS is the public health agency in USDA whose mission is to ensure that meat, poultry, and egg products are safe, wholesome, and properly labeled and packaged. FSIS has used the U.S. Department of Health and Human Services' Healthy People¹ target to set pathogen reduction goals for FSIS-regulated products over the past few decades. However, the 2010 and 2020 Healthy People targets for a reduction in *Salmonella* infections from all sources were not met.² The Healthy People 2030 target is to reduce *Salmonella* infections to a national case rate of no more than 11.5 per 100,000 consumers per year. To reach the 2030 target, illnesses must be reduced by 25%. Although this target is for *Salmonella* infections from all sources, FSIS has adopted the same target and aims to reduce *Salmonella* infections linked to all FSIS-regulated products by 25%.

Despite FSIS sampling data showing reductions in *Salmonella* contamination in poultry products, our current approach to *Salmonella* has not led to a demonstrable reduction in *Salmonella* infections to meet the Healthy People target. For example, during the five-year period from 2017 to 2021, the number of chicken product samples in which FSIS detected *Salmonella* decreased by more than 50%.³ However, the

¹ The Healthy People initiative guides national health promotion and disease prevention efforts to improve the health of the nation. Led by the U.S. Department of Health and Human Services (HHS) every decade since 1980, Healthy People identifies science-based objectives with targets to monitor progress and motivate and focus action.

² The Healthy People 2010 and 2020 targets were 6.8 and 11.4 *Salmonella* infections per 100,000 population, respectively. Between 2010 and 2017, infection rates averaged 15.8 *Salmonella* infections per 100,000 population.

³ FSIS *Salmonella* verification sampling. Available at: <https://www.fsis.usda.gov/science-data/data-sets-visualizations/microbiology/salmonella-verification-testing-program-monthly>.

estimated rate of human *Salmonella* infections from all sources has remained consistent over the last two decades, with an estimated 1.35 million infections in the U.S. each year.⁴ The most recent report from the Interagency Food Safety Analytics Collaboration estimates that over 23% of foodborne *Salmonella* illnesses are attributable to poultry consumption—almost 17% from chicken and over 6% from turkey.⁵

Proposed Regulatory Framework To Reduce Salmonella Illnesses Attributable to Poultry

FSIS is considering a regulatory framework for a new strategy to control *Salmonella* in poultry products and more effectively reduce foodborne *Salmonella* infections linked to these products. At the same time, FSIS is gathering scientific evidence relevant to the approaches presented in this framework. The National Advisory Committee on Microbiological Criteria for Foods (NACMF)⁶ has been charged with providing guidance on what types of microbiological criteria FSIS might use to better prevent *Salmonella* infections associated with poultry products. FSIS is also completing a risk profile for pathogenic *Salmonella* subtypes in poultry and is collaborating on quantitative risk assessments⁷ for *Salmonella* in chicken and turkey that will address key risk management questions associated with this framework. FSIS also expanded its exploratory sampling program for young chicken carcasses⁸ to generate microbial data to help inform future policies.

While awaiting results from these activities, FSIS is sharing the key elements that the Agency is currently considering as part of a new regulatory strategy in this framework. FSIS is soliciting additional feedback from

stakeholders addressing specific questions associated with this document before moving forward with any proposed changes to regulations or other actions.

The proposed framework that is currently under consideration is available on the FSIS website at: <https://www.fsis.usda.gov/news-events/events-meetings/public-meeting-reducing-salmonella-poultry>.

Public Meeting

FSIS is announcing that it will hold a virtual public meeting on November 3, 2022, to discuss issues related to the regulatory framework to control *Salmonella* in poultry products under consideration. At this meeting, FSIS will accept public comment on the framework under consideration, which consists of three components that, together, support a comprehensive approach to controlling *Salmonella* in poultry. The three components under consideration are:

1. Requiring that incoming flocks be tested for *Salmonella* before entering an establishment;
2. Enhancing establishment process control monitoring and FSIS verification; and
3. Implementing an enforceable final product standard.

The proposed framework also addresses cross-cutting issues associated with testing for *Salmonella*, considerations for small and very small establishments, and data sharing.

An agenda will be published online before the public meeting. FSIS will finalize the agenda on or before the meeting date and post it on the FSIS website at: <https://www.fsis.usda.gov/news-events/events-meetings/public-meeting-reducing-salmonella-poultry>.

Registration and Meeting Materials

There is no fee to register for the public meeting, but pre-registration is mandatory for participants attending. All attendees must register online by visiting <https://www.fsis.usda.gov/news-events/events-meetings/public-meeting-reducing-salmonella-poultry>, after which they will receive an email acknowledging their registration. Stakeholders who wish to speak at the meeting must notify FSIS during registration and must register by October 24, 2022. Attendees that do not plan to speak at the public meeting may register at any time up to the day of the meeting.

Public Comments and Participation in Meetings

Public Comments: Oral Comments

Stakeholders will have an opportunity to provide oral comments on any of the 4 components of the framework under consideration, *i.e.*, the 3 components and cross-cutting issues, during the public meeting. Oral comments will be limited to two minutes per component. Attendees must identify which component (s) they will be commenting on when they register for the public meeting and will be allowed to comment on as many components as they wish. Due to the anticipated high level of interest in the opportunity to make public comments and the limited time available to do so, FSIS will do its best to accommodate all persons who pre-registered and requested to provide oral comments. Attendees that pre-register will be allotted time to speak in the order of registration. FSIS will notify stakeholders that register to speak of the approximate time(s) they are scheduled to speak in advance of the meeting. As noted above, stakeholders will be allotted a maximum of 2 minutes to comment on each framework component, but the comment periods will take place at different times over the course of the day. FSIS encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative.

Stakeholders who do not notify FSIS during registration of their wish to speak will not have the opportunity to comment on a specific framework component on the day of the public meeting. However, there will be an open comment period for general questions or comments at the end of the meeting. Stakeholders may also submit written comments using the instructions in the Addresses section above.

Panel Discussions

During the meeting, stakeholders will be organized into groups to present their oral comments for each framework component to panels comprised of FSIS leadership and experts. The primary purpose of the panels is to listen to stakeholder input, but panelists may ask questions of the stakeholders if clarification is needed.

Transcripts

As soon as the meeting transcripts are available, they will be accessible on the FSIS website at: <https://www.fsis.usda.gov/news-events/events-meetings/public-meeting-reducing-salmonella-poultry>. The transcripts may

⁴ *Salmonella*: Centers for Disease Control and Prevention. Available at: [Salmonella https://www.cdc.gov/salmonella/index.html](https://www.cdc.gov/salmonella/index.html).

⁵ Foodborne illness source attribution estimates for 2019 for *Salmonella*, *Escherichia coli* O157, *Listeria monocytogenes*, and *Campylobacter* using multi-year outbreak surveillance data, United States. IFAC October 2021. Available at: <https://www.cdc.gov/foodsafety/ifsac/pdf/P19-2019-report-TriAgency-508.pdf>.

⁶ 2021–2023 National Advisory Committee on Microbiological Criteria for Food. FSIS Charge: Enhancing *Salmonella* Control in Poultry Products. Available at: <https://www.fsis.usda.gov/policy/advisory-committees/national-advisory-committee-microbiological-criteria-foods-nacmf/2021>.

⁷ FSIS Constituent Update July 1, 2022: FSIS Announces Cooperative Agreement on *Salmonella* Risk Assessment. Available at: <https://www.fsis.usda.gov/news-events/news-press-releases/constituent-update-july-1-2022>.

⁸ FSIS Notice 44–2 Revised Young Chicken Exploratory Sampling Program (August 11, 2022) Available at: <https://www.fsis.usda.gov/policy/fsis-notice/44-22>.

also be viewed at the FSIS Docket Room at the address listed above.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.*, Braille, large print, audiotope, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Fax*: (833) 256-1665 or (202) 690-7442; or

(3) *Email*: program.intake@usda.gov.

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Paul Kiecker,

Administrator.

[FR Doc. 2022-22254 Filed 10-14-22; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Additional Information To Be Collected for Reach and Resiliency—Round 2 Grants Under Uniform Grant Application Package for Discretionary Grant Programs

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS) plans to collect additional information from grant applicants for the second round of The Emergency Food Assistance Program (TEFAP) Reach and Resiliency Grant applications and add reporting questions on a biannual basis. FNS already has OMB approval for collection of information associated with these grants under the Uniform Grant Application for Non-Entitlement Discretionary Grants, as approved under OMB Control Number: 0584-0512 (Expiration Date: July 31, 2025). This notice solicits public comment on the additional information proposed for collection.

DATES: To be assured of consideration, written comments must be submitted or postmarked on or before November 16, 2022.

ADDRESSES:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond.

Comments must be submitted through one of the following methods:

- *Preferred method:* Submit information through the Federal

eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submissions.

- *Email:* Send comments to Rachel.schoenian@usda.gov with a subject line "Reach and Resiliency Grant Information Collection."

FOR FURTHER INFORMATION CONTACT: Rachel Schoenian, Policy Division, Supplemental Nutrition and Safety Programs, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, Virginia 22314, 703-305-2937, or email rachel.schoenian@usda.gov.

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS) will be soliciting applications for Round 2 awards for The Emergency Food Assistance Program (TEFAP) Reach and Resiliency Grants. FNS will ask applicants additional questions beyond the uniform grant application package discussed in OMB control 0584-0512, including additional reporting questions on a biannual basis. These questions will be incorporated into the Round 2 Request for Applications (RFA), the Round 2 Reach and Resiliency grant application template, and the Round 2 supplemental reporting questions template, but are also provided for review and public comment in this Notice.

These additional questions, which may be tweaked or revised prior to use, are listed below. The questions included below are in addition to those already required in the standard uniform grant application package and already included in OMB approval 0584-0512. For that reason, the list of questions below does not reflect all questions that will be included in the Round 2 Reach and Resiliency grant application template.

Supplemental Application Questions

- As an attachment, applicants will provide a list of all TEFAP eligible recipient agencies (ERAs) currently operating in the State, including those ERAs that have an agreement with another ERA, as outlined in FD-123, *Maintenance of Lists of Eligible Recipient Agencies (ERA) Participating in TEFAP*. The list should indicate whether or not the ERA is operating TEFAP under an agreement with the State agency or another ERA, the name of the other ERA (if applicable), and the street address(es) of any TEFAP distribution sites (as defined in 7 CFR 251.3(c)) that are operated by the ERA.
- Applicants that did not receive a Reach and Resiliency—Round 1 grant

will provide a detailed narrative assessment of current TEFAP reach within the State/Territory and will identify any remote, rural, Tribal, and/or low-income areas that are currently underserved by TEFAP. Applicants will also provide an explanation of how the assessment was conducted and provide any attachments (e.g., a map of served/underserved areas within the State/Territory, or a map of TEFAP ERAs overlaid with a map of remote, rural, Tribal, and/or low-income areas) as necessary. If an applicant plans to utilize grants funds to complete such an assessment, they only need to indicate that in their response and will not be required to submit an assessment in the application.

- Applicants that received a Reach and Resiliency—Round 1 grant will provide a brief summary of planned Round 1 project activities and an update on implementation of those activities, indicating how the proposed Round 2 project plan will expand or complement Round 1 activities (if applicable). If Reach and Resiliency—Round 1 grant funds were utilized to conduct an assessment of TEFAP reach within the State/Territory, this update must include a brief description of any interim or final results of the Round 1 assessment, or a description of progress made on the assessment thus far.

- Applicants will provide the definitions of “remote,” “rural,” “Tribal,” and “low-income” that will be utilized for the proposed Round 2 project and an explanation of why specific definitions were chosen.

- Applicants will describe how they consulted with relevant stakeholders and/or utilized available data to form their Round 2 project plans.

- Applicants will state the percentage of requested Round 2 grant funds that will be kept at the State level or that will be expended on State expenses.

- Applicants will indicate interest in requesting additional funding past the maximum eligible funding amount outlined for their State/Territory in the Request for Applications. If interested in additional funding, applicants will state an amount of additional funds that the applicant would be able to utilize on allowable grant activities. Should additional funding be available, FNS will utilize responses to these question to award additional funds to interested applicants.

Supplemental Reporting Questions

- If applicable, applicants will provide a list of any remote, rural, Tribal, and/or low-income areas that have been incorporated into the State’s TEFAP network or that are being better

served as as a result of Round 2 grant funding, to date.

- If grant funds were utilized to conduct an assessment of current TEFAP reach within the State/Territory, and such assessment was finalized within the last reporting period, applicants will be asked to provide a narrative summary of the assessment. The summary should include a list of any remote, rural, Tribal, and/or low-income areas that were identified as underserved via the assessment, how “remote,” “rural,” “Tribal,” and “low-income” areas were defined, and an explanation of how the assessment was conducted.

Time Required To Complete Application Package

The time required to complete this information collection, meaning the TEFAP grant application package, is estimated to average approximately 88.22 hours per application. This burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information for all aspects of the TEFAP Reach and Resiliency—Round 2 Grant, including the pre-award, post-award, and recordkeeping burden.

The supporting statement for OMB Control Number: 0584–0512 (Expiration Date: July 31, 2025) explicitly states that if FNS decides to use the uniform grant application package, FNS will note in the grant solicitation that applicants must use the uniform grant application package, and that the information collection has already been approved by OMB. If FNS determines that it needs grant applicants to provide additional information not contained in the uniform package, then FNS will publish at least a 30-day notice soliciting comments on its proposal to collect different or additional information before issuing the grant solicitation. FNS is publishing this notice to meet that requirement.

FNS will utilize these comments to adjust the collection of additional information as necessary.

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2022–22415 Filed 10–14–22; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meetings

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, October 21, 2022, 10:00 a.m. EST.

ADDRESSES: Meeting to take place telephonically and is open to the public via phone at 1–866–269–4260; Confirmation Code: 1776207.

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–8371; publicaffairs@usccr.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission’s business for the month. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, October 21, 2022, is <https://www.streamtext.net/player?event=USCCR>. Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

- I. Approval of Agenda
 - II. Business Meeting
 - A. Presentations by State Advisory Committee Chairs on Released Reports and Memorandums
 - B. Discussion and Vote on Advisory Committee Appointments
 - C. Discussion and Vote on Advisory Committee (SAC) Report
 - D. Discussion and Vote on FY 2023 SE Anti-Asian Racism Planning Documents
 - E. Management and Operations
 - Staff Director’s Report
- Adjourn Meeting

Dated: October 13, 2022.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2022–22635 Filed 10–13–22; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–47–2022]

Foreign-Trade Zone (FTZ) 72—Indianapolis, Indiana, Notification of Proposed Production Activity, Mercury Marine (Marine Service, Repair, Winterization, or Replacement Kits), Brownsburg, Indiana

Mercury Marine submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Brownsburg, Indiana, within FTZ 72. The notification

conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on October 4, 2022.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: kits for marine engines (catalyst-exhaust pack; hydraulic fluid power pump; tubing; cover; heater; housing kits used in water heaters; for filtering or purifying water; seal; drive hub); kits of rigid tubes, pipes, hoses, or fittings (of polymers of ethylene; of plastics); kits of tubes, pipes, hoses, or fittings, of polymers of propylene; kits of tubes, pipes, or hoses (of plastic; of plastic, with fittings and non-reinforced; of non-reinforced vulcanized rubber; of textile reinforced vulcanized rubber; with fittings, of textile reinforced vulcanized rubber); kits of non-rigid plastic tubes, pipes, or hoses, reinforced with metal or PVC; repair kits (of plastic fittings; of vulcanized rubber gaskets, washers, seals, grommets, or mounts; of connectors for electrical circuits); sets and kits of decals for labeling; air deck kits, tube kits, trailering lock kits, of plastic; kits of reinforced vulcanized rubber tubes, pipes, or hoses, with fittings; kits of metal reinforced vulcanized rubber tubes, pipes, or hoses, with fittings; kits of reinforced rubber hose assemblies, with fittings; kits of reinforced rubber hose assemblies; kits of endless transmission belts of trapezoidal cross section V-belts, V-ribbed, not exceeding 180 cm; kits of transmission belts or belting, of vulcanized rubber; bow bag kits; kits of plywood, veneered panels, or laminated wood; kits of paper brochures or instruction manuals; kits of repair manuals, repair instruction sheets, brochures, leaflets, or printed matter; replacement kits (of twine, cordage, ropes, or cables, of synthetic fibers; of plugs or sockets; of cushions for marine use); gasket maintenance or repair kits; kits of tubes, pipes, or hollow profiles, of seamless alloy steel; kits of circular cross section tubes, pipes, or hollow profiles (of welded stainless steel; of welded alloy steel); kits of bends, sleeves, or threaded elbows (of stainless steel; of iron or steel); kits of drain fit assemblies or fittings for stainless steel tubes and pipes; kits of tube or pipe

fittings (of iron or steel; of aluminum alloys); connector kits of stranded wire, ropes, or cables, of iron or steel, not electrically insulated; safety latch repair kits for timing or roller chains, of iron or steel; kits of screws, seals, springs, threaded screws and bolts, rod-links, bushings, nuts, non-threaded washers, rivets, non-threaded cotters or cotter pins, of iron or steel; starter drive repair kits of threaded nuts, of iron or steel; propeller hardware kits of non-threaded spring washers or lock washers, of iron or steel; kits of pins, rings, or clips, of iron or steel, non-threaded; remote control repair kits (of helical springs, of iron or steel; of springs or leaves for springs, of iron or steel); ratchet repair kits, drain plug kits, tilt lock lever kits, spacer kits, band kits, plate kits, clamp kits, coupler kits, bushing kits, pin kits, or rod end kits for marine engines, of iron or steel; water tube kits of refined copper tubes or pipes; tube seal kits of copper alloy tubes or pipes; connection kits or fitting assembly kits, of copper alloys; kits of non-threaded washers, prop nuts, screws, bolts, of copper, iron, or steel, with heads of copper; bushing repair kits, of copper; kits of screws, bolts, nuts, washers, of aluminum; service kits of anodes and drain tubes, of aluminum; kits of anodes and anode plates, of zinc; water hose repair kits; kits of hand tools; kits of vices; kits of clamps; kits of tiebars; kits of clamp brackets; kits of plate assemblies; kits of power trim; kits of swivel brackets; kits of base metal mountings; repair kits (for bracket mountings, of base metal; for marine engine pumps for both water and fuel; for needle roller bearings; for cylindrical roller bearings; for prop shafts, shift shafts, transmission shafts, or cranks; for lower unit bearing carriers or housed bearings; for bearing housings; for gears or bearings; for clutch lower units, gear lower units, or shaft couplings; for transmissions, coils, gear sets, shift rods, flywheels, control levers, or clutches; for gaskets or joints, of metal sheeting, combined with one or two more layers of metal; for rotary converters for electric motors or electric generating sets; for starters, motors, and dual purpose starter generators; for shafts, covers, armatures, or end caps for electrical ignition of marine motors; for valves, conversion kits, gear shift kits, attaching kits, or spring kits for electrical equipment; for coils, harnesses, rigging, cables, or ignition wiring sets for marine vessels; for wiring or wiring assemblies fitted with connectors); service repair kits, O-ring set kits, cylinder head kits, cylinder block kits, transom kits, oil line kits, float needle kits, steering attaching kits,

throttle control kits, shift shaft kits, valve intake kits, piston kits, tiller conversion kits, lever kits, cowl kits, connecting rod kits, manifold kits, riser kits, or carburetor kits for spark-ignition internal combustion piston engines; repower kits; exhaust kits; shaft guard kits; power trim kits, overhaul kits, or cylinder assembly trim kits for linear acting hydraulic power engines or motors; jet pump kits for hydraulic power engines and motors; bell housing kits; lever tilt stop kits; recoil starter kits and assemblies; end cap kits, manifold kits, spring kits, overhaul kits, handle kits, repair kits, gimbal ring kits, transom repair kits, starter kits, bracket kits, shift cable kits, shift handle kits, or extension arm kits for marine engines and motors; kits of pumps (hand; grease; fuel; primer bulb; oil; bilge; aerator; hand- or foot-operated air; air; vacuum); water pump kits, pump repair kits, pump service kits, fuel pump kits, and kits for lubricating or cooling pumps for marine internal combustion piston engines; kits of centrifugal pumps for liquids; impeller kits; vapor separator kits; housing kits; seal kits; kits of turbochargers for engines; compressor or turbo kits for air or vacuum pumps; kits of heat exchanger units; kits of heat exchanger assemblies; separator kits, filter kits, service kits, oil or fuel filter kits, and intake air filter kits for internal combustion engines; kits for filtering or purifying hydraulic fuel and separating oil, and water or air filtering kits for marine engines and equipment; vessel view kits; automatic data processing machine kits; kits of valves (for oleohydraulic or pneumatic transmissions; water; check (nonreturn); safety; relief); float valve kits, regulator kits, throttle body kits, injector kits, solenoid kits, diaphragm kits, needle valve kits, purge vent kits, or thermostatic control valve kits for marine engine pipes and fuel tanks; repair kits, thermostat kits, control valve kits, and valve kits for pipes and tanks; kits of bearings (ball; tapered roller); bearing installation kits; kits of flywheels or pulleys; gasket sets; gearcase seal kits; joint kits of metal sheeting; kits of propellers; kits of electric motors and generators, with an output not exceeding 37.5W; tilt repair kits or trim repair kits for shift actuators and DC electric motors or generators with an output not exceeding 750W; charging kits; static converter kits; electromagnet kits; service kits for spark plugs; flywheel kits; ignition magneto kits; magneto-dynamo kits; magnetic flywheel kits; kits of distributors; kits of ignition coils; alternator kits; generator kits; voltage regulator kits, relay kits or

voltage-current regulator kits with cut-out relays; kits of transmission equipment or voice, image, or data reception equipment for communication in a wire or wireless network; kits of GPS unit or radio navigational aid equipment; monitor kits or indicator panel kits with LCDs or LEDs; horn kits, lamp kits, or electric sound or visual signaling equipment kits; trim sender kits; variable resistor kits; fuse kits; automatic circuit breaker kits; kits of relays, for a voltage not exceeding 60V; relay kits; switch kits to switch or protect electrical circuits; kits of boards, panels or consoles for electric control or distribution of electricity; shim kits, fuse block holder kits, rigging kits, or kits of electrical equipment for switching or protecting electrical circuits, boards, or panels; kits of diodes, not photosensitive or light-emitting; anode kits for electroplating a marine engine to prevent corrosion; handle kits; throttle kits; helm kits; conversion kits; electric control unit kits; kits of electrical insulators for wire harnesses; kits of plastic insulating fittings; kits of thermometers or pyrometers; lube bottle kits, dip stick kits, oil gauge kits, or kits of instruments and equipment for measuring or checking the flow or level of liquids; sensor kits, oil pressure kits, or kits of instruments and equipment for measuring or checking pressure of liquids or gases; gauge kits, sensor kits, or kits of instruments and equipment for measuring and checking flow level and pressure of liquids or gases; pressure kits, float kits, shaft kits, bezel kits, or kits of instruments and equipment for measuring flow level or pressure of liquids or gases; tachometer kits; speedometer kits; stroboscope kits; speedometer pickup kits; tachometer module kits; bezel gauge kits for revolution counters; production counter kits; odometer kits; kits of instruments and equipment for measuring and checking voltage, current, resistance, or power; crank position sensor kits, level kits, voltage gauge kits, or current sensor kits for marine engine instruments; trim sensor kits, monitor kits, sensor kits, or indicator kits for measuring or checking marine engine performance; thermostat kits; automatic regulating or controlling kits for marine engine instrument and equipment performance; rotor kits or housing kits for automatic regulating or controlling marine engine instrument and equipment performance; kits of seats (with wooden frames; with frames not of metal, wood, or bamboo); and, plastic furniture kits (duty rate ranges from duty-free to 9.9%).

The proposed foreign-status materials and components include: prepared glues and prepared adhesives based of rubber or plastic (including artificial resins); catalysts for marine engines; rigid tubes, pipes, hoses, or fittings (of polymers of ethylene; of plastics); tubes, pipes, or hoses (of plastic; of plastic, with fittings); non-rigid tubes, pipes, or hoses, of plastic, reinforced with metal or PVC; plastic components (fittings; self-adhesive labels; sheet, strip, or film; stoppers; lids; caps; closures; emblems or ornaments for boats; gaskets; covers; inserts; clamps; clips; bushings; washers; plugs; insulating fittings; seats with frames; furniture); sacks and bags (of polymers of ethylene; of plastics, not polymers of ethylene); plates, sheet, strip, and profile shapes of vulcanized, noncellular rubber; non-reinforced vulcanized rubber tubes, pipes, or hoses (with or without fittings); reinforced vulcanized rubber tubes, pipes, or hoses, with fittings; metal reinforced vulcanized rubber tubes, pipes, or hoses, with fittings; textile reinforced vulcanized rubber tubes, pipes, or hoses (with or without fittings); reinforced rubber hose assemblies (with or without fittings); vulcanized rubber components (endless transmission belts of trapezoidal cross section V-belts (V-ribbed, not exceeding 180 cm; not V-ribbed, not exceeding 180 cm; not V-ribbed, of an outside circumference exceeding 180 cm but not exceeding 240 cm); transmission belts, belting, or endless synchronous belts, with an outside circumference exceeding 60 cm but not exceeding 150 cm; transmission belts or belting; gaskets; washers; seals; plugs; grommets; mounts; fittings; O-rings; bushings); belonging bags or sacks, with an outer surface of plastic sheeting; plywood; veneered panels; laminated wood; paper or paperboard, cut to size or shape; printed books, brochures, leaflets, or printed matter; twine, starter rope, safety rope, cordage, ropes, or cables, of synthetic fibers; gaskets, of carbon fibers; tubes, pipes, or hollow profiles, of seamless alloy steel; welded circular cross sections of tubes, pipes, or hollow profiles (of stainless steel; of alloy steel); stainless steel components (threaded elbows; bends; sleeves; tube or pipe fittings); iron or steel components (threaded elbows; bends; sleeves; tube or pipe fittings; stranded wire, ropes, or cables, not electrically insulated; timing chains or roller chains; coach screws; self-tapping screws; threaded screws, bolts, nuts, rods, and bushings; non-threaded washers, spring washers, lock washers, cotters and cotter pins, pins, rings, and clips; rivets; helical springs; springs or

leaves for springs; washers; clips; fittings; hooks; straps; spacers; rings; bushings; plates); copper components (tubes or pipes (of refined copper; of copper alloys); tube or pipe fittings, of copper alloys; stranded wire or cables; plugs; clips; ends; retainers; bushings; elbows; covers, plugs, connectors, plates, rings, caps, holders, or housings for electrical equipment for switching or protecting electrical circuits boards or panels; winding wire); non-threaded washers, pins, retaining rings, screws, bolts, or nuts of copper, iron, or steel with heads of copper; aluminum components (tubes or pipes, of aluminum alloys; tube or pipe fittings; screws; bolts; nuts; washers; spacers; bushings; plates; sleeves; clamps; inserts; heads, collars, nose cones, columns, or covers for electric motors or electric generating sets and rotary converters); anodes, of zinc; hand-operated spanners or wrenches (adjustable and non-adjustable); socket wrenches, drives, or extensions; hand tools; base metal components (padlocks; locks; mountings; bracket mountings or fixtures); components for marine engines (powerheads; drives; transoms; valves; inserts; covers; collars; plates; end caps; hydraulic fluid power pumps; turbo chargers; water filtering strainers, purifying strainers, or screen struts; housings; screens; filtering equipment; solenoids; triggers; plugs; rotors; contact sets; rev limiters; starting equipment; carbon-film fixed internal resistors; internal resistors); pistons, shift shafts, shift levers, fuel bowls, throttle controls, levers, covers, retainers, or shafts for spark-ignition internal combustion piston engines; linear acting hydraulic power engines and motors; hydraulic power engines and motors; recoil starters; blocks, link rods, actuators, covers, tubes, pistons, or scrapers for marine engines and motors; various pumps (hand; grease; fuel; primer bulb; oil; fuel, lubricating, or cooling medium for internal combustion piston engines; centrifugal, bilge, or aerator for liquids; hand- or foot- operated air; air; vacuum); impellers, inserts, liners, bases, faceplates, shafts, or grommets for marine engine pumps; shields, manifolds, compressors, adapters, or restrictors for air or vacuum pumps; heat exchanger units; heat exchanger assemblies; covers, plates, connections, or housings to protect sections of a marine engine; filters for internal combustion engines (oil; fuel; intake air); automatic data processing machines; shock absorbers, handles, tillers, swivel brackets, or starters to support the use of marine engines; tie rods; levers; pucks; plates; pads; links;

handles of mounts; front or back mounts; various valves (pressure-reducing; for oleohydraulic or pneumatic transmissions; check (nonreturn); safety; relief); regulators, throttle bodies, solenoids, purge vents, valves, floats, nozzles, dampers, covers, joints, or brackets for pipes and tanks; steel components (ball bearings; tapered roller bearings; spherical roller bearings; needle roller bearings; cylindrical roller bearings; needles; rollers); tapered roller bearings, ball bearing washers, thrust bearings, or bearing spacers, of steel, aluminum, or plastic; transmission shafts, shift shafts, or cranks; bearing carriers; housed bearings; bearing housings; gears or gearing; flywheels; pulleys; clutches; shaft couplings; thrust rings, drain plugs, flush plugs, control levers, gearcase covers, ideal exhaust covers, shift arms, shift levers, forward gears, bevel gears, joints, sprockets for transmission shafts, cranks, flywheels, clutches, or shaft couplings, of copper, steel, or aluminum; gaskets or joints, of metal sheeting; propellers, of stainless steel or aluminum; steel or aluminum components (seals; fittings; thrust washers; hubs; shafts, covers, armatures, end caps, clamps, pinions, or bushings for electrical ignition or starting equipment); electric motors and generators with an output not exceeding 37.5W; DC electric motors and generators with an output not exceeding 75kW; static converters; spark plugs; ignition magnetos; magneto-dynamos; magnetic flywheels; distributors; ignition coils; starter motors or dual purpose starter generators; generators; alternators; equipment for transmission or reception of voice, images, or other data for communication in a wire or wireless network; GPS units; radio navigational aid equipment; antennas; antenna reflectors; indicator panels with LCDs or LEDs; horns, buzzer, lamps, and equipment for electric sound or visual signaling; dielectric electrical capacitors, of plastic or paper; variable resistors; fuses; motor overload protectors; electrical circuits protectors; relays, for a voltage not exceeding 60V; relays; switches to switch or protect electrical circuits; lamp-holders; plugs; sockets; equipment to switch circuits or circuit protectors; boards, panels, or consoles for electric control or distribution of electricity; electrical filament lamps, not ultraviolet or infrared; diodes, not photosensitive or light-emitting; anode assemblies; electrical control units or modules; covers, housings, gear shifts, link rods, handles, joints, bezels, triggers, knobs, barrels, rollers, racks, throttle levers, plates, carriers, levers, or pivots, of

electrical equipment for marine engines, of base metal or plastic; ignition wiring sets or wiring sets for ships, vessels, or boats; wiring assemblies fitted with connectors, not exceeding 1,000V; electric conductors not fitted with connectors (not exceeding 1,000V; exceeding 1,000V); electrical insulators; sensors, tri-ducers, live scopes for ice fishing, GPS, sonar fish finders and underwater navigational instruments; caps, bezels, port covers, gaskets, or doors for compasses, navigational instruments and equipment, of plastic or elastomers; thermometers; pyrometers; dip sticks; various gauges (fuel level; oil level; oil pressure; water pressure; compression pressure; trim); water flow detectors; gauges and sensors for measuring or checking the flow, level, or pressure of liquids or gases; adaptors, bezels, covers, or shafts, for measuring the flow, level, or pressure of liquids or gases; speedometers; tachometers; stroboscopes; mechanical senders, tachometers, bezels, odometers, or speedometers for revolution counters or production counters; multimeters without a recording device; voltmeters or battery voltage analyzers; crank position sensors; laser levels; tip and tell sensors; gauges, sensors, testers, probes, or indicators measuring or checking marine engine performance; thermostats; temperature and map sensors for automatic regulating or controlling the thermostats or locators in marine engines; housings, covers, and adaptors for thermostats; seats with wooden frames; and, cushions for boats, of foams, vinyl, and elastomers (duty rate ranges from duty-free to 12.5%). The request indicates that certain materials/components are subject to duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is November 28, 2022.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Juanita Chen at Juanita.Chen@trade.gov.

Dated: October 11, 2022.

Andrew McGilvray,
Executive Secretary.

[FR Doc. 2022-22438 Filed 10-14-22; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-48-2022]

Foreign-Trade Zone (FTZ) 82—Mobile, Alabama; Notification of Proposed Production Activity; Aker Solutions, Inc. (Subsea Oil and Gas Systems); Mobile, Alabama

Aker Solutions, Inc., submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Mobile, Alabama under FTZ 82. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on October 6, 2022.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz. The proposed material(s)/ component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed foreign-status material is steel wire rope (duty-free). The request indicates that steel wire rope is subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) and section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is November 28, 2022.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: October 11, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–22455 Filed 10–14–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051]

Certain Hardwood Plywood Products From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that six exporters of certain hardwood plywood products (hardwood plywood) from the People’s Republic of China (China) under review had no shipments of subject merchandise during the period of review (POR) January 1, 2021, through December 31, 2021. Commerce also preliminarily determines that the remaining 14 companies subject to this review are part of the China-wide entity because they did not demonstrate eligibility for separate rates.

DATES: Applicable October 17, 2022.

FOR FURTHER INFORMATION CONTACT: Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3053.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2018, Commerce published in the **Federal Register** the antidumping duty order on hardwood plywood from China.¹ On January 11, 2022, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On March 9, 2022, based on a timely request for an administrative review, Commerce initiated the administrative review with respect to 20

¹ See *Certain Hardwood Plywood Products from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 1396 (January 11, 2022).

exporters.³ Subsequently, we released U.S. Customs and Border Protection (CBP) data to interested parties for comment.⁴

Between March 17 and April 8, 2022, we received timely no-shipment certifications from six companies.⁵ We did not receive a no-shipment statement, separate rate application (SRA), or separate rate certification (SRC) from any other company subject to this review.

For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum.⁶ A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix III to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the scope of this *Order* is hardwood plywood from China. A complete description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.⁷

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213.

Preliminary Determination of No Shipments

Based upon the no-shipment certifications received by Commerce, and our review of the CBP data, we

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 13252 (March 9, 2022).

⁴ See Memorandum, “Release of U.S. Customs and Border Protection Data,” dated March 15, 2022.

⁵ We received timely no-shipment certifications from the following companies: (1) Cosco Star International Co., Ltd.; (2) Linyi Evergreen Wood Co., Ltd.; (3) Linyi Huasheng Yongbin Wood Co., Ltd.; (4) Linyi Sanfortune Wood Co., Ltd.; (5) Shanghai Luli Trading Co., Ltd.; and (6) Suqian Hopeway International Trade Co., Ltd.

⁶ See Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Hardwood Plywood Products from the People’s Republic of China; 2021,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ *Id.*

preliminary find that six companies had no shipments during the POR.

Commerce requested that CBP confirm whether any shipments of subject merchandise entered the United States during the POR with respect to the six companies that submitted no-shipment claims, and CBP responded that it has no record of any subject entries for these six inquiries.⁸ For additional information regarding this determination, see the Preliminary Decision Memorandum. Consistent with our assessment in non-market economy administrative reviews,⁹ Commerce is not rescinding this review for these six companies.¹⁰ Commerce intends to complete this review and issue appropriate instructions to CBP based on the final results of this review.

Separate Rates

Because the other 14 companies under review did not submit an SRA or SRC, Commerce preliminarily determines that these companies have not demonstrated their eligibility for separate rates.¹¹ For additional information, see the Preliminary Decision Memorandum.

China-Wide Entity

Commerce’s policy regarding conditional review of the China-wide entity applies to this administrative review.¹² Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the China-wide entity.¹³ Because no party requested a review of the China-wide entity in this review, the China-wide entity is not under review and the China-wide entity’s rate (*i.e.*, 183.36 percent) is not subject to change.¹⁴ For additional information, see the Preliminary Decision Memorandum.

⁸ See Memoranda, “No Shipment Inquiry for Suqian Hopeway International Trade Co., Ltd. During the Period 01/01/2021 through 12/31/2021,” dated May 20, 2022; “No Shipment Inquiry for Shanghai Luli Trading Co., Ltd. During the Period 01/01/2021 through 12/31/2021,” dated May 20, 2022; and “No Shipment Inquiry for Certain Companies During the Period 01/01/2021 through 12/31/2021,” dated June 13, 2022.

⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694–95 (October 24, 2011) (*NME Proceedings*); see also “Assessment Rates” section, *infra*.

¹⁰ See Appendix II.

¹¹ See Appendix I.

¹² See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹³ *Id.*

¹⁴ See *Order*, 83 FR at 512.

Public Comment

In accordance with 19 CFR 351.309(c), case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹⁵ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to those issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.¹⁷ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. An electronically filed hearing request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Upon issuance of the final results of this review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁸ We have not calculated any assessment rates in this administrative review. Based on record evidence, we have preliminarily determined that six companies had no shipments of subject merchandise and, therefore, pursuant to Commerce's

assessment practice, any suspended entries that entered under their case numbers, where available, will be liquidated at the China-wide entity rate.¹⁹ For all remaining companies subject to this review, which are part of the China-wide entity, we will instruct CBP to liquidate their entries at the current rate for the China-wide entity (*i.e.*, 183.36 percent). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the six companies that had no shipments during the POR will remain unchanged from the rates assigned to them in the most recently completed segment for each company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate,²⁰ the cash deposit rate will be the rate for the China-wide entity (*i.e.*, 183.36 percent); and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs,

within 120 days of publication of these preliminary results of review, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1).

Dated: October 3, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Companies Not Eligible for a Separate Rate

1. Anhui Hoda Wood Co., Ltd.
2. Happy Wood Industrial Group Co., Ltd.
3. Jiaying Hengtong Wood Co., Ltd.
4. Linyi Chengen Import and Export Co., Ltd.
5. Linyi Glary Plywood Co., Ltd.
6. Linyi Jiaye Wood Industry Co., Ltd.
7. Qingdao Top P&Q International Corp.
8. Shanghai Brightwood Trading Co., Ltd.
9. Shanghai Futuwood Trading Co., Ltd.
10. Suzhou Oriental Dragon Import and Export Co., Ltd.
11. Xuzhou Jiangheng Wood Products Co., Ltd.
12. Xuzhou Jiangyang Wood Industries Co., Ltd.
13. Xuzhou Timber International Trade Co., Ltd.
14. Zhejiang Dehua TB Import & Export Co., Ltd.

Appendix II—Companies Preliminarily Found To Have No Shipments

1. Cosco Star International Co., Ltd.
2. Linyi Evergreen Wood Co., Ltd.
3. Linyi Huasheng Yongbin Wood Co., Ltd.
4. Linyi Sanfortune Wood Co., Ltd.
5. Shanghai Luli Trading Co., Ltd.
6. Suqian Hopeway International Trade Co., Ltd.

Appendix III—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology

¹⁵ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

¹⁶ See *Temporary Rule Modifying AD/CVD Service Requirements Due to Covid-19, Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁷ See 19 CFR 351.310(d).

¹⁸ See 19 CFR 351.212(b)(1).

¹⁹ For a full discussion of this practice, see *NME Proceedings*.

²⁰ See Appendix I.

V. Recommendation

[FR Doc. 2022-22442 Filed 10-14-22; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Discovery and Information Sharing Event Regarding Direct Realization of Mass

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is providing a public opportunity to learn more about NIST efforts to develop a tabletop Kibble balance aimed at realizing mass [500 mg–20 g], with uncertainties of parts in 10^6 , and traceable to the new quantum International System of Units (SI). The two-hour virtual meeting will take place October 19, 2022, 11 a.m.–1 p.m. eastern time.

DATES: The workshop will be held on October 19, 2022, 11 a.m.–1 p.m. eastern time. Registration is not required but requested via email to Leon Chao at leon.chao@nist.gov.

ADDRESSES: The workshop will be held virtually via webinar. Participation information:

MS Teams Meeting Link:

Meeting ID: 236 220 981 414

Passcode: pV482e

Or call in (audio only):

+1 443-339-4347

Phone Conference ID: 206 869 111#

FOR FURTHER INFORMATION CONTACT: For questions about this workshop contact: Leon Chao, U.S. Department of Commerce, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Gaithersburg, MD 20899, telephone: (301) 975-4763, email: leon.chao@nist.gov. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975-2762.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology (NIST) is providing a public opportunity to learn more about NIST efforts to develop a tabletop Kibble balance aimed at realizing mass [500 mg–20 g], with uncertainties of parts in 10^6 , and traceable to the new quantum International System of Units (SI). A first-generation prototype, KIBB-g1 (patented by NIST), has proven gram-level masses can be directly realized via a tabletop-sized, low complexity, affordable system. Several government agencies are collaborating with NIST to

develop a second-generation model (provisional patent submitted).

NIST is inviting industry leaders in mass metrology and precision balance manufacturing, as well as other interested parties, to attend a two-hour virtual meeting to learn more about the next generation tabletop Kibble balance and opportunities for potential collaboration with NIST to advance this technology.

Authority: 15 U.S.C. 272(b) & (c).

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2022-22524 Filed 10-14-22; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC428]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Mayflower Wind Project Offshore of Massachusetts

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

ACTION: Notice; receipt of application for regulations and Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from Mayflower Wind, LLC (Mayflower Wind) for authorization to take small numbers of marine mammals incidental to the Mayflower Wind Project in a designated lease area on the Bureau of Ocean Energy Management's (BOEM) Lease Area Outer Continental Shelf (OCS)-A-0521 offshore of Massachusetts, over the course of 5 years beginning on April 1, 2025. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Mayflower Wind's request for the development and implementation of regulations governing the incidental taking of marine mammals and issuance of a 5-year Letter of Authorization (LOA). NMFS invites the public to provide information, suggestions, and comments on Mayflower Wind's application and request.

DATES: Comments and information must be received no later than November 16, 2022.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine

Fisheries Service and should be sent to ITP.Esch@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Carter Esch, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of Mayflower Wind's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. In case of problems accessing these documents, please email the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

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 issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 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.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, 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).

In Executive Order 14008, President Biden stated that it is the policy of the United States to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Summary of Request

On March 18, 2022, NMFS received an application from Mayflower Wind requesting authorization to take marine mammals incidental to construction activities associated with the Mayflower Wind Offshore Wind Project offshore of Massachusetts in the designated Lease Area OCS-A-0521. In response to our comments, and following extensive information exchange with NMFS, Mayflower Wind submitted a final, revised application on September 14, 2022, which we determined was adequate and complete on September 19, 2022. Mayflower Wind requested the regulations and subsequent LOA be valid for 5 years beginning on April 1, 2025.

Mayflower Wind plans to conduct wind farm construction activities, including impact and vibratory pile driving, cable installation, unexploded ordnances (UXO) detonation, and high-resolution geophysical (HRG) site characterization surveys to build and operate the Mayflower Wind Project. Vessel use and fishery surveys will also be necessary to support the project. The

proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater noise during pile driving, UXO detonation, and HRG surveys, thereby resulting in incidental take, by Level A harassment and/or Level B harassment, of marine mammals. Therefore, Mayflower Wind requests authorization to incidentally take marine mammals.

Specified Activities

Through a competitive leasing process under 30 CFR 585.211, Mayflower Wind was awarded Commercial Lease OCS-A 0521 offshore of Massachusetts and the exclusive right to submit a construction and operations plan (COP) for activities within the lease area. Mayflower Wind has submitted a COP to BOEM proposing the construction, operation, maintenance, and conceptual decommissioning of the Mayflower Wind Project, a 2,400 megawatt (MW) capacity commercial-scale offshore wind energy facility consisting of up to 147 wind turbines, up to five offshore sub-stations, and two export cable corridors making landfall in Falmouth and Somerset, Massachusetts.

Mayflower Wind anticipates the following activities may potentially result in harassment of marine mammals during the effective period of the requested regulations and associated LOA:

- Installing up to 147 WTG monopile foundations with a maximum diameter tapering from 9 meters (m; 30 feet (ft)) above the waterline to 16 m (39 ft) below the waterline (9/16-m monopile) using a vibratory hammer and 6,600 kJ impact hammer, or installing up to 588 pin piles with a 4.5-m maximum diameter to support up to 147 WTGs using a vibratory hammer and a 3,500 kJ impact hammer;
- Installing up to five 9/16-m diameter OSP monopile foundations using a 6,600 kJ impact hammer, or installing up to 135 pin piles with a 4.5-m maximum diameter to support five OSPs using a 3,500 kJ impact hammer;
- Using HRG equipment to survey approximately 27,000 kilometers (km) (16,777 miles (mi)) over 338 days across all 5 years (2025–2030);
- Detonating up to 10 UXOs over the course of 5 years with no more than 1 UXO detonation occurring on any given day.

Information Sought

Interested persons may submit information, suggestions, and comments concerning Mayflower Wind’s request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments

related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Mayflower Wind, if appropriate.

Dated: October 11, 2022.

Kimberly Damon-Randall,
Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2022–22425 Filed 10–14–22; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 19, 2022—11:30 a.m.; and Wednesday, October 19, 2022—2:00 p.m. (See **MATTERS TO BE CONSIDERED** for each meeting).

PLACE: These meetings will be held remotely.

STATUS: Commission meetings—open to the public.

MATTERS TO BE CONSIDERED:

Decisional Matter

Final Rule: Safety Standard for Clothing Storage Units (Decisional Matter).

All attendees should pre-register for the Commission meeting using the following link: <https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e4492a8eec00e0d15cdb2e77f32f33d19>.

After registering you will receive a confirmation email containing information about joining the meeting.

Briefing Matter

Final Rules to (1) Add Window Covering Cords to the Substantial Product Hazard List, and (2) Establish a Safety Standard for Operating Cords on Custom Window Coverings.

All attendees should pre-register for the Commission meeting using the following link: <https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e498d881d4c2070fb48eade3acc83c308>.

After registering you will receive a confirmation email containing information about joining the meeting.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: October 12, 2022.

Alberta E. Mills,
Commission Secretary.

[FR Doc. 2022–22567 Filed 10–13–22; 11:15 am]

BILLING CODE P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DoD–2022–OS–0119]

Department of Defense Science and Technology Reinvention Laboratory Personnel Demonstration Project Program

AGENCY: Under Secretary of Defense for Research and Engineering (USD(R&E)), Department of Defense (DoD).

ACTION: This notice provides new student and recent graduate direct hire authority to all Science and Technology Reinvention Laboratories (STRL) with published Personnel Demonstration (Demo) Project plans.

SUMMARY: STRLs may implement a direct hire authority for students and recent graduates for occupations which do not require expertise in science, technology, engineering, or mathematics (STEM). The Professional, Administrative, Assistant, Clerical and Technician Student Employment Program (PAACTSEP) is a student program which permits appointment and noncompetitive conversion to the competitive service for qualified candidates who are enrolled in a qualifying educational institution.

DATES: This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** notice published. To be considered, written comments must be submitted on or before November 16, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket 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.

FOR FURTHER INFORMATION CONTACT:

Department of Defense:

- Office of Under Secretary of Defense (Research and Engineering), Laboratories and Personnel Office: Dr. Jagadeesh Pamulapati, 571–372–6372, Jagadeesh.pamulapati.civ@mail.mil.
- 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, 830–469–2057, Marlowe.Richmond.civ@army.mil.
 - Army Research Institute for the Behavioral and Social Sciences: Dr. Scott Shadrack, 254–288–3800, Scottie.B.Shadrack.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: Ms. Angela Clybourn, 443–395–2110, Angela.M.Clyborn.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@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.

SUPPLEMENTARY INFORMATION: STRLs may appoint students to flexible length and renewable student term or temporary appointments and may appoint recent graduates to temporary, term, or permanent appointments without regard to subchapter I of chapter 33 of title 5 United States Code (U.S.C.) (other than sections 3303 and 3328). This direct hire authority is similar to the student direct hire authority in 10 U.S.C. 4091, as implemented in the STEM Student Employment Program (SSEP) published in 82 FR 29280, except it is for students seeking employment in professional, administrative, assistant, clerical, and technician positions.

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. STRLs implementing this flexibility must have an approved personnel management demonstration project plan published in a FRN and must fulfill any collective bargaining obligations. Each STRL will establish internal operating procedures (IOPs) as appropriate.

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 Armaments Center
- Combat Capabilities Development Command Army Research Laboratory

- 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 Systems Command Warfare Centers
- 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. Overview

I. Introduction

A. Purpose

In addition to leveraging existing student and recent graduate hiring flexibilities to pursue scientific and engineering (S&E) talent, STRLs may implement additional flexibilities to recruit for other occupations, to include professional, administrative, and technical occupations, in order to support, maintain and advance each STRL's technologies and mission.

The purpose of this direct-hire authority is to create a streamlined and accelerated hiring and appointment process to access a pipeline of high-quality students and recent graduates and successfully compete with private industry when filling STRL professional, administrative, assistant, clerical, and technician positions.

To effectively implement PAACTSEP this FRN:

1. Establishes a student program which aligns students appointed under this authority to a pay band or grade commensurate with education and experience.

2. Applies the flexible length and renewable student term appointment authority in 82 FR 29280 for SSEP students to PAACTSEP students appointed for a period of at least one

year. This flexible length and renewable student term appointment may be for a period of more than one year but not more than six years, and may be extended in up to six-year increments. This authority provides a mechanism for students appointed under PAACTSEP to remain on a term appointment until completion of their educational program.

3. Establishes a temporary appointment authority for PAACTSEP students or recent graduates appointed for less than one year.

4. Establishes a student bonus authority designed to improve competitiveness with private industry in recruiting and retaining high caliber students. The bonus may be used to compensate PAACTSEP students for expenses related to program participation, to include, but not limited to, travel expenses when the worksite is in a different geographic location than that of the student's academic institution. STRLs also have authority to pay relocation expenses each time the student returns to duty at the laboratory.

B. Required Waivers to Law and Regulation

Waivers and adaptations of certain title 5 U.S.C. and 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. 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 notice.

C. Expected Benefits

This direct-hire authority and student program is expected to streamline the hiring of high-quality students to enable the STRLs to compete with private industry in recruiting and retaining recent graduates. This program covers students enrolled in qualifying educational institutions and certificate programs, as those terms are defined in 5 CFR 362.102. This competitive service direct-hire and noncompetitive conversion authority enhances the ability of STRLs to compete with private industry by improving recruiting efforts, providing clear career paths, and offering career progression opportunities for a large and diverse population of students and recent graduates who may not otherwise consider joining the STRL workforce.

D. 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 may use the provisions described in this FRN after the fulfillment of any collective bargaining obligations.

II. Personnel System Changes

A. Authority

STRLs may use the direct-hire authority to appoint students enrolled in qualifying educational institutions and certificate programs, as those terms are defined in 5 CFR 362.102. During each calendar year, each STRL may use this authority to appoint no more than 25 percent of the total number of non-STEM professional, administrative, assistant, clerical, and technician positions within the STRL that are filled at the close of the previous fiscal year. STRLs may appoint students to temporary or flexible length and renewable student term appointments in the competitive service and may appoint recent graduates to temporary, term, or permanent appointments in the competitive service. STRLs may provide eligible students noncompetitive conversion to term or permanent positions upon satisfaction of the graduation or certification requirements of the secondary or post-secondary educational institution and qualification requirements established by the Office of Personnel Management (OPM) for the position.

B. Definitions

1. STRL PAACTSEP positions are those non-STEM professional, administrative, assistant, clerical, and technician positions described in STRL IOPs, to include General Schedule positions.

2. As provided in 5 CFR 362.102, the following secondary and post-secondary educational institutions are a "qualifying educational institution":

(a) A public high school whose curriculum has been approved by a State or local governing body, a private school that provides secondary education as determined under State law, or a homeschool that is allowed to operate in a State; and

(b) Any of the following educational institutions or curricula that have been accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education:

- (i) A technical or vocational school;
- (ii) A 2-year or 4-year college or university;

- (iii) A graduate or professional school (e.g., law school, medical school); or
- (iv) A post-secondary homeschool curriculum.

3. Qualified candidates are defined as:

(a) Students who are enrolled in a qualifying educational institution or a certificate program as defined by 5 CFR 362.102. The qualifications in appendix C will apply to PAACTSEP appointments. Appointments may be at the highest grade or pay band for which the participant is qualified. Promotion requirements will be published in STRL IOPs.

(b) Recent graduates are those individuals who have completed the graduation requirements of a qualifying educational institution or the certification requirements of a certificate program as defined in 5 CFR 362.102.

4. "Employee" is defined by 5 U.S.C. 2105.

C. Provisions

1. Announcement and Assessment Process. Public notice is not required; however, if posting job opportunity announcements or advertisements, STRLs will ensure announcements and advertisements are concise and easily understood. If STRLs choose to advertise, the STRL IOPs will contain procedures for advertising positions pursuant to this authority in a manner that is most likely to provide diverse and qualified candidates and ensure potential applicants have appropriate information relevant to the positions available. Procedures must be consistent with merit system principles. Candidates will be assessed against job-related criteria, ensuring that applicants have the skills and behavioral attributes that lead to success in the position. Selectees for entry level positions requiring the Administrative Careers With America (ACWA) assessment must be assessed using the most recent, streamlined ACWA examination or a validated alternative assessment instrument (e.g., select USA HIRE assessments).

2. Appointments and Conversions.

(a) Students.

(1) Students may be initially appointed to pay banded or one- or two-grade interval positions for which they qualify in order to prepare them for conversion to the target position in a related pay band level or grade and occupational series upon completion of their academic degree or certificate program. Students being converted to positions requiring the ACWA assessment must be assessed as described in paragraph 2.II.C.1.

(2) Students may be appointed to temporary or flexible length and renewable student term positions.

a. Temporary Appointment.

Temporary appointments are typically used for short-term use (e.g., summer employment), however, temporary appointments may be made for up to one year and may be extended provided the criteria for the student appointment continues to be met.

b. Flexible Length and Renewable Student Term Appointment. The flexible length and renewable student term appointment authorized in 82 FR 29280 will be utilized for PAACTSEP students appointed for a period of at least one year but not more than six years. The appointment may be extended in up to six-year increments, and for the purposes of the PAACTSEP will expire 120 days after completion of the designated certificate program or academic course of study, unless the human resources office has been notified of the STRL's plan to noncompetitively convert the student to a new term or permanent position or to terminate the student. The eligibility criteria for the student appointment must continue to be met for the duration of the appointment. The duration of a PAACTSEP flexible length and renewable student term appointment is considered a trial period.

(3) Promotion. Students may be promoted while serving on the flexible length and renewable student term appointment to a higher grade/pay band level provided the student meets the program and qualification requirements for the position. Students may not be promoted while serving on a temporary appointment but may be converted to a new appointment at a higher grade/pay band level provided the student meets the qualification requirements for the higher grade/pay band position. Promotion requirements will be published in STRL IOPs.

(4) Qualified candidates may be appointed to STRL PAACTSEP positions without regard to the provisions of subchapter I of 5 U.S.C. chapter 33 (other than sections 3303 and 3328). The provisions of the career transition assistance programs in subparts B, F, and G of 5 CFR part 330 do not apply.

(5) When documenting personnel actions for PAACTSEP students, cite the first LAC/legal authority as Z2U/10 U.S.C. 4121 if appointing to pay band positions. Also cite LAC/legal authority Z5C/Direct-Hire Auth (STRL-PAACTSEP Students). If appointing to General Schedule, cite the first LAC/legal authority as Z5C/Direct-Hire Auth (STRL-PAACTSEP Students).

(b) Noncompetitive Conversion to Non-Student Appointment. PAACTSEP students on temporary or flexible length and renewable student term appointments may be noncompetitively converted to a term or permanent appointment upon program certification or graduation from the applicable institution of higher learning, provided the student meets all eligibility criteria and OPM qualification requirements for the position.

(1) The conversion request must be submitted to the human resources office within 120 days of completion of all degree requirements, but before the time-limited appointment expires.

(2) The provisions of the career transition assistance programs in subparts B, F, and G of 5 CFR part 330 do not apply to the noncompetitive conversions.

(3) When documenting personnel actions for noncompetitive conversions of PAACTSEP students to permanent or term appointments cite the first legal authority code (LAC)/legal authority as Z2U/10 U.S.C. 4121, if to a pay banded position. The second LAC/legal authority will be Z5C/Direct-Hire Auth (STRL-PAACTSEP Conv). If to General Schedule, cite the first LAC/legal authority as Z5C/Direct-Hire Auth (STRL-PAACTSEP Conv).

(c) Recent graduates.

Recent graduates may be appointed directly to the pay band level or grade and occupational series for which they qualify.

(1) Recent graduate appointments may be made on a temporary, term, or permanent basis.

(2) Qualified candidates may be appointed to STRL competitive service positions without regard to the provisions of subchapter I of 5 U.S.C. chapter 33 (other than sections 3303 and 3328). The provisions of the career transition assistance programs in subparts B, F, and G of 5 CFR part 330 do not apply.

(3) To be eligible, applicants must apply within two years of degree or certification (except for veterans precluded from doing so due to their military service obligation, who have up to two years after release from military service, to apply).

(4) When documenting personnel actions for recent graduates, cite the first LAC/legal authority as Z2U/10 U.S.C. 4121 if appointing to pay band positions. The second LAC/legal authority will be Z5C/Direct-Hire Auth (STRL Recent Graduate). If to General Schedule, cite the first LAC/legal authority as Z5C/Direct-Hire Auth (STRL Recent Graduate).

3. Classification/Pay Bands/Career Tracks. STRLs will use their existing pay band/career track level(s) to accommodate students hired under the PAACTSEP authority. Specific details regarding student classification pay band/career track level(s) will be included in STRL IOPs.

4. Probationary Period. PAACTSEP students converted to permanent, competitive service positions in a similar line of work without a break in service, may have time spent in the student program credited toward probationary period completion in accordance with 5 CFR 315.802, or an approved STRL Lab Demo extended probationary period requirement. STRL recent graduates will serve a probationary period in accordance with 5 CFR 315.802, or an approved STRL Lab Demo extended probationary period.

5. Career Tenure. Time spent under flexible length and renewable student term appointments counts toward career tenure. Time spent under a temporary appointment is not counted toward career tenure unless the student was converted from a temporary appointment to a flexible length and renewable student term appointment without a break in service of three days and was subsequently converted to a permanent position.

6. Recruitment and Pay Flexibilities.

(a) Tuition Assistance.

(1) Students may be eligible for tuition assistance. At the STRL Director's discretion, a student may be required to sign a written service agreement to continue in service for a period of up to three times the length of the time spent in training prior to accepting tuition assistance. The requirement for the length of the service obligation will be included in STRL IOPs.

(2) A student who is eligible to continue employment for the duration of the obligated service and who does not fulfill the service obligation may be required to provide repayment pursuant to 5 CFR 410.309(c).

(3) Expenses of training. PAACTSEP students may be paid travel expenses in the form of a student bonus or relocation incentive when the worksite is in a different geographic location than that of the student's academic institution. Pursuant to 5 U.S.C. 4109(a)(2), these expenses are considered training expenses and may be paid each time the student returns to duty to the STRL. Procedures for paying these expenses shall be documented in STRL IOPs.

(b) Pay Flexibilities.

(1) STRLs may use any applicable pay flexibility (e.g., recruitment, relocation, and retention incentives under 5 CFR part 575; student loan repayments under 5 CFR part 537 and 82 FR 78829; superior qualifications and special needs pay setting authority; maximum payable rate rule under 5 CFR part 531, subpart B; or demonstration project pay and bonus flexibilities). Procedures for paying these flexibilities shall be documented in STRL IOPs.

(2) Relocation Expenses. PAACTSEP students may receive a relocation incentive under 5 CFR part 575 to help with relocation expenses. The authority to pay relocation expenses is expanded to allow an STRL to pay a relocation incentive each time the student returns to duty at the laboratory. This authority applies to all PAACTSEP student positions in the STRLs and provides the ability to expand recruitment to top universities and incentivize mobility by paying additional expenses to students who accept employment outside of their geographic area. A relocation incentive may be paid when the worksite is in a different geographic location than that of the student's college and is intended to cover some or all the student's living expenses while working in the STRL. Procedures for paying these incentives shall be documented in STRL IOPs.

(3) Student bonus. A student bonus may be used to compensate PAACTSEP students without the requirement for a continuing service agreement as determined by the STRL. PAACTSEP students may be granted a student bonus for expenses related to PAACTSEP participation to include, but not limited to, travel expenses when the worksite is in a different geographic location than that of the student's academic institution. The student bonus is not part of basic pay. STRLs may pay the student bonus each time the student returns to duty at the laboratory. The use of this bonus will help to improve the STRLs competitiveness with private industry in recruiting and retaining high caliber students.

D. Personnel Considerations

1. Work Schedules. STRLs may impose limitations on the number of hours a PAACTSEP student can work per week that are more restrictive than applicable laws and regulations governing overtime and hours of work. Supervisors and students should agree on a work schedule that does not interfere with the academic schedule and that supports timely completion of the educational program.

2. Break in Program. STRL directors may authorize PAACTSEP participation by students who are not attending

classes at a qualifying educational institution or certificate program for a period of 120 days. The approval authority and criteria will be described in STRL IOPs.

3. Service Agreement. STRL IOPs will describe any service agreement requirement for students and recent graduates hired under this authority.

4. Training and Development. STRL IOPs will describe the training and development of students and recent graduates hired under this authority.

5. Performance evaluation. STRL IOPs will describe performance requirements and performance evaluations for students and recent graduates hired under this authority.

6. Extension/Termination of appointment. Temporary appointments expire upon the not-to-exceed date, unless extended. Flexible length and renewable student term appointments for PAACTSEP students will not exceed six year increments but will expire 120 days after completion of the designated academic course of study, unless the human resources office has been notified that the student will be noncompetitively converted to a permanent or term position as described in paragraph 2.II.C.2. Flexible length and renewable student term appointments may be extended if the individual continues to meet the definition of a "student" (i.e., enrolled in a qualifying academic program) as identified in Section 2.II.B.3 and meet any academic requirements specified by the employing STRL. Students may be terminated for reasons including, but not limited to, mission requirements/budget constraints, misconduct, poor performance (including academic), or suitability.

In cases where the STRL Director does not plan to convert the student to a permanent or term appointment, the PAACTSEP appointment may be terminated less than 120 days after completion of the designated academic course of study, subject to any applicable requirements of 5 U.S.C. chapter 75.

E. Evaluation

Procedures for evaluating this authority will be incorporated into the STRL demonstration project evaluation processes conducted by the STRLs, OUSD(R&E), or military department headquarters, as appropriate.

F. Reports

STRLs will track and provide information and data on the use of this authority when requested by the military department headquarters or OUSD(R&E).

APPENDIX A—WAIVERS TO TITLE 5, U.S.C AND TITLE 5 CFR

Title 5, United States Code	Title 5, Code of Federal Regulations
Subchapter I of chapter 33 of title 5 U.S.C. (other than sections 3303 and 3328)..	5 CFR 300–330, other than Subpart G of 300. Waived to the extent necessary to allow provisions of the direct hire authorities as described in this FRN.
5 U.S.C. 4108 (a)–(c)—Employee Agreements; Service after Training. Waived to allow: (1) the STRLs to determine if a service agreement is required and if so, to determine the period of required service for students employed under the Demo; (2) the Commanding Officer or the Laboratory STRL Director to waive in whole or in part a right of recovery; and (3) allow students to sign a service agreement up to three times the length of the training..	5 CFR part 316, subparts C–D—Waived to the extent necessary to allow provisions of the direct hire authorities as described in this FRN.
5 U.S.C. 5753—Recruitment and relocation bonuses. Waived to the extent necessary to allow those STRL scientific and engineering employees and positions to be treated as employees and positions under the General Schedule and to allow relocation incentives to be paid to PAACTSEP students whose worksite is in a different geographic location than that of the college in which enrolled each time they return to duty..	5 CFR 410.309—Waived to allow: (1) the STRLs to determine if a service agreement is required and if so, the period of required service for students employed under the demo; (2) the Commanding Officer or the STRL Director to waive in whole or in part a right of recovery; and (3) students to sign a service agreement up to three times the length of the training. 5 CFR part 575, subparts A and B—Recruitment and Relocation Incentives. Waived to the extent necessary to allow employees hired and positions under the PAACTSEP program to be treated as employees and positions under the General Schedule and to allow relocation incentives to be paid to PAACTSEP students whose worksite is in a different geographic location than that of the college in which enrolled each time they return to duty.

APPENDIX B—AUTHORIZED STRLS AND FEDERAL REGISTER NOTICES

STRL	FEDERAL REGISTER Notice
Air Force Research Laboratory	61 FR 60400, as amended by 75 FR 53076.
Joint Warfare Analysis Center	85 FR 29414.
Army Futures Command	Not yet published.
Army Research Institute for 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, as amended by 65 FR 53142 (AVRDEC and AMRDEC merged together).
Combat Capabilities Development Command Chemical Biological Center.	74 FR 68936.
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, as amended by 65 FR 32135.
Medical Research and Development Command	63 FR 10440.
Technical Center, US 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

Qualification Standards for STRL PAACTSEP Student Trainee Positions

The following table shows the amount of education required to qualify for appointments for PAACTSEP student positions covered by this FRN. Note: Equivalent combinations of education and experience are qualifying for all

positions for which both education and experience are acceptable. Enrollment in an accredited academic institution is required. An academic year of undergraduate education is defined as 30 semester hours, 45-quarter hours, or the equivalent in an accredited college or university, or approximately 36 weeks for at least 20 classroom hours per week in an accredited business,

technical, or secretarial school. See the “General Policies and Instructions” for the Qualification Standards Operating Manual for the definition of a full year of graduate education.

Requirements for STRL students in the Professional, Administrative, Assistant, Clerical, and Technician Student Employment Program):

Grade level or pay band equivalent	Level of education
GS-01 or Pay Band Equivalent	Enrollment in a high school diploma or General Education Diploma (GED) program.
GS-02 or Pay Band Equivalent	Completion of high school or GED diploma.
GS-03 or Pay Band Equivalent	Completion of 1 full academic year of post-high school study.
GS-04 or Pay Band Equivalent	Completion of 2 full academic years of post-high school study or an associate's degree.
GS-05 or Pay Band Equivalent	Completion of 4 academic years of post-high school study leading to a bachelor's or equivalent degree.
GS-07 or Pay Band Equivalent	Completion of 1 full academic year of graduate level education; or Eligibility under the Superior Academic Achievement Provision and completion of a bachelor's degree.
GS-09 or Pay Band Equivalent	Completion of 2 academic years of graduate level education, or a master's degree or equivalent graduate degree.
GS-11 or Pay Band Equivalent	For research positions, completion of all requirements for a master's or equivalent graduate degree. For non-research positions, completion of all requirements for a PhD or equivalent degree.

Appointments may be at the highest grade or pay band for which the participant is qualified. One full academic year of undergraduate; graduate; technical or high school education is the number of credit hours determined by the college, university or school to represent one year of full-time study. The high school curriculum must be approved by a State or local governing body. All education beyond the high school level must be accredited by an accrediting body or organization recognized by the U.S. Department of Education.

Special Provisions/or Students With Previous Related Education or Experience

Previous education and/or experience may be evaluated to determine the highest grade Level or pay band for which the student is qualified.

Dated: October 12, 2022.

Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022-22527 Filed 10-14-22; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2022-OS-0118]

Proposed Collection; Comment Request

AGENCY: Defense Counterintelligence and Security Agency (DCSA), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks

public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 16, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24 Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket 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.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments,

please write to Defense Counterintelligence and Security Agency, Industrial Security Integration and Application, Business Analysis and Mitigation Strategy Division, 27130 Telegraph Rd., Quantico, VA 22134; ATTN: Matthew Kitzman, or call 571-305-6042.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: FOCI Outside Director/Proxy Holder; OMB Control Number 0705-0005.

Needs and Uses: This information collection is necessary so that DCSA can provide proper monitoring and oversight of companies with Foreign Ownership, Control, or Influence (FOCI), while those companies provide services on a U.S. government contract. In order to mitigate conflict of interest risks, DCSA will designate Outside Director/Proxy Holder(s) (OD/PH) for the specified company. The OD/PH will be a cleared U.S. citizen who can ensure that the foreign owner is effectively insulated from the company in classified matters of the U.S. government. The overall intent of this collection is to prevent foreign interests from influencing the company's performance of classified contracts in matters of U.S. national security.

Affected Public: Individuals or households.

Annual Burden Hours: 4,050.
Number of Respondents: 1,800.
Responses per Respondent: 3.
Annual Responses: 5,400.
Average Burden per Response: 45 minutes.

Frequency: On occasion.

Dated: October 12, 2022.

Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022-22477 Filed 10-14-22; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DoD–2022–OS–0117]

Personnel Demonstration Project at the Army Futures Command Science and Technology Reinvention Laboratory (STRL)

AGENCY: Under Secretary of Defense for Research and Engineering (USD(R&E)), Department of Defense (DoD).

ACTION: Notice of proposal to adopt a STRL personnel management demonstration project plan and additional flexibilities.

SUMMARY: This serves as notice of the proposed adoption of STRL personnel demonstration project flexibilities by an STRL comprised of certain organizations within the U.S. Army Futures Command (AFC), known collectively as the AFC STRL. The organizations comprising the AFC STRL are: the U.S. Army Futures Command Headquarters and Headquarters Components (AFC HHC); the Futures and Concepts Center (FCC); Cross Functional Teams (CFTs); The Research and Analysis Center (TRAC); the Combat Capabilities Development Command (CCDC) Headquarters (also known as DEVCOM Headquarters); and the DEVCOM Analysis Center (DAC). The AFC STRL proposes to adopt, with some modifications, personnel demonstration project flexibilities implemented by the Combat Capabilities Development Command (CCDC) Army Research Laboratory (ARL); CCDC Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center (C5ISR); the Army Research Institute for the Behavioral and Social Sciences (ARI); the CCDC Armament Center (AC); the Technical Center (TC), U.S. Army Space and Missile Defense Command (USASMD); and the Joint Warfare Analysis Center (JWAC). Most flexibilities and administrative procedures are adopted without changes. However, modifications were made when necessary to address specific management and workforce needs. In addition, changes were made based on current law, best practices, and administrative guidance.

DATES: This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** notice published. To be considered, written comments must be submitted on or before November 16, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions must include the agency name, docket 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.

FOR FURTHER INFORMATION CONTACT:

- AFC STRL: Marlowe Richmond, (512) 726–4397, marlowe.richmond.civ@army.mil.

- Office of Under Secretary of Defense (Research and Engineering), DoD Laboratories, Federally Funded Research and Development Centers and University Affiliated Research Center Office: Dr. James B. Petro, (571) 286–6265, james.b.petro.civ@mail.mil.

SUPPLEMENTARY INFORMATION: As authorized by 10 United States Code (U.S.C.) 4121, the Secretary of Defense may carry out personnel demonstration projects at Department of Defense laboratories designated as DoD STRL. On May 13, 2021, certain elements of Army Futures Command (AFC) were designated as a single Science and Technology Reinvention Laboratory (STRL), known as the AFC STRL. The AFC STRL will administer a single personnel demonstration project, hereinafter referred to as the “Modernization Personnel Demonstration Project” or “Mod Demo,” for these AFC organizations: the AFC Headquarters and Headquarters Components, the Futures and Concepts Center, Cross-Functional Teams (CFTs), the Research and Analysis Center, and the U.S. Army Combat Capabilities Development Command (DEVCOM) Headquarters offices. In addition, the DEVCOM Data and Analysis Center (DAC), which is partially aligned with the Army Research Laboratory STRL, will be realigned, in its entirety, as part of the AFC STRL. The remaining organizations within AFC will continue to operate as independent STRLs under

their own personnel demonstration project authorities.

Through the USD(R&E), the Secretary exercises the authorities granted to the Office of Personnel Management (OPM) under 5 U.S.C. 4703 to conduct personnel demonstration projects at DoD laboratories designated as STRLs. All STRLs authorized pursuant to 10 U.S.C. 4121 may use the provisions described in this FRN. STRLs implementing these flexibilities must have an approved personnel demonstration project plan published in an FRN and must fulfill any collective bargaining obligations. Each STRL will establish internal operating procedures (IOPs) as appropriate.

1. Background

Many studies have been conducted since 1966 on the workforce quality of the laboratories and associated personnel. Most of the studies recommended improvements in civilian personnel policy, organization, and management. Pursuant to the authority provided in 10 U.S.C. 4121, several DoD STRL personnel demonstration projects have been implemented. The demonstration projects are “generally similar in nature” to the Department of Navy’s China Lake Personnel Demonstration Project. The terminology, “generally similar in nature,” does not imply an emulation of various features, but, rather, it implies a similar opportunity and authority to develop personnel flexibilities that significantly increase the decision authority of laboratory commanders and/or directors.

With the assistance of other DoD STRLs, to include the independent STRLs within AFC, and experts from across DoD, the AFC STRL operational planning team conducted a thorough review of STRL personnel practices, laws, regulations, and guidance to identify potential flexibilities that would allow the AFC STRL to create a contemporary, flexible personnel management system to attract, motivate, train, and retain a top-performing science, technology, and modernization workforce. In addition to existing flexibilities available to all DoD STRL, new flexibilities and modifications are being proposed for Mod Demo following study and analysis by the AFC STRL operational planning team.

Although the organizations comprising the AFC STRL are components of the umbrella AFC organization that is responsible for modernizing the Army, the varied composition of the AFC STRL modernization workforce, including headquarters personnel, analysts,

integrators, technology and concept creators, and traditional Science & Technology (S&T) innovators, requires significant personnel management flexibility. As a result, the proposed AFC STRL Mod Demo plan incorporates multiple IOPs, decentralized lines of authority, and new flexibilities adapted from other STRL demonstration projects.

The AFC STRL Mod Demo plan includes:

- (1) Changes to appointment authorities, hiring rules, and qualification standards;
- (2) Changes to pay setting rules and regulations;
- (3) Pay banding and simplified job classification;
- (4) Science, Technology, Engineering, and Mathematics (STEM) Student Employment Program (SSEP) and Accelerated Intern Compensation;
- (5) Sabbaticals;
- (6) Substitution for the Defense Performance Management and Appraisal Program (DPMAP);
- (7) Academic degree, certificate, and critical skills training;
- (8) Senior Scientific Technical Manager (SSTM) positions;
- (9) Changes to workforce shaping rules, such as Reduction-in-Force (RIF), Voluntary Early Retirement Authority (VERA), and Voluntary Separation Incentive Program (VSIP);
- (10) Voluntary Emeritus and Expert Program;
- (11) Improved incentives; and
- (12) Extended Probationary Periods.

Many aspects of a demonstration project are experimental. Modifications may be made from time to time as experience is gained, results analyzed, and conclusions reached on how the system is working, in accordance with the provisions of Department of Defense Instruction (DoDI) 3201.05, "Management of Science and Technology Reinvention Laboratory Personnel Demonstration Projects" (available at https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/320105p.PDF?ver=e_ePssSOULpXxcH2PcRhwA%3d%3d).

2. Overview

The AFC STRL will adopt flexibilities implemented by the following STRL Personnel Demonstration Project plans: CCDC AC, 76 FR 3744, January 20, 2011; ARI, 85 FR 76038, November 27, 2020; CCDC ARL, 63 FR 10680, March 4, 1998; CCDC C5ISR, 66 FR 54872, October 30, 2001; JWAC, 85 FR 29414, May 15, 2020; and USASMDC-TC, 85 FR 3339, January 21, 2020.

Adoption of STRL personnel demonstration project flexibilities will

enable the AFC STRL to achieve the best workforce for its modernization mission, adjust the workforce for change, improve workforce quality, and allow the AFC STRL to acquire and retain an enthusiastic, innovative, and highly educated and trained workforce for Army modernization. The purpose of the project is to demonstrate that the effectiveness of DoD organizations can be enhanced by allowing greater managerial control over personnel functions and, at the same time, expand the opportunities available to employees through a more responsive and flexible personnel system. Additionally, because AFC STRL component organizations are geographically dispersed to highly competitive recruitment areas, implementation of the AFC STRL Mod Demo is essential to competitively hire and retain a highly qualified workforce.

3. Access to Flexibilities of Other STRLs

Flexibilities published in this FRN will be available for use by DoD laboratories designated as STRLs pursuant to 10 U.S.C. 4121, including any newly designated STRLs, if they wish to adopt them in accordance with DoDI 3201.05, and after the fulfillment of any collective bargaining obligations.

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I. Executive Summary

AFC leads a continuous transformation of Army modernization in order to provide future warfighters with the concepts, capabilities, and organizational structures they need to dominate a future battlefield. AFC is the newest Army Command, established in 2018 when the Army consolidated many of its laboratories, concepts development centers, and innovation elements under one command structure.

Although the organizations comprising the AFC STRL share the same overarching modernization mission, their specific alignments, structures, and workforces differ dramatically. The organizations include two large headquarters elements, two analysis centers, multiple cross functional teams, and two concepts and capabilities development organizations. They all share the urgent need for a high-quality, contemporary, flexible personnel management system to attract, motivate, train, and retain a top-performing science, technology, and modernization workforce.

The goal of the AFC STRL Mod Demo is to make AFC STRL a premier employer with growth opportunities, competitive pay, and management flexibilities to take care of both employees and the mission. The AFC STRL Mod Demo features pay banding, performance-based compensation, flexible hiring, and a modern approach to career progression and assignments.

II. Introduction

A. Purpose

The purpose of STRL personnel demonstration projects is to demonstrate that the effectiveness of DoD STRLs can be enhanced by expanding opportunities available to employees and by allowing greater managerial control over personnel functions through a more responsive and flexible personnel system. A top-tier workforce is essential to the AFC STRL's efforts towards achieving technological innovation and modernization for the Army. AFC STRL needs a contemporary, flexible personnel management system to attract, motivate, train, and retain a top-performing science, technology, and modernization workforce. The goal of this project is to ensure AFC STRL remains a premiere employer with growth opportunities, appropriate pay,

and management flexibility to take care of both employees and the mission.

While many aspects of a demonstration project were once considered experimental, many have been implemented in various DoD laboratories for several years, to include other STRLs within AFC. Modifications to the initial project plans have been made based on the implementation experience of these laboratories, best practices, and formative evaluation efforts. Additional modifications may be needed from time to time, as additional experience is gained and based on evaluations of how the system is working to meet the goals and objectives of the personnel demonstration project.

B. Problems With the Present System

The current Civil Service General Schedule (GS) system has 15 grades with 10 levels each and involves lengthy, narrative, individual position descriptions, which must be classified by complex Title 5 classification standards. Base pay is set at one of those fifteen grades and the ten interim steps within each grade. The Classification Act of 1949 rigidly defines types of work by occupational series and grade, with very precise qualifications for each job. This system does not quickly or easily respond to new ways of designing work and changes in the work itself. Changes to the classification and pay system would enable greater management control to create new types of jobs that respond to the fast-changing world of modernization work in which AFC STRL is engaged.

In addition to classification issues, the GS system's approach to career flexibility, progression, and changing work assignments is rigid, slow, and designed for industrial-era employees who entered Civil Service and remained until retirement. Modern employees expect careers that include frequent company changes, new challenges, and work-life balance fluctuations that do not require staying with a single employer. Allowing employees to move in and out of Civil Service while minimizing career impact would give AFC STRL access to an additional pool of scientists, engineers, and technical personnel, even when they have changing life circumstances. It would also increase information exchange between AFC STRL and industry.

The speed with which new science, technology, and engineering concepts emerge demands the ability to quickly re-shape work assignments, re-train employees, and maximize the potential of the existing workforce. Internal reassignments and promotions under the GS system are also rigid, and

limitations on training further hamper efforts to respond to the rapid changes in the modernization mission.

C. Changes Required/Expected Benefits

The primary benefit expected from this demonstration project is greater organizational effectiveness through increased employee satisfaction. The long-standing Department of the Navy "China Lake" and subsequent demonstration projects have produced impressive statistics on increased job satisfaction and quality of employees versus that of the Federal workforce in general. Similar results have been demonstrated in more recent STRL demonstration projects and other alternative personnel systems implemented in the DoD and other agencies.

This project will demonstrate that a human resource system tailored to the mission and needs of the modernization workforce will facilitate:

- (1) Increased quality in the workforce;
- (2) More effective, efficient, and adaptable organizational systems;
- (3) Improved timeliness of key personnel processes;
- (4) Increased retention of excellent performers;
- (5) Increased success in recruitment of personnel with critical skills;
- (6) Increased information exchange between AFC STRL and industry;
- (7) Increased permeability between Civil Service and industry; and
- (8) Increased workforce satisfaction and engagement.

D. Participating Organizations

AFC STRL currently has employees located in twenty-one states and several countries. Just over half are spread across Aberdeen Proving Ground (Maryland), Austin (Texas), and White Sands Missile Range (New Mexico), with most of the remaining employees in Kansas, Virginia, Oklahoma, Georgia, Missouri, Alabama, Michigan, and other parts of Texas.

AFC STRL is comprised of multiple AFC organizations; the remaining AFC organizations are covered by independent STRL personnel demonstration projects. The AFC STRL is comprised of the organizations listed below (hereinafter referred to as "AFC STRL organizations," and their components.

- (1) AFC Headquarters and Headquarters Components (AFC HHC), which includes AFC Headquarters (HQ), AFC Support Battalion (AFCSB), Software Factory (SWF), Artificial Intelligence Integration Center (AI2C), Army Applications Lab (AAL), and Acquisition & Systems (A&S) Directorate.

(2) AFC Cross Functional Teams (AFC CFTs), which includes Long Range Precision Fires (LRPF CFT); Next Generation Combat Vehicle (NGCV CFT); Future Vertical Lift (FVL CFT); Network (NW CFT); Assured Positioning, Navigation and Timing/Space (APNT/S CFT); Air and Missile Defense (AMD CFT); Soldier Lethality (SL CFT); and Synthetic Training Environment (STE CFT).

(3) The Research and Analysis Center (TRAC).

(4) Futures and Concepts Center (FCC), which includes Joint Modernization Command (JMC) and the Capability Development Integration Directorates (CDIDs).

(5) Combat Capabilities Development Command (CCDC) Headquarters (also known as DEVCOM Headquarters).

(6) The DEVCOM Analysis Center (DAC).

E. Participating Employees and Union Representation

This demonstration project will cover civilian employees appointed under title 5 U.S.C. in the occupations listed in appendix A. Additional employees and other occupations may be added after implementation of the project. The project plan does not cover members of the Senior Executive Service (SES), Senior Level (SL) employees, Scientific and Professional (ST) employees, Federal Wage System (FWS) employees, and employees presently covered by the Defense Civilian Intelligence Personnel System (DCIPS) or Physicians and Dentists Pay Plan (PDPP).

Department of the Army (DA), Army Command centrally funded, local interns, and Pathways Program employees may be converted to the demonstration project if assigned to an AFC STRL organization. Additional guidance will be included in the Mod Demo Internal Operating Procedures (IOPs).

Sixteen local and/or national unions, from American Federation of Government Employees (AFGE), Laborer's International Union of North America (LIUNA), National Federation of Federal Employees (NFFE), National Association of Government Employees (NAGE), and National Association of Independent Labor (NAIL), cover approximately 30% of employees in the AFC STRL. A full list of the local unions is provided at appendix B. AFC STRL organizations will continue to fulfill their obligations to consult and/or negotiate with all labor organizations in accordance with title 5 U.S.C. 4703(f) and 7117 for bargaining unit participation.

F. Project Design

The AFC Commanding General (CG)/AFC STRL Director leveraged the knowledge of experienced and tenured STRL leaders within the greater AFC organization to finalize the AFC STRL Mod Demo project plan. In consultation with members of the Laboratory Quality Enhancement Program Personnel Subpanel (LQEP-P), other DoD laboratories, Army G1, Army Civilian Human Resources Agency (CHRA), and a host of other knowledgeable agencies and personnel, the AFC STRL operational planning team conducted a comprehensive review of personnel flexibilities used in existing DoD laboratories and other government agencies. It also analyzed organizational needs and considered innovative personnel practices used outside of the federal government to develop proposed flexibilities for the AFC STRL Mod Demo.

AFC STRL employed an executive Board of Directors comprised of leaders from across the AFC STRL to accommodate the differing needs of AFC STRL organizations, and a Council of Champions led by the AFC CG/AFC STRL Director to ensure all proposals support AFC STRL's strategic needs. Collaboration and oversight by Army and DoD ensured alignment with Departmental goals.

The resulting project design for Mod Demo will be overseen by the AFC CG/AFC STRL Director. It will be implemented through six organization-specific Internal Operating Procedures (IOPs) and a single Mod Demo Personnel Management Board (PMB). Each of the AFC STRL organizations listed in Paragraph D will have its own IOP. Authority to draft, modify, implement, negotiate, and approve each IOP shall rest with these organizations. A review of these Mod Demo IOPs will be completed by the servicing legal office prior to approval.

Any responsibilities and authorities normally associated with STRL Directors that are not specifically defined in this Notice shall be as defined under applicable U.S. OPM operating rules and regulations. Additional information on delegated authorities and the project structure are included in Section III.

G. Personnel Management Board (PMB)

AFC STRL will create a Mod Demo PMB to oversee and monitor the fair and equitable implementation of the provisions of the demonstration project, to include establishment of internal controls and accountability. The board will consist of the AFC Executive

Deputy Commanding General (EDCG), as PMB Chair, and officials from the AFC STRL organizations listed in Paragraph D. The AFC EDCG may delegate membership, add, remove, or change the membership of the PMB, in accordance with the evolution of the AFC STRL Mod Demo. The PMB may also include experts in Human Resources, Resource Management, or other relevant areas, as appointed by the AFC EDCG.

Based on guidance and consistent interaction with the AFC EDCG, the board will execute the following:

- (1) Oversee the implementation guidance and procedures in all aspects of the Mod Demo program in accordance with the direction given by the AFC CG/AFC STRL Director;
- (2) Issue top-level guidelines for AFC STRL organizations to establish and implement pay pools;
- (3) Review pay pool results for equity and conformance, on an annual basis;
- (4) Resolve administrative pay pool disputes that are not resolved through other means;
- (5) Establish guidelines for the use of retention counter-offers;
- (6) Review and approve the assignment of new occupational series to a pay band, if necessary;
- (7) Establish guidelines for exceptions to base pay increases, such as Extraordinary Achievement Rewards and Distinguished Contribution Allowances;
- (8) Establish guidelines for the Voluntary Emeritus/Expert Program;
- (9) Modify the Standard Performance Elements, as needed;
- (10) Establish guidelines for the use of Subject Matter Expert Qualifications for exceptional experience;
- (11) Approve any Performance-Based Rules created and administered by AFC STRL organizations, prior to their implementation;
- (12) Assess the need for changes to demonstration project procedures and policies and provide leadership for efforts to modify this Notice;
- (13) Promote collaboration and best practices within Mod Demo;
- (14) Review Mod Demo IOPs for equity and conformance;
- (15) Track personnel cost changes and recommend adjustments, if required;
- (16) Conduct formative evaluations of the project, including those directed by DoD.

In executing these duties and responsibilities, the board will keep in close contact and consultation with the AFC EDCG to ensure policies and procedures are executed consistently throughout Mod Demo and are aligned with AFC STRL strategic objectives.

H. Organizational Structure and Design

To optimize the effectiveness and efficiency of the AFC STRL during the adoption of the new personnel demonstration system, the AFC STRL may review and realign the organization structure to best meet mission needs and requirements. Realignment may include removing limitations in terms of supervisory ratios consistent with 10 U.S.C. 4121, and the alignment and organization of the workforce required to accomplish the mission of the AFC STRL.

In general, the AFC CG/AFC STRL Director will manage the STRL's workforce strength, structure, positions, and compensation without regard to any limitation on appointments, positions, or funding in a manner consistent with the budget available in accordance with 10 U.S.C. 4091.

I. Funding Levels

The Under Secretary of Defense (Personnel & Readiness), may, adjust the minimum funding levels to consider factors such as the Department's fiscal condition, guidance from the Office of Management and Budget (OMB), and equity in circumstances when funding is reduced or eliminated for GS pay raises or awards.

III. Personnel System Changes

A. Levels of Authority and Responsibility

Due to the unique structural design of this demonstration project, certain responsibilities that are typically reserved for STRL lab directors are assigned to other AFC STRL officials. Such designations are referenced throughout this notice using the definitions in this section. No responsibilities, authorities, or delegations in this notice are intended to replace or override command authorities.

Definitions. The following terminology is used throughout this notice to refer to management and other officials in the AFC STRL.

(1) AFC STRL Director. This term refers to the AFC CG.

(2) AFC STRL organization approval authority. This term refers to the following positions in their respective organizations: AFC EDCG for AFC HQ; AFC Principal Deputy CG for CFT; FCC CG for FCC; Director, TRAC for TRAC; DEVCOM CG for DEVCOM HQ; and Director, DAC for DAC.

(3) PMB Member. This term refers to a member of the PMB, as defined in Section II.G. of this Notice.

(4) Pay Pool Manager. This term refers to the individual who approves the total

performance ratings, reviews the ratings of employees within the pay pool for consistency and fairness, resolves any rating issues, and makes final decisions on ratings and payouts.

(5) Pay Pool Panel/Reconciliation Board. This term refers to the group of supervisors/managers who reconcile ratings and payouts for the employees in each pay pool.

B. Pay Banding

The design of the AFC STRL Mod Demo pay band system takes advantage of the exhaustive studies performed by DA and DoD of pay band systems currently practiced in the Federal sector, to include those practiced by the Navy’s “China Lake” experiment and the National Institute of Standards and Technology (NIST). The pay band system will replace the current GS

structure. Currently, the fifteen grades of the GS are used to classify positions and, therefore, to set pay. The GS covers most civilian white-collar Federal employees in professional, technical, administrative, and clerical positions. Changes in this rigid structure are required to allow flexibility in hiring, developing, retaining, and motivating the workforce.

1. Career Paths and Pay Bands

Occupations with similar characteristics will be grouped together into one of three career paths with pay bands designed to facilitate pay progression. Each career path will be composed of pay bands corresponding to recognized advancement and career progression expected within the occupations. Each career path will be

divided into three to five pay bands with each pay band covering the same pay range now covered by one or more GS grades. The upper and lower pay rate for base pay of each pay band is defined by the minimum and maximum GS rate for the grade as indicated in Figure 1, except for Level V of the Science & Engineering career path. Comparison to the GS grades was used in setting the upper and lower base pay dollar limits of the pay bands. However, once employees are moved into the demonstration project, GS grades will no longer apply.

The occupational series listed in appendix A served as guidelines in the development of the following three career paths:

Figure 1

	GS Equivalency	GS 01	GS 02	GS 03	GS 04	GS 05	GS 06	GS 07	GS 08	GS 09	GS 10	GS 11	GS 12	GS 13	GS 14	GS 15	GS 15
Career Paths	Science & Engineering (DB)		I					II						III			V
	Business & Technical (DE)		I					II						III		IV	
	Support (DK)		I				II		III								

Science and Engineering (S&E) (Pay Plan DB): This career path includes technical professional positions, such as engineers, physicists, chemists, mathematicians, operations research analysts, and computer scientists. Information Technology (IT) specialists (occupational series 2210) who contribute to highly-technical and/or scientific programs that reside in the research, development, or engineering domains, using offensive, and defensive cyber competencies will also be included in this career path. All other IT specialists will be included in the Business and Technical (B&T) career path. Specific course work or educational degrees are required for these occupations (except cyber-IT). Five pay bands have been established for the S&E career path:

- a. Pay Band I is a student trainee track covering GS-1, step 1 through GS-4, step 10.
- b. Pay Band II is a developmental track covering GS-5, step 1 through GS-11, step 10.
- c. * Pay Band III includes GS-12, step 1 through GS-14, step 10.
- d. * Pay Band IV includes GS-14, step 1 through GS-15, step 10.

e. Pay Band V covers Senior Scientific Technical Manager (SSTM) positions which are described in further detail in paragraph 2 of this section.

* Pay Bands III and IV overlap at the end and start points. These two pay bands have been designed following a feature used by the Navy’s “China Lake” project. Prior to implementation, personnel decisions regarding the overlap will be defined in Mod Demo IOPs in accordance with the PMB-approved classification guidance.

Business & Technical (B&T) (Pay Plan DE): This career path includes such positions as computer specialist, equipment specialist, quality assurance specialist, telecommunications specialist, engineering and electronics technicians, procurement coordinators, finance, accounting, administrative computing, and management analyst. Employees in these positions may or may not require specific course work or educational degrees. Four pay bands have been established for the B&T career path:

- a. Pay Band I is a student trainee track covering GS-1, step 1 through GS-4, step 10.
- b. Pay Band II includes GS-5, step 1 through GS-11, step 10.

c. * Pay Band III includes GS-12, step 1 through GS-14, step 10.

d. * Pay Band IV includes GS-14, step 1 through GS-15, step 10.

* Pay Bands III and IV overlap at the end and start points. These two levels have been designed following a feature used by the Navy’s “China Lake” project. Prior to implementation, personnel decisions regarding the overlap will be defined in the Mod Demo IOPs in accordance with the PMB-approved classification guidance.

Support (Pay Plan DK): This career path consists of clerical and assistant positions for which specific course work or educational degrees are not required. Clerical work usually involves the processing and maintaining of records. Assistant work requires knowledge of methods and procedures within a specific administrative area.

- a. Pay Band I includes entry-level positions covering GS-1, step 1 through GS-4, step 10.
- b. Pay Band II includes full-performance positions covering GS-5, step 1 through GS-8, step 10.
- c. Pay Band III includes senior technicians/assistants/secretaries covering GS-9, step 1 through GS-10, step 10.

2. Senior Scientific Technical Managers (SSTM)

AFC STRL Mod Demo will include a category of SSTM positions, as directed by 10 U.S.C. 4091 and described in 79 FR 43722. S&E Pay Band V will apply exclusively to positions designated as SSTMs.

The SSTM program will be managed and administered by the AFC EDCG unless delegated in writing to an AFC STRL organization approval authority. These SSTM positions are managed separately from the Senior Executive Service (SES), Scientific and Professional Positions (STs), and Senior-Level (SL) positions. The primary functions of SSTM positions are (a) to engage in research and development in the physical, biological, medical, or engineering sciences, or another field closely related to the mission of such STRL; and (b) to carry out technical supervisory responsibilities. The number of such positions is limited in accordance with 10 U.S.C. 4091. This authority is expected to provide an opportunity for career development and expansion of a pool of experienced, prominent technical candidates meeting the levels of proficiency and leadership essential to create and maintain a DoD state-of-the-art scientific, engineering, and technological capability.

Positions may be filled: (a) On a temporary, term, or permanent basis utilizing appropriate internal and/or external competitive recruitment procedures; (b) through accretion-of-duties promotions; or (c) using a direct hire authority. Positions may also be filled temporarily using non-competitive procedures (e.g., detail and temporary promotions). The AFC CG has the discretion to select the recruitment and staffing method most appropriate based on the specialized position requirements and available candidate pool. However, the recruitment and staffing methodology must include: (a) An internal process which incorporates an impartial, rigorous, and demanding assessment of candidates to evaluate the breadth of their technical expertise; (b) an external recruitment process; (c) creation of panels to assist in filling positions; or (d) other comparable recruitment and/or staffing mechanisms.

Panels will be created to assist in the review of candidates for SSTM positions. Panel members typically will be SES members, ST employees, and those employees designated as SSTMs. In addition, General Officers and recognized technical experts from

outside AFC STRL may serve, as appropriate. The panel will apply criteria developed largely from the OPM Research Grade Evaluation Guide for positions exceeding the GS-15 level and other OPM guidance related to positions exceeding the GS-15 level. The purpose of the panel is to ensure impartiality and a rigorous and demanding review.

3. Position Control Points

If the classification of a position does not warrant unconstrained salary progression throughout the entire pay band, control points may be appropriate and may be established in accordance with Mod Demo IOPs. If used, control points will be documented on the classified position description. Increasing an employee's salary beyond a control point, if established or used, will require review of both the position and performance of the employee. Advancement across a control point may not occur without approval of the AFC STRL organization approval authority, unless further delegated in the applicable IOP. Additional guidance will be included in the AFC STRL organization-specific IOP.

C. Classification

1. Occupational Series

The present GS classification system has over 400 occupational series, which are divided into 23 occupational groupings. AFC STRL currently has positions in 84 occupational series as indicated in appendix A. Additional occupational series may be added to the AFC STRL Mod Demo, as needed.

2. Classification Standards and Position Description

AFC STRL will utilize OPM classification standards for the identification of proper series and occupational titles of positions within the demonstration project. The grading criteria in those standards will be used as a framework to develop new, simplified, and equitable standards for the purpose of pay band determinations. The objective is to include in the position description the essential criteria for each pay band within each career path by stating the characteristics of the work, the responsibilities of the position, and the competencies required. The classification standard for each career path and pay band will serve as an important component to update existing position descriptions, which will include position-specific information, and provide data element information pertinent to the job. The

computer-assisted process will produce information necessary for position descriptions. The new descriptions will be easier to prepare, minimize the amount of writing time, and make the position description a more useful and accurate tool for other personnel management functions.

Specialty work and/or competency codes with corresponding narrative descriptions will be used in position descriptions to further differentiate types of work and the competencies required for positions within a career path and pay band. Each code represents a specialization or type of work within the occupation.

3. Fair Labor Standard Act

Fair Labor Standards Act (FLSA) exemption and non-exemption determinations will be consistent with criteria found in 5 CFR part 551. All employees are covered by the FLSA unless their position meets the criteria for exemption. The duties and responsibilities outlined in the classification standards for each pay band will be compared to the FLSA criteria. Generally, the FLSA status can be matched to career path and pay band as indicated in Figure 2. For example, positions classified in pay band I of the S&E career path are typically nonexempt, meaning they are covered by the overtime entitlements prescribed by the FLSA. An exception to this guideline includes supervisors/managers at pay band I or II whose primary duties meet the definitions outlined in the OPM GS Supervisory Guide. Therefore, supervisors/managers in any of the career paths who meet the foregoing criteria generally are exempt from the FLSA. The AFC STRL classification authorities will make the determinations on a case-by-case basis by comparing assigned duties and responsibilities to the classification standards for each career path and the 5 CFR part 551 FLSA criteria. Additionally, the advice and assistance of the servicing personnel office will be obtained in making determinations. The position descriptions will not be the sole basis for the determination. Basis for exemption will be documented and attached to each position description. Exemption criteria will be narrowly construed and applied only to those employees who clearly meet the spirit of the exemption. Changes will be documented and provided to the servicing personnel office.

Figure 2

Pay Band	I	II	III	IV	V
Science & Engineering (DB)	N	N/E	E	E	E
Business & Technical (DE)	N	N/E	E	E	
Support (DK)	N	N	E		
N - Non-Exempt from FLSA; E - Exempt from FLSA; and N/E - Exemption status determined on a case-by-case basis.					

Note: Although typical exemption status under the various pay bands is shown in the above table, actual FLSA exemption determinations are made on a case-by-case basis.

4. Classification Authority

The AFC STRL organizations will have classification authority and may, in turn, delegate this authority in writing to appropriate levels. Any individual with delegated classification authority must complete required training. Position descriptions will be developed to assist in exercising delegated position classification authority.

Classification authorities will identify the career path, job series, functional code, specialty work and/or competency code, pay band, and other critical information. Human Resources professionals will provide ongoing consultation and guidance to managers and supervisors throughout the classification process. These decisions will be documented in the position description.

5. Classification Appeal

Classification appeals under this demonstration project will be processed using the following procedures: An employee may appeal the determination of career path, occupational series, position title, and pay band of the position at any time. An employee must formally raise the area of concern to supervisors in the immediate chain of command, in writing. If the employee is not satisfied with the supervisory response, the employee may then appeal to the AFC STRL organization PMB representative. An appeal may then be made to the AFC EDCG. If the employee is not satisfied with the AFC EDCG's response to the appeal, a final appeal may then be made to the DoD appellate level. The appeal process will be defined in each Mod Demo IOP.

Classification appeals are not accepted on positions which exceed the equivalent of a GS-15 level. Time periods for cases processed under 5 CFR part 511 apply.

The evaluation of classification appeals under this demonstration project are based upon the demonstration project classification criteria. Case files will be forwarded for action through the servicing personnel office and will include copies of appropriate demonstration project criteria.

D. Pay-for-Performance Management System (PFP)

1. Overview

The purpose of the PFP system is to provide an effective, efficient, and flexible method for assessing, compensating, and managing the AFC STRL modernization workforce. It is essential for the development of a high performing workforce and to provide management at the lowest practical level, the authority, control, and flexibility needed to achieve a quality organization and meet mission requirements. PFP allows for more employee involvement in the assessment process, strives to increase communication between supervisor and employee, promotes a clear accountability of performance, facilitates employee career progression, and provides an understandable and rational basis for salary changes by linking pay and performance.

The PFP system uses annual performance payouts that are based on the employee's total performance score rather than within-grade increases, quality step increases, and performance awards. The normal rating period will be one year. The minimum rating period will be 90 days. PFP payouts can be in the form of increases to base pay and/or bonuses that are not added to base salary but rather are given as a lump sum payment. Other awards, such as special acts and time-off awards, will be administered separately from the PFP payouts.

The AFC STRL Mod Demo PFP system may be modified by the PMB, if necessary, as more experience is gained under the project. Each AFC STRL organization will publish the details of

its PFP system rules and available funding limits in its IOP and/or annual PFP guidance.

2. Performance Elements

Performance elements define common performance characteristics that will be used to evaluate the employee's success in accomplishing performance objectives. The use of common characteristics for scoring purposes helps to ensure comparable scores are assigned while accommodating diverse individual objectives. The PFP system will utilize those performance elements as described in this FRN. AFC STRL organizations can determine which elements are critical. A critical performance element is defined as an attribute of job performance that is of sufficient importance that performance below the minimally acceptable level requires remedial action and may be the basis for removing an employee from their position. Each of the performance elements will be assigned a two-digit weight between 0 and 1 rounding two significant digits, which reflects its importance in accomplishing an individual's performance objectives. A minimum weight is set for each performance element. The sum of the weights for all the elements must equal 1.0. Rules for setting weights will be defined in Mod Demo IOPs.

A single set of performance elements will be used for evaluating the annual performance of all AFC STRL personnel covered by this Mod Demo plan. This set of performance elements may evolve over time, based on experience gained during each rating cycle. This evolution is essential to capture the critical characteristics the organization encourages in its workforce toward meeting individual and organizational objectives. This is particularly true in an environment where technology and work processes are changing at an increasingly rapid pace. The PMB may adjust the elements annually.

The initial set of performance elements and basic definitions for the AFC STRL Mod Demo are listed below. On an annual basis, AFC STRL

organizations will select at least four elements based on mission requirements. Additionally, the Supervision/EEO element is mandatory, and may be updated as needed, for all employees whose assigned duties which meet the definition of Supervisor, outlined in the OPM GS Supervisory Guide. AFC STRL organizations will publish more specific element definitions and benchmark performance standards that describe performance associated with each score level in their IOPs.

(1) Technical Competence—The extent to which an employee demonstrates the technical knowledge, skills, abilities and initiative to produce the quality and quantity of work as defined in individual performance objectives and assigned tasks.

(2) Mission Impact—The extent to which an employee demonstrates individual performance against strategic goals and initiatives as defined in individual performance objectives and assigned tasks.

(3) Customer Satisfaction—The extent to which an employee delivers high levels of service to internal and external customers/stakeholders. Maintains quality customer/stakeholder relationship(s).

(4) Management of Time and Resources—The extent to which an employee demonstrates ability to manage time and resources.

(5) Teamwork—The extent to which an employee encourages and facilitates cooperation, collaboration, pride, trust, and group identity; fosters commitment and esprit-de-corps; works with others to achieve goals.

(6) Communication—The extent to which an employee demonstrates ability to communicate orally and in writing to achieve mutual understanding or desired results.

(7) Management/Leadership—The extent to which an employee influences, motivates, and challenges others; adapts leadership styles to a variety of situations.

(8) Supervision/EEO—The extent to which a supervisor: (1) Ensures compliance with applicable laws, regulations and policies including Merit System Principles and Prohibited Personnel Practices; (2) Attracts and retains a high-caliber workforce and acts in a responsible and timely manner on all steps in the recruitment and hiring process; (3) Provides opportunities for orientation and tools for enabling employees to successfully perform during the probationary period and beyond; (4) Completes all performance management tasks in a timely manner including clearly communicating

performance expectations throughout the appraisal period, holding employees accountable, making meaningful distinctions in performance and rewarding excellent performance, promoting employee development and training, and promptly addressing performance and conduct issues; (5) Ensures that EEO principles are adhered to throughout the organization and promptly addresses allegations of discrimination, harassment, and retaliation; and (6) Upholds high standards of integrity and ethical behavior, including: ensuring appropriate internal controls to prevent fraud, waste or abuse; safeguarding assigned property/resources; maintaining a safe work environment and promptly addressing allegations of noncompliance; and supporting the Whistleblower Protection Program by responding constructively to employees who make protected disclosure under 5 U.S.C. 2302(b)(8), taking responsible and appropriate actions to resolve any such disclosure, and creating an environment in which employees feel comfortable making such disclosures.

3. Performance Objectives

Performance objectives define a target level of activity, expressed as a tangible, measurable objective, against which actual achievement can be compared. These objectives will specifically identify what is expected of the employee during the rating period and will typically consist of three to ten results-oriented statements. The employee and the supervisor will jointly develop the employee's performance objectives at the beginning of the rating period. If there is a disagreement between the employee and supervisor concerning these performance objectives, the employee's supervisor will render the final decision on the disagreement after fully considering the employee's comments. Objectives are to be reflective of the employee's duties/responsibilities and pay band along with the mission/organizational goals and priorities. Objectives will be reviewed annually and revised upon changes in salary reflecting increased responsibilities commensurate with salary increases. Performance objectives are intended to define an individual's specific responsibilities and expected accomplishments. In contrast, performance elements will identify common performance characteristics, against which the accomplishment of objectives will be measured. As a part of this demonstration project, training focused on overall organizational objectives, and the development of performance objectives will be held for

both supervisors and employees. Performance objectives may be jointly modified, changed, or deleted as appropriate during the rating cycle. Generally, performance objectives should only be changed when circumstances outside the employee's control prevent or hamper the accomplishment of the original objectives. It is also appropriate to change objectives when mission or workload shifts occur.

4. Performance Feedback and Formal Ratings

The most effective means of communication is person-to-person discussion between supervisors and employees of requirements, performance goals, and desired results. Employees and supervisors alike are expected to actively participate in these discussions for optimum clarity regarding expectations and identify potential obstacles to meeting goals. In addition, employees should explain (to the extent possible) what they need from their supervisor to support goal accomplishment. The timing of these discussions will vary based on the nature of work performed but will occur at least at the mid-point and end of the rating period. The supervisor and employee will discuss job performance and accomplishments in relation to the performance objectives and elements. At least one review, normally the mid-point review, will be documented as a formal progress review. More frequent task-specific discussions may be appropriate. In cases where work is accomplished by a team, team discussions regarding goals and expectations may be appropriate.

The employee will provide a written list of accomplishments to the supervisor at both the mid-point and end of the rating period. An employee may elect to provide self-ratings on the performance elements and/or solicit input from team members, customers, peers, supervisors in other units, subordinates, and other sources which will permit the supervisor to fully evaluate accomplishments during the rating period.

At the end of the rating period, following a review of the employee's accomplishments, the supervisor will rate each of the performance elements by assigning a score between 0 and 50. Benchmark performance standards will be developed by the AFC STRL organization to describe the level of performance associated with a score. Supervisors will use the benchmark performance standards to determine appropriate ratings for each performance element. These scores will

not be discussed with the employee or considered final until all scores are reconciled and approved by the designated Pay Pool Manager. The element scores will then be multiplied by the element-weighting factor to determine the weighted score expressed to two decimal points. The weighted scores for each element will then be totaled to determine each employee's overall appraisal score and rounded to a whole number as follows: if the digit to the right of the decimal is between five and nine, it should be rounded to the next higher whole number; if the digit to the right of the decimal is between one and four, it should be dropped.

A total score of 10 or below will result in a Level 1 rating of record. A score of 10 or below in a single element will also result in a Level 1 rating of record with zero shares and no general pay increase (GPI), and requires the employee be placed on a Performance Improvement Plan (PIP). A new rating of record will be issued if the employee's performance improves to an acceptable level at the conclusion of the PIP.

5. Unacceptable Performance

Informal feedback is an effective way to provide clarity to the employee and in-the-moment coaching. Additionally, informal discussions serve several purposes. For example, such discussions provide feedback for a specific job, set and reset goals, reinforce good habits, and discuss areas for improvement. Informal employee performance discussions will be a continuous process so that corrective action, to include placing an employee on a PIP, may be taken at any time during the rating cycle. Whenever a supervisor recognizes an employee's performance on one or more performance elements is unacceptable, the supervisor should immediately inform the employee. Efforts will be made to identify the possible reasons for the unacceptable performance.

If the employee continues to perform at an unacceptable level or has received a Level 1 Rating of Record, written notification outlining the unacceptable performance will be provided to the employee. At this point an opportunity to improve will be structured in a PIP. The supervisor will identify the actions that need to be corrected or improved, outline required time frames (no less than 30 days) to demonstrate such improvement, and provide the employee with any available assistance as appropriate. Progress will be monitored during the PIP, and all counseling sessions will be documented.

If the employee's performance is acceptable at the conclusion of the PIP, no further action is necessary. If a PIP ends prior to the end of the annual performance cycle and the employee's performance improves to an acceptable level, the employee is appraised again at the end of the annual performance cycle.

If the employee fails to improve during the PIP, the employee will be given written notice of proposed action. This action can include removal from the Federal service, placement in a lower pay band with a corresponding reduction in pay (demotion), reduction in pay within the same pay band, or change in position or career path. For the most part, employees with a Level 1 rating of record will not be permitted to remain at their current salary and may be reduced in pay band.

Note: Nothing in this subsection will preclude action under 5 U.S.C. chapter 75, when appropriate.

All relevant documentation concerning a reduction in pay or removal based on unacceptable performance will be preserved and made available for review by the affected employee or a designated representative. As a minimum, the record will consist of a copy of the notice of proposed personnel action, the employee's written reply, if provided, or a written summary when the employee makes an oral reply. Additionally, the record will contain the written notice of decision and the reasons therefore along with any supporting material (including documentation regarding the opportunity afforded the employee to demonstrate improved performance).

If the employee's performance deteriorates to an unacceptable level, in any element, within two years from the beginning of a PIP, follow-on actions may be initiated with no additional opportunity to improve. If an employee's performance is at an acceptable level for two years from the beginning of the PIP and performance once again declines to an unacceptable level, the employee will be given an additional opportunity to improve before management proposes follow-on actions.

Additional details will be outlined in Mod Demo IOPs.

6. Reconciliation Process

At the end of the rating cycle and following the initial scoring of each employee by the supervisor, a panel of rating officials and supervisors, known as the pay pool panel, will meet in a structured review and reconciliation process managed by the Pay Pool

Manager. In this step, each employee's performance objectives, accomplishments, preliminary scores and/or shares, and pay are discussed. Through discussion and consensus building, consistent and equitable ratings and/or shares are reached. There will not be a prescribed distribution of total scores. IOPs will further define this process.

7. Pay Pools

Employees within the AFC STRL Mod Demo will be placed into pay pools. Pay pools are combinations of organizational elements (e.g., Directorates, Divisions, Branches, and Offices) that are defined for the purpose of determining performance payouts under the PFP system. The guidelines in the next paragraph are provided for determining pay pools. These guidelines will normally be followed. However, an AFC STRL Mod Demo pay pool manager may deviate from the guidelines if there is a compelling need to do so, and the rationale is documented in writing.

The AFC STRL organizations will establish pay pools within their respective organizations. Typically, pay pools will have between 35 and 300 employees. A pay pool should be large enough to encompass a reasonable distribution of ratings but not so large as to compromise rating consistency. Supervisory personnel will be placed in a pay pool separate from subordinate non-supervisory personnel. Neither the Pay Pool Manager nor supervisors within a pay pool will recommend or set their own individual pay. Decisions regarding the amount of the performance payout are based on the established formal payout calculations.

Annual pay pool limits for base pay increases and bonuses, also referred to as payout factors, will be established by the AFC STRL organizations. Funds for performance payouts are divided into two components: base pay increases and bonuses. The funds used for base pay increases are those that would have been available from GS within-grade increases, quality step increases, and promotions. This amount will be defined based on historical data and set at no less than two percent of total adjusted base pay and no more than the maximum set by the AFC STRL organization. The funds available to be used for awards are funded separately within the constraints of the organization's overall award budget. This amount will be defined based on historical data and set at no less than one percent of total adjusted base pay and no more than the maximum set by the AFC STRL organization. The sum of these two factors is referred to as the

Pay Pool Payout Factor and is determined by the AFC STRL organization within the above constraints. The PMB will annually review the pay pool funding formulas used by AFC STRL organizations and recommend adjustments to ensure cost discipline over the life of the demonstration project. AFC STRL organizations may reallocate the amount of funds assigned to each pay pool as necessary to ensure equity and to meet unusual circumstances.

8. Performance Payout Determination
Employee's Rating of Record levels will be determined by the Score Ranges as shown in Figure 3 below. The Rating of Record levels follow the Summary level rating patterns associated with 5 CFR 430.208, Pattern H. Mod Demo IOPs may designate descriptive titles for Level 1 through Level 5 ratings of record. The score ranges will be used as a guide to determine the number of shares the employee is assigned in the

pay pool process. An employee will receive a performance payout as a percentage of the employee's salary at the end of the rating cycle, based on the number of shares assigned. AFC STRL organizations will use one of two methods for converting scores to shares. Score ranges and share option changes must be approved by the Mod Demo PMB. IOPs must state which method the AFC STRL organization will use, and Mod Demo employees will receive specific training covering this topic.

Rating of Record	Score Range
Level 5	41-50
Level 4	31-40
Level 3	21-30
Level 2	11-20
Level 1	10 or less

Option A. Discrete Shares

Share values will be assigned between 0 and 4 using any increment of shares for a given Score Range as shown in Figure 4. The pay pool panel will determine the shares based on the

employee's score range. When selecting the share value, the pay pool panel may consider any of the following: the employee's salary relative to other employees in the same range, the employee's performance above and beyond expectations, the supervisor's

recommendation, and how close the employee is to the top of their pay band. AFC STRL organizations will provide written notice to the workforce at the start of the rating cycle concerning the basis of the share assignment.

Score Range	Share Options
41-50	3 or 3.5 or 4
31-40	2 or 2.5 or 3
21-30	1 or 1.5 or 2
11-20	0
10 or less	0 and/or no GPI

Option B. Fractional Shares

Shares will be awarded as decimal numbers, rounded to the nearest tenth,

based on the employee's score. Fractional shares will be awarded for scores that fall in between these scores, in accordance with Figure 5. For

example, a score of 38 will equate to 1.8 shares, and a score of 44 will equate to 2.4 shares.

Score Range	Share Options
41-50	2.1 – 3.0
31-40	1.1 – 2.0
21-30	0.1 – 1.0
11-20	0
10 or less	0 and/or no GPI

Regardless of whether Option A or Option B is implemented, the value of a share cannot be exactly determined until the rating and reconciliation process is completed and all scores are finalized. The formula that computes the value of each share is based on (1)

the payout factors, (2) the employee's pay, and (3) the number of shares awarded to each employee in the pay pool. This formula, shown in Figure 6, assures that each employee within the pool receives a share amount equitable to all others in the same pool who are

at the same rate of basic pay and receive the same score and shares. The exact Pay Pool Payout Factor will be determined by the AFC Mod STRL organization, in accordance with paragraph 7 above.

$$\text{Share Value} = \frac{F * \sum_{i=1 \text{ to } n} \text{Basic Pay}}{\sum_{i=1 \text{ to } n} (\text{Basic Pay} * \text{Shares})}$$

Where:

F = Pay Pool Payout Factor, determined by AFC STRL.

Pay Pool Managers are accountable for staying within pay pool funding limits. The Pay Pool Manager makes final decisions on pay increases and/or bonuses to individuals based on rater recommendation, the final score, the pay pool funds available, and the employee's salary at the end of the rating cycle.

In addition, the designated pay pool manager may nominate employees for Extraordinary Achievement Recognition. Such recognition grants a base pay increase and/or bonus to an employee that is higher than the one generated by the compensation formula for that employee. The funds available for an Extraordinary Achievement Recognition are separately funded within the constraints of the organization's budget.

9. Base Pay Increases and Bonuses

An employee's shares will be paid out as a base pay increase, a bonus, or a combination. To continue to provide performance incentives while also ensuring cost discipline, base pay increases may be limited or capped. Certain employees will not be able to receive base pay increases due to base pay caps. Base pay is capped when an employee reaches the maximum rate of pay in an assigned pay band or when a performance-based rule applies (see paragraph 10 below). Employees affected by base pay caps and those receiving retained pay will receive the entire performance payout in the form of a bonus.

If the AFC STRL organization deems it appropriate, the Pay Pool Manager may re-allocate a portion (up to the maximum possible amount) of the unexpended base pay funds for capped employees to uncapped employees. Any

dollar increase in an employee's projected base pay increase will be offset, dollar for dollar, by an accompanying reduction in the employee's projected bonus payment. Thus, the employee's total performance payout is unchanged.

PFM bonuses and salary increases must be effective within 120 days of the end of the appraisal cycle.

10. Performance-Based Rules

As a compensation management tool, AFC STRL organizations may establish performance-based rules to manage pay progression by career path, pay band, geographic location, or any other grouping. If established, such performance-based rules must be approved by the PMB and published to the workforce prior to implementation. In addition, the process for obtaining an exception to such rules must be documented in the IOP. Once established, performance-based rules may be used in the pay pool process to manage performance salary increases. Examples of performance-based rules include rules similar to a Mid-Point Rule. For example, to provide added performance incentives as an employee progresses through a pay band, a mid-point rule may be used to determine base pay increases. The mid-point rule dictates that any employee must receive a score of 30 or higher for their base pay to cross the salary midpoint of their pay band. Also, once an employee's base pay exceeds the salary midpoint of their pay band, the employee must receive a score of 30 or higher to receive any additional base pay increases. Any amount of an employee's performance payout, not paid in the form of a base pay increase because of the mid-point rule, would be paid as a bonus. This rule effectively raises the standard of performance expected of an employee once the salary midpoint of a pay band

is crossed. This rule would apply to all employees in every career path and pay band.

11. Awards

To provide additional flexibility in motivating and rewarding individuals and groups, some portion of the performance award budget may be reserved for special acts and other categories as they occur. Awards may include, but are not limited to special acts, patents, suggestions, on-the-spot, and time-off. The funds available to be used for awards are separately funded within the constraints of the organization's overall award budget.

While not directly linked to the PFM system, this additional flexibility is important to encourage outstanding accomplishments and innovation in accomplishing the diverse modernization missions of the AFC STRL organizations participating in Mod Demo. Additionally, to foster and encourage teamwork among its employees, organizations may give group awards.

12. General Pay Increase (GPI)

All employees will receive a GPI, except as described below.

Employees, who are on a PIP and/or receive a Level 1 rating of record at the time pay determinations are made, may be denied performance payouts or the GPI. Such employees will not receive RIF service credit until such time as their performance improves to the satisfactory level and remains so for at least 90 days. When the employee has performed at an acceptable level for at least 90 days, the GPI will not be retroactive but will be granted at the beginning of the next pay period after the supervisor authorizes its payment.

These actions may result in a base salary that is identified in a lower pay band. This occurs because the minimum

rate of basic pay in a pay band increases as the result of the GPI (5 U.S.C. 5303). This situation (a reduction in pay band with no reduction in pay) will not be considered an adverse action, nor will pay band retention provisions apply.

After 90 days of acceptable performance, the employee is granted GPI and the employee will be returned to their previous pay band.

13. Grievances and Disciplinary Actions

An employee may grieve the performance rating/score or shares received under the PFP system. Non-bargaining unit employees, and bargaining unit employees covered by a negotiated grievance procedure that does not permit grievances over performance ratings, must file under administrative grievance procedures when choosing to pursue a grievance. Whereas, bargaining unit employees whose negotiated grievance procedures cover performance-rating grievances must file under those negotiated procedures when choosing to pursue a grievance.

Except where specifically waived or modified in this plan, adverse action procedures under 5 CFR part 752, remain unchanged.

E. Hiring and Appointment Authorities

Competitive service positions will be filled through Merit Staffing, direct-hire authority, Delegated Examining, or other non-competitive hiring authorities. Direct-hire authority will be exercised in accordance with the requirements of the delegation of authority.

1. Qualifications

A candidate's basic qualifications will be determined using OPM's Qualification Standards Handbook for General Schedule Positions. Candidates must meet the minimum standards for entry into the pay band, unless waived by other flexibilities within the STRL. For example, if the pay band includes positions in grades GS-5 and GS-7, the candidate must meet the qualifications for positions at the GS-5 level. Specialized experience/education requirements will be determined based on whether a position to be filled is at the lower or higher end of the pay band. Selective placement factors can be established in accordance with the OPM Qualification Handbook, when judged to be critical to successful job performance. These factors will be communicated to all candidates for position vacancies and must be met for basic eligibility.

2. Delegated Examining

Under Delegated Examining when there are no more than 15 qualified applicants and no preference eligible, all eligible applicants are immediately referred to the selecting official without rating and ranking. Rating and ranking may occur when the number of qualified candidates exceeds 15 or there is a mix of preference and non-preference applicants. Category rating may be used to provide for a more streamlined and responsive hiring system to increase the number of eligible candidates referred to selecting officials. This provides for the grouping of eligible candidates into quality categories and the elimination of consideration according to the "rule of three." This includes the coordination of recruitment and public notices, the administration of the examining process, the administration of veterans' preference, the certification of candidates, and selection and appointment consistent with merit principles.

Statutes and regulations covering veterans' preference will be observed in the selection process when rating and ranking are required. Veterans with preference will be referred ahead of non-veterans with the same score/category.

3. Direct Hire

AFC STRL will use the direct hire authorities authorized by 10 U.S.C. 4091, and published in 79 FR 43722 and 82 FR 29280; and the direct hire authorities published in 85 FR 78829, as appropriate, to appoint the following:

- a. Candidates with advanced degrees to scientific and engineering positions;
- b. Candidates with bachelor's degrees to scientific and engineering positions;
- c. Veteran candidates to scientific, technical, engineering, and mathematics positions (STEM), including technicians;
- d. Student candidates enrolled in a program of instruction leading to a bachelors or advanced degree in a STEM discipline; and
- e. Candidates for any position: (i) involving 51 percent or more of time in direct support of the STRL mission; (ii) identified by the STRL as hard to fill; (iii) having a history of high turnover; or (iv) requiring a unique, laboratory-related skillset.

Direct hire appointments may be made on a permanent, term or temporary basis. Requirements for how positions qualify for this usage of direct hire authorities will be documented in IOPs.

In addition, other direct hire authorities, documented in FRNs and

available to all DoD STRL laboratories, may be utilized, once requested and adopted, as appropriate.

4. Legal Authority

For actions taken under the auspices of the demonstration project, the first legal authority code (LAC)/legal authority Z2U will be used. The second LAC/legal authority may identify the authority utilized (e.g., Direct Hires). The nature of action codes and legal authority codes prescribed by OPM, DoD, or DA will be used.

5. Hiring Demonstrated Exceptional Talent for S&E Positions

As provided by OPM General Schedule Qualification Standards, paragraph 4.g., in the "Application of Qualification Standards" section, "Educational and Training Provisions or Requirements" subsection, AFC STRL may consider an S&E position candidate's demonstrated exceptional experience or a combination of experience and education in lieu of OPM individual occupational qualification requirements. The AFC STRL may use one subject matter expert (SME), instead of a panel of at least two, to conduct a comprehensive evaluation of an applicant's entire background, with full consideration given to both education and experience, to determine a candidate's qualifications. In addition, the unique nature of AFC STRL interdisciplinary positions allows for an AFC STRL manager with direct knowledge of the mission and position requirements, regardless of his or her occupational series or military occupation code, to serve as a SME to represent the needs of the organization.

Demonstrated exceptional experience is defined as experience that reflects significant accomplishment directly applicable to the position to be filled. This is evidenced through a substantial record of experience, achievement, and/or publications that demonstrate expertise in an appropriate professional/scientific field. A written analysis by the SME will document the candidate's experience, achievements, and publications used for qualification determination.

Documentation justifying the employee's qualifications will be placed in the employee's electronic official personnel file (e-OPF) to ensure the employee is considered qualifying for the specific occupational series in the future.

6. Official Transcripts

The requirement to have official transcripts prior to establishing an entrance-on-duty (EOD) is waived. AFC

STRL servicing personnel offices may use unofficial transcripts or a letter from a registrar or dean to make qualification determinations, thus eliminating several days or weeks from the current hiring timeline. Official transcripts must be received within 30 calendar days after EOD.

Once unofficial transcripts or a letter from a registrar or dean is received, the servicing personnel office will review qualifications and begin the onboarding process. Applicants will be asked to request and submit official transcripts to the servicing personnel office, but an EOD may be established prior to receipt. Applicants will sign a statement of understanding (SOU) as part of their pre-employment paperwork. The SOU will include language stipulating that if official transcripts are not provided or fail to show proof that individuals meet the qualification requirements, individuals may be subject to adverse actions up to and including removal, as determined by specific circumstances by applicable regulations. The SOU will regulate the applicants who do not have the degrees required for the positions or who may have been dishonest during the hiring process, lowering risk for the Command.

The SOU will be maintained in the employee's e-OPF. Once official transcripts have been received by the servicing personnel office, they will be verified in the personnel system and uploaded into the employee's e-OPF.

7. Use of Alternative Method to Announcing Position Vacancies

AFC STRL will have authority to determine whether to utilize USAJobs public notice flyers or some other type of recruitment measure to announce vacancies for AFC STRL positions covered by Mod Demo. Applications may be submitted directly to the servicing personnel office. Candidates may apply through the link or email address found in the job announcement. Postings may be limited to internal Government employees or open to both internal Government employees and external U.S. citizen candidates. All candidates will be asked to submit supporting documentation to include a resume and official or unofficial transcripts. Flyers will include the following: (a) open/close dates, (b) compensation, (c) appointment type and work schedule, (d) duty location, (e) duties, (f) position information, (g) conditions of employment, (h) qualification requirements, (i) education requirements, (j) how candidates will be evaluated, (k) benefits, (l) how to apply, (m) an equal employment opportunity statement, and (n) any additional

information determined necessary by the lab.

If utilizing USAJobs flyers, positions may be filled through direct hire authorities on a temporary, term, or permanent basis or through reassignment.

8. Security Eligibility

AFC STRL has the authority to appoint individuals to Critical-Sensitive (CS) and Special-Sensitive positions prior to a final favorable eligibility determination at the Top Secret/SCI level. Processes and pre-employment waiver requirements for CS positions will be applied in these situations. For the purposes of STRLs, an emergency or national interest that necessitates an appointment prior to the completion of the investigation and adjudication process includes a lab's inability to meet mission requirements. Each applicant's Standard Form 86, "Questionnaire for National Security Positions," fingerprints, and prescreening questionnaire will be reviewed, and a favorable pre-screening eligibility determination will be made prior to any individual being given a final job offer and EOD. Also, each lab will provide the written documentation needed to support a waiver decision to the appointing authority, who will document the reason for the appointment, and ensure the justification is sufficient before a final offer of employment is made.

The individual will perform duties and occupy a location permitted by their current security eligibility (interim or final), but not higher than Top Secret. The applicant will be required to sign a statement of understanding that documents that the pre-appointment decision was made based on limited information and that continued employment depends upon the completion of a personnel security investigation (tier 3 or 5) and favorable adjudication of the full investigative results.

9. Term Appointments

a. Flexible Length and Renewable Term Technical Appointments (FLRTTA)

1. AFC STRL organizations may use the Flexible Length and Renewable Term Technical Appointments (FLRTTA) workforce shaping tool to appoint qualified candidates who are not currently Department of Defense civilian employees, or are currently DoD term employees, into any scientific, technical engineering, and mathematic positions, including technicians, for a period of more than one year but not more than six years. The appointment of

any individual under this authority may be extended without limit in up to six-year increments at any time during any term of service under conditions set forth in Mod Demo IOPs.

2. Use of the FLRTTA authority must be consistent with merit system principles.

3. Current DoD employees who are not DoD term employees may not be appointed to positions under this authority.

4. Initial appointments must be more than one year, but not to exceed six years in duration.

5. Individuals appointed under this authority may be eligible for noncompetitive conversion to a permanent appointment if the job opportunity announcement clearly stated the possibility of being made permanent.

6. Positions may be filled utilizing noncompetitive hiring authorities. Positions appointed noncompetitively will not be eligible for conversion or extension. This is not a hiring authority and STRLs must compete or use a direct hire or other non-competitive hiring authority to appoint candidates under this appointment authority.

7. Unless otherwise eligible for a noncompetitive hiring authority, positions filled under this authority must be competed. Job opportunity announcements must clearly identify the type of appointment and the expected duration of initial appointment (up to six years). A statement will be included in the announcement that the position may be extended, without limit, in up to six-year increments, to enable extensions beyond the initial term of appointment. Furthermore, the position can be made permanent without further competition.

8. Appointees will be afforded equal eligibility for employee programs and benefits comparable to those provided to similar employees on permanent appointments within the AFC STRL, to include opportunities for professional development and eligibility for award programs.

9. Appointees will be afforded the opportunity to apply for vacancies that are otherwise limited to "status" candidates. Appointees applying to other Federal service positions utilizing this authority must submit a copy of their Flexible Length and Renewable Term Technical appointment SF-50, Notification of Personnel Action, which will contain a remark identifying this provision, with their application/resume for the vacancy to which they are applying. The SF-50 will serve as notification to the servicing Human Resources Office for the vacancy that

the individual is eligible for consideration as a status candidate.

10. Promotions. Individuals appointed under this hiring authority may be promoted while serving on a term appointment, provided they meet the qualifications and eligibility requirements for the higher level to which they will be promoted.

11. Extension of appointments. The appointment of an individual appointed to a term appointment under this authority may be extended, without limit, in up to six-year increments. A recruitment notice must be posted through an internal or external source and must have identified the opportunity for an extension beyond the initial term of appointment. Extensions will be documented via a personnel action using nature of action code 765/ Extension of Term Appt NTE and the same legal authority code used for the appointment that is being extended.

12. Expiration. Term appointments expire upon the not-to-exceed date, unless extended.

13. Probationary/Trial Period. The trial period specified in this FRN will apply to individuals appointed under the Flexible Length and Renewable Term Appointment.

14. Tenure. For those appointed under the Flexible Length and Renewable Term Technical Appointment authority or converted from a term or modified term to a Flexible Length and Renewable Term Technical Appointment and later converted to a career or career-conditional appointment, the time spent on both appointments will count toward career tenure.

15. Documenting Personnel Actions. Personnel actions for qualified candidates are documented citing the first legal authority code (LAC)/legal authority as Z2U, if appointed to a broad-banded position. A remark for the personnel action will be created to state the appointment is designated as a "status" appointment for the purposes of eligibility for applying for positions in the federal service.

b. Flexible Length and Renewable Term Appointments for Support Positions (FLRTA)

1. AFC STRL organizations are authorized to use FLRTA to appoint qualified candidates, whose positions involve 51 percent or more of time spent in direct support of STRL activities, for a period of more than one year but not more than six years. The appointment of any individual under this authority may be extended without limit in up to six-year increments at any time during any term of service under conditions set

forth in Mod Demo IOPs. The FLRTA provisions described above also apply to appointments made under this authority.

2. Term appointments, for the purposes of this authority, are non-status appointments to a position in the competitive service for a specified period of more than one year; however, incumbents may compete as "status candidates" for the purpose of eligibility for positions in the Federal service.

3. Qualified candidates are defined as individuals who meet the minimum qualification standards for the position as published in the OPM Qualification Standard or Mod Demo qualification standards specific to the position to be filled.

10. Extended Probationary or Trial Period

At the discretion of the AFC STRL organizations, the probationary period for DoD employees may be extended to three years for all newly hired permanent career-conditional employees, and trial periods for term appointments may also be extended to three years, as documented in Mod Demo IOPs. The purpose of extending the probationary period is to allow supervisors adequate time to fully evaluate an employee's ability to complete cycles of work and to fully assess an employee's contribution and conduct. The probationary period will apply to employees as stated in 5 CFR part 315.

Aside from extending the time period, all other features of the current probationary or trial period are retained to include the requirements for determining creditable service as described in 5 CFR 315.802 (c), and the potential to remove an employee without providing the full substantive and procedural rights afforded a non-probationary employee when the employee fails to demonstrate proper conduct, competency, and/or adequate contribution during the extended probationary period. When terminating probationary or trial employees, AFC STRL organizations will provide employees with written notification of the reasons for their separation and effective date of the action.

Probationary employees may be terminated when they fail to demonstrate proper conduct, technical competency, and/or acceptable performance for continued employment, and for conditions arising before employment.

11. Supervisory Probationary Periods

Supervisory probationary periods will be consistent with 5 CFR part 315,

subpart I. Existing Federal employees who are competitively selected or reassigned to a supervisory position will be required to complete a supervisory probationary period for initial appointment to a supervisory position. At the discretion of the AFC STRL organizations, the probationary period for supervisory employees may be up to two years. Additional requirements will be outlined in Mod Demo IOPs.

12. Reemployment of Annuitants

AFC STRL will use the authorities provided by 5 U.S.C. 9902(g) to appoint reemployed annuitants, as appropriate. In addition, AFC STRL organizations may determine the salary of an annuitant reemployed under this authority, to include whether the annuitant's salary will be reduced by any portion of the annuity received, up to the amount of the full annuity, as a condition of reemployment.

a. AFC STRL organizations will apply the authority to appoint annuitants in accordance with this FRN and DoDI 1400.25-V300, except as stated above. Use of the authority must be consistent with merit system principles.

b. Documenting Personnel Actions. For actions taken under the auspices of the demonstration project, the first legal authority code (LAC)/legal authority Z2U. The second LAC/legal authority may identify the authority utilized (e.g., Direct Hires). The nature of action codes and legal authority codes prescribed by OPM, DoD, or DA will be used.

c. AFC STRL organizations will publish implementing guidance and procedures on the use of this reemployed annuitant flexibility in Mod Demo IOPs.

d. Annuitants retired under 5 U.S.C. 8336(d)(1) or 8414(b)(1)(A) who are reemployed will retain the rights provided in accordance with 5 U.S.C. 9902(g)(2)(A).

13. Student Loan Repayment

AFC STRL may provide student loan repayment options authorized in 85 FR 78829 that are in line with current tuition costs and may be adjusted based on inflation without higher level approval. This authority provides the AFC STRL the ability to repay all, or part of, an outstanding qualifying student loan or loans previously taken out by a current AFC STRL employee or a candidate to whom an offer of employment has been made. The amount of student loan repayment benefits provided by an AFC STRL organization is subject to both of the following limits:

a. Up to \$25,000 per employee per calendar year.

b. Up to \$125,000 per employee.

The USD(R&E) may increase these amounts when deemed necessary to stay competitive with private industry and academia. Eligibilities, conditions, qualifying student loans, and required service agreements remain the same as found in 5 CFR part 537. Loan payments made by an AFC STRL organization under this part do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out. The employee is responsible for any income tax obligations resulting from the student loan repayment benefit.

F. Volunteer Emeritus and Expert Program (VEP)

AFC STRL will have the authority to offer voluntary assignments to former Federal employees who have retired or separated from the Federal service and U.S. citizens who are retired, separated, or on sabbatical from private or public sector organizations. Volunteer emeritus will ensure continued quality research while reducing the overall salary line by allowing higher paid individuals to accept retirement incentives with the opportunity to retain a presence in the scientific community. Volunteer experts will bring commercial sector or public sector knowledge and experience into AFC STRL. Volunteers will not be used to replace any government personnel or interfere with their career opportunities. Volunteers may not be used to replace or substitute for work performed by government personnel occupying positions required to perform the AFC STRL's mission. Volunteer assignments are not considered "employment" by the Federal government (except as indicated below).

To be accepted as a volunteer, an individual must be a U.S. citizen and must be recommended by an AFC STRL manager to the AFC STRL organization approval authority. No one is entitled to participate in the program, and an application to the program does not guarantee acceptance into the program or assignment at AFC STRL. AFC STRL organizations must clearly document the decision process and decision rationale for each volunteer applicant (regardless of whether the applicant is accepted or rejected from the program) and must retain this documentation throughout the assignment (for accepted applicants), or for two years (for rejected applicants). Volunteer participants will not be permitted to perform any inherently governmental function or to participate in any contracts or solicitations for which the participant has a conflict of interest. Volunteer participants are not permitted to

participate in contract source selections, nor are they permitted to have access to contractor bid or proposal information or source selection information, or to data or information that is protected by the Trade Secrets Act (18 U.S.C. 1905) without a written agreement between the volunteer and the owner of the data or information.

To ensure success and encourage participation, the volunteer Emeritus' Federal retirement pay (whether military or civilian) will not be affected while serving in a volunteer capacity. Retired or separated Federal employees may accept an emeritus position without a break or mandatory waiting period.

An agreement will be established between the volunteer and the AFC STRL organization. The agreement will be reviewed by the servicing legal office. The agreement must be finalized before the assumption of duties and will include:

(1) A statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation, and any and all claims against the Government (because of the voluntary assignment) are waived by the volunteer;

(2) A statement that the volunteer will be considered a federal employee solely for the purpose of:

- 18 U.S.C. 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913;
- 31 U.S.C. 1343, 1344, and 1349(b);
- 5 U.S.C. chapters 73 and 81;
- The Ethics in Government Act of 1978;
- 41 U.S.C. chapter 21;
- 28 U.S.C. chapter 171 (tort claims procedure), and any other Federal tort liability statute;
- 5 U.S.C. 552a (records maintained on individuals)

(3) The volunteer's work schedule;

(4) The length of the agreement (defined by length of project or time defined by weeks, months, or years);

(5) The support to be provided by the AFC STRL organization (travel, administrative, office space, supplies);

(6) The volunteer's duties;

(7) A provision allowing either party to void the agreement with at least two working days' written notice;

(8) A provision that states no additional time will be added to a volunteer's service credit for such purposes as retirement, severance pay, and leave as a result of being a participant in the VEP;

(9) The level of security access required (any security clearance required by the assignment will be managed by the AFC STRL organization

while the participant is a member of the VEP);

(10) A provision that any written products prepared for publication that are related to VEP participation will be submitted to the AFC STRL organization for review and must be approved prior to publication;

(11) A statement that the volunteer accepts accountability for loss or damage to Government property occasioned by the volunteer's negligence or willful action;

(12) A statement that the activities of the volunteer on the premises will conform to the regulations and requirements of the organization;

(13) A statement that the volunteer will not improperly use or disclose any non-public information, to include any pre-decisional or draft deliberative information related to DoD programming, budgeting, resourcing, acquisition, procurement, or other matter, for the benefit or advantage of the volunteer or any non-Federal entities. Volunteers will handle all non-public information in a manner that reduces the possibility of improper disclosure;

(14) A statement that the volunteer agrees to disclose any inventions made in the course of work performed for AFC STRL. AFC STRL will have the option to obtain title to any such invention on behalf of the U.S. Government. Should the AFC CG elect not to take title, AFC will retain a non-exclusive, irrevocable, paid up, royalty-free license to practice or have practiced the invention worldwide on behalf of the U.S. Government;

(15) A statement that the volunteer must complete either a Confidential or Public Financial Disclosure Report, whichever applies; a disqualification statement prohibiting the volunteer from working on matters related to his or her former employer; and ethics training in accordance with Office of Government Ethics regulations prior to implementation of the written agreement; and

(16) A statement that the volunteer must receive post-government employment advice from a DoD ethics counselor at the conclusion of program participation. Volunteers are deemed Federal employees for purposes of post-government employment restrictions.

A written Memorandum of Agreement (MOA) between the AFC STRL organization and the volunteer is required and must include all items above, regardless of format used. The use and wording of the MOA will be provided in the IOPs of the AFC STRL organizations.

G. Internal Placement

1. Promotion

A promotion is the movement of an employee to a higher pay band in the same career path or to another career path, wherein the pay band in the new career path has a higher maximum base pay than the pay band from which the employee is moving. Positions with known promotion potential to a specific pay band within a career path will be identified when they are filled.

Movement from one career path to another will depend upon individual competencies, qualifications, and the needs of the organization. Salary progression within a pay band is not considered a promotion and not subject to the provisions of this section. Except as specified below, promotions will be processed under competitive procedures in accordance with Merit System Principles and requirements of the local merit promotion plan.

To be promoted competitively or non-competitively from one pay band to the next, an employee must meet the minimum qualifications for the job and may not have a Level 1 rating of record. If an employee does not have a current performance rating, the employee will be treated the same as an employee with a Level 2 rating of record as long as there is no documented evidence of unacceptable performance.

2. Reassignment

A reassignment is the movement of an employee from one position to a different position within the same career path and pay band or to another career path and pay band wherein the pay band in the new career path has the same maximum base pay. The employee must meet the qualification requirements for the career path and pay band.

3. Placement in a Lower Pay Band or Grade

An employee may be placed in a lower pay band within the same career path or placement into a pay band in a different career path with a lower maximum base pay. This change may be voluntary based on a request from the employee or involuntary, for cause (performance or conduct) or for reasons other than cause (*e.g.*, erosion of duties, reclassification of duties to a lower pay band, placement actions resulting from RIF procedures). Involuntary actions will be executed using the applicable adverse action procedures in 5 U.S.C. chapter 43 or chapter 75.

4. Simplified Assignment Process

Today's environment of remote work and fluctuating budgets, workforce and workload requires that the organization have maximum flexibility to assign duties and responsibilities to individuals. Pay banding can be used to address this need, as it enables the organization to have maximum flexibility to assign an employee with no change in base pay, within broad descriptions, consistent with the needs of the organization and the individual's qualifications, and level. Subsequent assignments to projects, tasks, or functions anywhere within the organization requiring the same level, area of expertise, and qualifications would not constitute an assignment outside the scope or coverage of the current position description. For instance, a Research Psychologist could be assigned to any project, task, or function requiring similar expertise. Likewise, a manager/supervisor could be assigned to manage any similar function or organization consistent with that individual's qualifications. This flexibility allows broader latitude in assignments and further streamlines the administrative process and system. Execution of such actions may require fulfilling labor obligations, where applicable.

5. Details and Expanded Temporary Promotions

Employees may be detailed to a position at the same or similar level (position in a pay band with the same maximum salary). Additionally, employees may be temporarily promoted to a position in a pay band with a higher maximum salary. Details and temporary promotions may be competitive or non-competitive under the AFC STRL Mod Demo and up to one year, with the option to extend for two years. Employees selected non-competitively for details and temporary promotions may only serve in those assignments for a total of two years out of every thirty months. A detail may be affected without a change in pay or may result in a base pay increase when the detail significantly increases the complexity, responsibility, authority, or for other compelling reasons. Such an increase is subject to the specific guidelines established by AFC STRL organizations as published in their IOP's. Details and temporary promotions may be determined by a competitive or a non-competitive process.

6. Exceptions to Competitive Procedures for Assignment to a Position

The following actions are excepted from competitive procedures:

a. Re-promotion to a position which is in the same pay band or GS equivalent and career path as the employee previously held on a permanent basis within the competitive service.

b. Promotion, reassignment, change to lower pay band, transfer, or reinstatement to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service.

c. A position change permitted by RIF procedures.

d. Promotion without current competition when the employee was appointed through competitive procedures to a position with a documented career ladder.

e. A temporary promotion, or detail to a position in a higher pay band, of two years or less.

f. A promotion due to the reclassification of positions based on accretion (addition) of duties.

g. A promotion resulting from the correction of an initial classification error or the issuance of a new classification standard.

h. Consideration of a candidate who did not receive proper consideration in a competitive promotion action.

H. Pay Setting

1. General

Pay administration policies will be established by the AFC STRL organizations. These policies will be exempt from Army Regulations or local pay fixing policies. Employees whose performance is acceptable will receive the full annual GPI and the full locality pay. AFC STRL organizations shall have delegated authority to make full use of recruitment, retention, and relocation payments as currently provided for by OPM.

2. Pay and Compensation Ceilings

A demonstration project employee's total monetary compensation paid in a calendar year may not exceed the base pay of Level I of the Executive Schedule consistent with 5 U.S.C. 5307 and 5 CFR part 530 subpart B, except employees placed in an SSTM position. In addition, each pay band will have its own pay ceiling, just as grades do in the GS system. Base pay rates for the various pay bands will be directly tied to the GS rates, except as noted for S&E Level V (SSTMs). Other than where a retained rate applies, base pay will be

limited to the maximum base pay payable for each pay band.

The minimum basic pay for SSTM positions is 120 percent of the minimum rate of basic pay for GS-15. Maximum SSTM basic pay with locality pay is limited to Executive Level III (EX-III), and maximum salary without locality pay may not exceed EX-IV.

3. Pay Setting for Appointment

For initial appointments to Federal service, the individual's pay may be set at the lowest base pay in the pay band or anywhere within the pay band consistent with the special qualifications of the individual, specific organizational requirements, the unique requirements of the position, or other compelling reasons. These special qualifications may be in the form of education, training, experience or any combination thereof that is pertinent to the position in which the employee is being placed. Guidance on pay setting for new hires will be documented in IOPs.

4. Pay Setting for Promotion

The minimum base pay increase upon promotion will be six percent or the minimum base pay rate of the new pay band, whichever is greater. The maximum amount of a pay increase for a promotion may be up to the top of the pay band consistent with the special qualifications of the individual, specific organizational requirements, the unique requirements of the position, or other compelling reason. Additional criteria will be specified in the IOPs. For employees assigned to occupational categories and geographic areas covered by special rates, the minimum base pay is the minimum rate in the pay band or the corresponding special rate or locality rate, whichever is greater. For employees covered by a staffing supplement as described in paragraph III.G.9 below, the demonstration staffing supplement adjusted pay is considered base pay for promotion calculations.

When a temporary promotion is terminated, the employee's pay entitlements will be re-determined based on the employee's position of record, with appropriate adjustments to reflect pay events during the temporary promotion, subject to the specific policies and rules established in Mod Demo IOPs. In no case may those adjustments increase the base pay for the position of record beyond the applicable pay range maximum base pay rate.

5. Pay Setting for Reassignment

A reassignment may be made without a change in the employee's base pay.

However, up to ten percent base pay increase may be granted where a reassignment significantly increases the complexity, responsibility, authority, or for other compelling reasons subject to the specific guidelines established in Mod Demo IOPs. In no case may those adjustments increase the base pay for the position of record beyond the applicable pay range maximum base pay rate.

6. Pay Setting for Change to Lower Pay Band

Employees subject to an involuntarily change to lower pay band for cause (performance or conduct) or voluntary change to lower pay band (request or selection to new position) are not entitled to pay retention and may receive a decrease in base pay. Employees subject to an involuntary change to a lower pay band for reasons other than cause (e.g., erosion of duties, reclassification of duties to a lower pay band, or placement actions resulting from RIF procedures) may be entitled to pay and grade retention in accordance with the provisions of 5 U.S.C. 5363 and 5 CFR part 536, except as waived or modified in Section IX of this plan.

7. Supervisory and Team Leader Pay Adjustments

Supervisory and team leader pay adjustments may be approved based on the rules established in Mod Demo IOPs, to compensate employees with supervisory or team leader responsibilities. Supervisory and team leader pay adjustments are a tool that may be implemented at the discretion of the AFC STRL organization and are not to be considered an employee entitlement due solely to his/her position as a supervisor or team leader. Only employees in supervisory or team leader positions as defined by the OPM GS Supervisory Guide or GS Leader Grade Evaluation Guide may be considered for the pay adjustment. Pay adjustments are increases to base pay, ranging up to 10 percent of that pay rate for supervisors and for team leaders, and are subject to the constraint that the adjustment may not cause the employee's base pay to exceed the maximum of the pay band. Pay adjustments are funded separately from performance pay pools.

A supervisory/team leader pay adjustment may be considered under the following conditions:

a. New supervisory/team leaders will have their initial rate of base pay for new supervisory/team leader positions set within the pay range of the applicable pay band and rules established by the AFC STRL

organization. Request for initial rate of pay will be made to the delegated authorizing official. This rate of pay may include a pay adjustment determined by using the ranges and criteria outlined in the AFC STRL organization IOP.

b. A career employee selected for a supervisory/team leader position may also be considered for a base pay adjustment. If a supervisor/team leader is already receiving a base pay adjustment and is subsequently selected for another supervisor/team leader position, then the base pay adjustment will be re-determined. After conversion into the demonstration project, a career employee selected for a supervisory/team leader position may be considered for a pay adjustment into the same or substantially similar position, supervisors/team leaders will be converted at their existing base rate of pay and will not be eligible for a base pay adjustment.

c. The supervisory/team leader pay adjustment will be reviewed annually, or more often as needed, and may be increased or decreased by a portion or by the entire amount of the supervisory/team leader pay adjustment based upon the employee's performance appraisal score. If the entire portion of the supervisory/team leader pay adjustment is to be decreased, the initial dollar amount of the supervisory/team leader pay adjustment will be removed. A decrease to the supervisory/team leader pay adjustment as a result of the annual review or when an employee voluntarily leaves a position is not an adverse action and is not subject to appeal.

All personnel actions involving a supervisory/team leader pay adjustment will require a statement signed by the employee acknowledging that the pay adjustment may be terminated or reduced at the discretion of the organization or will cease when an employee leaves a supervisory position. The cancellation of the adjustment is not an adverse action and is not appealable.

8. Supervisory/Team Leader Pay Differentials

Supervisory and team leader pay differentials may be used to provide an incentive and reward supervisors and team leaders. Supervisory and team leader pay differentials are a tool that may be implemented at the discretion of the AFC STRL organization and are not entitlements due to employees based on their position. A pay differential is a cash incentive that may range up to 10 percent of base pay for supervisors and for team leaders. It is paid on a pay period basis with a specified not-to-

exceed (NTE) of one year or less and is not included as part of the base pay. Criteria to be considered in determining the amount of the pay differential will be identified in the AFC organization IOP. Pay differentials are not funded from performance pay pools.

For SSTM personnel, this incentive may range up to five percent of base pay (excluding locality pay). The SSTM supervisory pay differential is paid on a pay period basis with a specified not-to-exceed date up to one year and may be renewed as appropriate.

The supervisory pay differential may be considered, either during conversion into or after initiation of the AFC STRL Mod Demo. The differential must be terminated if the employee is removed from a supervisory position, regardless of cause, or no longer meets established eligibility criteria.

All personnel actions involving a supervisory/team leader differential will require a statement signed by the employee acknowledging that the differential may be terminated or reduced at the discretion of the organization. The termination or reduction of the supervisory differential is not considered an adverse action under 5 U.S.C. chapter 75 and is not subject to appeal with the Merit Systems Protection Board.

9. Staffing Supplements

Employees assigned to occupational categories and geographic areas covered by special rates will be entitled to a staffing supplement if the maximum adjusted rate for the banded GS grades to which assigned is a special rate that exceeds the maximum GS locality rate for the banded grades. The staffing supplement is added to the base pay, much like locality rates are added to base pay. For employees being converted into the demonstration project, total pay immediately after conversion will be the same as immediately before, but a portion of the total pay will be in the form of a staffing supplement. Adverse action and pay retention provisions will not apply to the conversion process, as there will be no change in total salary. Specific provisions will be described in Mod Demo IOPs.

10. Distinguished Contribution Allowance (DCA)

The DCA may be used by AFC STRL organizations to provide an increased capability to recognize and incentivize employees who are:

- (a) Consistently extremely high-level performers, and
- (b) Paid at the top of their pay band level.

Eligibility for DCA is open to employees in all career paths. A DCA, when added to an employee's pay (to include locality pay and any supervisory differential), may not exceed the rate of basic pay for Executive Level I. DCA is paid on either a bi-weekly basis or as a lump sum following completion of a designated performance period, or combination of these. DCA is not an entitlement and is used at the discretion of AFC STRL organization to reward and retain high performing employees. DCA is not base pay for any purpose, such as retirement, life insurance, severance pay, promotion, or any other payment or benefit calculated as a percentage of base pay. Employees may receive a DCA for up to five years but not more than 10 cumulative years over an employee's entire career. The DCA will be reviewed on an annual basis for continuation or termination. Further details will be published in Mod Demo IOPs.

11. Accelerated Compensation for Developmental Positions (ACDP)

AFC STRL Mod Demo approving authorities may authorize an increase to basic pay for employees participating in training programs, internships, or other developmental capacities. ACDP will be used to recognize development of job-related competencies.

The use of ACDP is limited to employees in pay bands I and II in the B&T and S&E career paths. Additional guidance will be published in IOPs.

12. Supplemental Pay

AFC STRL organizations may establish supplemental pay rates to be paid bi-weekly, as other pay, for those positions which warrant higher compensation than that provided by the established pay band salary ranges, STRL staffing supplements or differentials, or other recruitment or retention authorities. AFC STRL organizations may establish supplemental pay rates by occupational series, specialty, competency, pay band level, and/or geographical area. In establishing such rates, AFC STRL organizations may consider: rates of pay offered by non-Federal or other alternative pay system employers that are considerably higher than rates payable by the AFC STRL organization; the remoteness of the area or location involved; the undesirability of the working conditions or nature of the work involved; evidence that the position is of such a specialized nature that very few candidates exist; numbers of employees who have voluntarily left positions; evidence to support a conclusion that recruitment or retention

problems likely will develop (if such problems do not already exist) or will worsen; consideration of use of other pay flexibilities as well as the use of non-pay solutions; or any other circumstances the AFC STRL organization considers appropriate. Documentation of the determination will be maintained by the AFC STRL organization.

This supplemental pay is in addition to any other pay, such as locality-based comparability payments authorized under 5 U.S.C. 5304 and may result in compensation above Level IV of the Executive Schedule but may not exceed Level I of the Executive Schedule.

The AFC STRL organizations have an ongoing responsibility to evaluate the need for continuing payment of the supplemental pay and shall terminate or reduce the amount if conditions warrant. Conditions to be considered are: changes in labor-market factors; the need for the services or skills of the employee has reduced to a level that makes it unnecessary to continue payment at the current level; or budgetary considerations make it difficult to continue payment at the current level. The reduction or termination of the payment is not considered an adverse action and may not be appealed or grieved. The applicant or employee will sign a statement of understanding outlining that the supplement may be reduced or terminated at any time based on conditions as determined by the AFC STRL organization. The documentation of the determination will be maintained by the AFC STRL organization.

13. Retention Counteroffers

The AFC STRL organizations may offer a retention counteroffer to retain high performing employees in scientific, technical, or administrative positions who present evidence of an alternative employment opportunity (Federal or non-federal organizations) with higher compensation. Such employees may be provided increased base pay (up to the ceiling of the pay band) and/or a one-time cash payment that does not exceed 50 percent of one year of base pay. This flexibility addresses the expected benefits described in paragraph I.I.C, particularly "increased retention of high-quality employees." Retention allowances, either in the form of a base pay increase and/or a bonus, count toward the Executive Level I aggregate limitation on pay consistent with 5 U.S.C. 5307, and 5 CFR part 530, subpart B. Further details will be published in Mod Demo IOPs.

I. Employee Development

1. Training for Degrees

Degree training is an essential component of an organization that requires continuous acquisition of advanced and specialized knowledge. Degree training in the academic environment of laboratories is also a critical tool for recruiting and retaining employees with critical skills. Constraints under current law and regulation limit degree payment to shortage occupations. In addition, current government-wide regulations authorize payment for degrees based only on recruitment or retention needs. Degree payment is currently not permitted for non-shortage occupations involving critical skills.

AFC STRL organizations may expand the authority to provide degree training for purposes of meeting critical skill requirements, to ensure continuous acquisition of advanced and specialized knowledge essential to the organization, or to recruit and retain personnel critical to the present and future requirements of the organization. It is expected that the degree payment authority will be used primarily for attainment of advanced degrees. AFC STRL organizations will document guidelines and rules for using this authority in Mod Demo IOPs.

2. Sabbaticals

AFC Mod STRL organizations may grant paid sabbaticals to career employees to permit them to engage in study or uncompensated work experience that will contribute to their development and effectiveness. Each sabbatical should benefit AFC as well as increase the employee's individual effectiveness. Examples are: advanced academic teaching, study, or research; self-directed (independent) or guided study; and on-the-job work experience with a public, private, or nonprofit organization. Each recipient of a sabbatical must sign a continued service agreement and agree to serve a period equal to at least three times the length of the sabbatical. AFC STRL organizations will document guidelines and rules for using this authority in their IOPs.

J. Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Pay (VSIP)

AFC STRL will use the authorities provided by 5 U.S.C. 9902(f) to offer VERA and VSIP, as appropriate. The AFC CG may:

(1) Approve the use of voluntary early retirement and separation pay incentives;

(2) Determine which categories of employees should be offered such incentives; and

(3) Determine the amount of voluntary separation incentive payments.

AFC STRL organization IOPs will contain procedures to validate and document that payment of an incentive to an employee is fully warranted and will judiciously ensure that eligibility factors specified in DoDI 1400.25, Volume 1702, "DoD Civilian Personnel Management System: Voluntary Separation Programs," other than those waived in this FRN, are applied.

Before authorizing the use of VERA and VSIP incentives, the AFC CG must determine that the use of such incentives is necessary to shape the laboratory workforce to better fulfill mission requirements and achieve the optimum workforce balance. If the laboratory workforce is being downsized, incentives may be used to minimize the need for involuntary separations under RIF procedures. In this downsizing scenario, early retirement and/or separation incentive pay may be offered to surplus employees who would otherwise be separated through RIF or to non-surplus employees whose positions could then be used to avert the involuntary RIF separation of surplus employees.

VERA and VSIP incentives may also be used to restructure the laboratory workforce without reducing the number of assigned personnel. In this restructuring scenario, incentives may be offered for the purpose of creating vacancies that will be reshaped to align with mission objectives. Restructuring incentives are helpful in situations such as correcting an imbalance of skills or for delayering an organization.

AFC STRL organizations will administer VERA and VSIP incentives in accordance with DoD Instruction 1400.25, Volume 1702, with the following exceptions to Enclosure 3, "Guidance and Procedures:"

(1) Par. 2.a.(6)(b) is waived to the extent that AFC STRL organizations may utilize the vacancy to correct a skills mismatch without restructuring the position.

(2) Par. 2.a.(7) is waived to the extent that AFC STRL organizations may offer VSIP in an amount set by the AFC CG annually, without regard to the amount of severance pay employees would receive under 5 U.S.C. 5595(c) if the employees were entitled to severance pay. AFC STRL organizations will document their rationale for determining payment amounts.

(3) Par. 2.b.(3)(d) is waived to the extent that a waiver is not required for

employees occupying positions defined as "hard to fill."

(4) Par. 2.c. is waived to the extent that AFC STRL organization approval authorities may approve voluntary separation incentives for Senior Scientific Technical Managers (SSTMs). The SSTM position need not be abolished and may be restructured to meet mission requirements

(5) Par. 2.g.(1) is waived to the extent that the AFC STRL organizations may pay up to an amount approved by the AFC CG for VSIP from appropriations or accounts available for such purposes to avoid an involuntary separation or to effect a restructuring action.

AFC STRL organizations will establish implementing guidance and procedures in their IOPs.

IV. Conversion

A. Conversion into the Demonstration Project

Conversion from current GS grade and pay into the new pay band system will be accomplished during implementation of the demonstration project. Initial entry into the demonstration project will be accomplished through a full employee-protection approach that ensures each employee an initial place in the appropriate career path and pay band without loss of pay on conversion.

Employees are placed in a career path (*i.e.*, DB, DE, DK) based upon their occupational series and in a pay band that includes their current grade. The GS-14 grade occurs in two pay bands of the S&E and B&T career paths, which are pay band III and pay band IV. The placement of GS-14 employees will be decided upon a review of each position's duties and responsibilities. Placement of a GS-14 into pay band III, however, is not placement in a lower-graded position. Additional guidance will be included in Mod Demo IOPs and conversion operations will be overseen by the PMB. Under the GS pay structure, employees progress through their assigned grade in step increments. Since this system is being replaced under the demonstration project, employees will be awarded that portion of the next higher step they have completed up until the effective date of conversion.

Rules Governing Within Grade Increases (WGIs) will continue in effect until conversion. Adjustments to the employee's base salary for WGI equity will be computed as of the effective date of conversion. WGI equity will be acknowledged by increasing base pay by a prorated share based upon the number of full weeks an employee has completed toward the next higher step.

Payment will equal the value of the employee's next WGI multiplied by the proportion of the waiting period completed (weeks completed in waiting period/weeks in the waiting period) at the time of conversion. Employees at step 10, or receiving retained rates, on the day of implementation will not be eligible for WGI equity adjustments since they are already at or above the top of the step scale. Employees serving on retained grade will receive WGI equity adjustments provided they are not at step 10 or receiving a retained rate.

Employees serving under temporary and term appointments will be converted and may continue their temporary and term appointments up to their established, current NTE date. Extensions of temporary appointments after conversion may be extended based on original appointment and Temporary and Term guidance identified in this FRN.

Employees on a PIP will remain in their current system until the conclusion of the PIP and a decision is rendered.

Conversion rules will apply to employees who did not convert initially or who are in positions that are involuntarily reassigned to the AFC STRL Mod Demo. If conversion into the demonstration project is accompanied by a geographic move, the employee's GS pay entitlements in the new geographic area must be determined before performing the pay conversion.

Grade and pay retention entitlements are eliminated at the time of conversion in the demonstration project. An employee on grade retention will be converted to the career path and pay band based on the employee's assigned position, not the retained grade. The employee's basic pay and adjusted basic pay while on grade retention status will be used in setting appropriate pay upon conversion and in determining the amount of any WGI equity adjustment. An employee's adjusted basic pay will not be reduced upon conversion.

Initial probationary period. Employees who have completed an initial probationary period prior to conversion will not be required to serve a new or extended initial probationary period. Employees who are serving an initial probationary period upon conversion from GS will serve the time remaining on their initial probationary period.

Supervisory probationary period. Employees who have completed a supervisory probationary period prior to conversion will not be required to serve a new or extended supervisory probationary period while in their

current position. Employees who are serving a supervisory probationary period upon conversion will serve the time remaining on their supervisory probationary period.

B. Conversion or Movement From a Project Position to a General Schedule Position

If a demonstration project employee is moving to a GS position not under the demonstration project, or if the project ends and each project employee must be converted back to the GS system, the following procedures will be used to convert the employee's project career path and pay band to a GS-equivalent grade and the employee's project rate of pay to GS equivalent rate of pay.

The converted GS grade and GS rate of pay must be determined before movement or conversion out of the demonstration project and any accompanying geographic movement, promotion, or other simultaneous action. For conversions upon termination of the project and for lateral reassignments, the converted GS grade and rate will become the employee's actual GS grade and rate after leaving the demonstration project (before any other action). For employee movement from within DoD (transfers), promotions, and other actions, the converted GS grade and rate will be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the project (e.g., promotion rules, highest previous rate rules, pay retention rules), as if the GS converted grade and rate were in effect immediately before the employee left the demonstration project.

1. Grade Setting Provisions

An employee in a pay band corresponding to a single GS grade is converted to that grade. An employee in a pay band corresponding to two or more grades is converted to one of those grades according to the following rules:

a. The employee's adjusted rate of basic pay under the demonstration project (including any locality payment or staffing supplement) is compared with step four rates on the highest applicable GS rate range. (For this purpose, a "GS rate range" includes a rate in (1) the GS base schedule, (2) the locality rate schedule for the locality pay area in which the position is located, or (3) the appropriate special rate schedule for the employee's occupational series, as applicable.) If the series is a two-grade interval series, odd-numbered grades are considered below GS-11.

b. If the employee's adjusted project rate equals or exceeds the applicable step four rate of the highest GS grade in the band, the employee is converted to that grade.

c. If the employee's adjusted project rate is lower than the applicable step four rate of the highest grade, the adjusted rate is compared with the step four rate of the second highest grade in the employee's pay band. If the employee's adjusted rate equals or exceeds step four rate of the second highest grade, the employee is converted to that grade.

d. This process is repeated for each successively lower grade in the pay band until a grade is found in which the employee's adjusted project rate equals or exceeds the applicable step four rate of the grade. The employee is then converted at that grade. If the employee's adjusted rate is below the step four rate of the lowest grade in the pay band, the employee is converted to the lowest grade.

e. *Exception:* An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or transfer from within DoD into the project, unless since that time the employee has undergone a reduction in pay band or accepted a lower pay band position.

If an employee is retaining a rate under the demonstration project, the employee's GS-equivalent grade is the highest grade encompassed in his or her pay band.

2. Equivalent Increase Determinations

Service under the AFC STRL Mod Demo is creditable for WGI purposes upon conversion back to the GS pay system. Performance pay increases (including a zero increase) under the demonstration project are equivalent increases for the purpose of determining the commencement of a WGI waiting period under 5 CFR 531.405(b).

3. Termination of Coverage Under the Demonstration Project Pay Plans

In the event employees' coverage under the AFC STRL Mod Demo pay plan is terminated, employees move with their position to another system applicable to AFC STRL employees. The grade of their demonstration project position in the new system will be based upon the position classification criteria of the gaining system. Employees may be eligible for pay retention under 5 CFR part 536 when converted to their positions classified under the new system, if applicable.

All personnel laws, regulations, and guidelines not waived by this plan will

remain in effect. Basic employee rights will be safeguarded, and Merit System Principles will be maintained.

4. S&E Level V Employees

S&E Pay Band V Employees: An employee in Level V of the S&E occupational family will convert out of the demonstration project at the GS-15 level. Procedures will be documented in IOPs to ensure that employees entering Level V understand that if they leave the demonstration project and their adjusted base pay under the demonstration project exceeds the highest applicable GS-15, step 10 rate, there is no entitlement to retained pay. However, consistent with 79 FR 43722, July 28, 2014, pay retention may be provided, under criteria established by Mod Demo IOPs, to SSTM members who are impacted by a reduction in force, work realignment, or other planned management action that would necessitate moving the incumbent to a position in a lower pay band level within the STRL. Pay retention may also be provided under such criteria when an SES or ST employee is placed in a SSTM position as a result of reduction in force or other management action. SSTM positions not entitled to pay retention above the GS-15, step 10 rate will be deemed to be the rate for GS-15, step 10. For those Level V employees paid below the adjusted GS-15, step 10 rate, the converted rates will be set in accordance with the grade setting provisions.

V. Implementation Training

Critical to the success of the demonstration project is the training developed to promote understanding of the broad concepts and finer details needed to implement and successfully execute Mod Demo. Training will be tailored to address employee concerns and to encourage comprehensive understanding of the demonstration project. Training will be required both prior to implementation and at various times during the life of the demonstration project.

A training program will begin prior to implementation and will include modules tailored for employees, supervisors, and administrative staff. Typical modules are:

- (1) An overview of the demonstration project personnel system
- (2) How employees are converted into and out of the system
- (3) Career paths and pay banding
- (4) The PFP system
- (5) Defining performance objectives
- (6) How to assign weights to performance elements

- (7) Assessing performance and giving feedback
- (8) New position descriptions
- (9) Demonstration project administration and formal evaluation.

Various types of training are being considered, including videos, video-conference tutorials, and train-the-trainer concepts. To the extent possible, materials developed by other STRLs will be utilized when appropriate to reduce implementation cost and to maintain consistency in application of similar procedures across laboratories.

VI. Project Maintenance and Changes

Many aspects of a Demonstration Project are experimental. Minor modifications to Mod Demo may be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. Flexibilities published in this **Federal Register** Notice shall be available for use by all STRLs, if they wish to adopt them.

VII. Evaluation Plan

A. Overview

Title 5 U.S.C. chapter 47 requires that an evaluation be performed to measure the effectiveness of the demonstration project and its impact on improving public management. A comprehensive evaluation plan for the entire STRL demonstration program, originally covering 24 DoD laboratories, was developed by a joint OPM/DoD Evaluation Committee in 1995. This plan was submitted to the then-Office of Defense Research & Engineering and was subsequently approved. The main purpose of the evaluation is to determine whether the waivers granted result in a more effective personnel system and improvements in ultimate outcomes (*i.e.*, organizational effectiveness, mission accomplishment, and customer satisfaction). That plan, while useful, is dated and does not fully afford the laboratories the ability to evaluate all aspects of the demonstration project in a way that fully facilitates assessment and effective modification based on actionable data. Therefore, in conducting the evaluation, AFC will ensure USD(R&E) evaluation requirements are met in addition to applying knowledge gained from other DoD laboratories and their evaluations to ensure a timely, useful evaluation of the demonstration project.

B. Evaluation Model

An evaluation model for the AFC STRL Mod Demo will identify elements critical to an evaluation of the

effectiveness of the flexibilities. However, the main focus of the evaluation will be on intermediate outcomes, *i.e.*, the results of specific personnel system changes which are expected to improve human resources management. The ultimate outcomes are defined as improved organizational effectiveness, mission accomplishment, and AFC customer satisfaction.

C. Method of Data Collection

Data from a variety of different sources will be used in the evaluation. Information from existing management information systems supplemented with perceptual survey data from employees will be used to assess variables related to effectiveness. Multiple methods provide more than one perspective on how the AFC STRL Mod Demo is working. Information gathered through one method will be used to validate information gathered through another. Confidence in the findings will increase as they are substantiated by the different collection methods. The following types of qualitative and/or quantitative data may be collected as part of the evaluation: (1) Workforce data; (2) personnel office data; (3) employee attitudes and feedback using surveys, structured interviews, and focus groups; (4) local activity histories; and/or, (5) core measures of laboratory effectiveness.

VIII. Demonstration Project Costs

A. Cost Discipline

An objective of the demonstration project is to ensure in-house cost discipline. A baseline will be established at the start of the project and labor expenditures will be tracked yearly. Implementation costs (including project development, automation costs, step buy-in costs, and evaluation costs) are considered one-time costs and will not be included in the cost discipline. The Personnel Management Board will track personnel cost changes and recommend adjustments if required to achieve the objective of cost discipline.

B. Developmental Costs

Costs associated with the development of the personnel demonstration project include software automation, training, and project evaluation. All funding will be provided through the organization's budget. The projected annual expenses are summarized in Figure 7. Project evaluation costs are not expected to continue beyond the first five years unless the results warrant further evaluation. Additional cost may be

incurred as a part of the implementation and operation of the project.

	FY23	FY24	FY25	FY26	FY27
Automation	250K	171K	171K	171K	171K
Project Evaluation	0K	0K	10K	10K	10K
Total	250K	171K	181K	181K	181K

IX. Required Waivers to Laws and Regulations

The following waivers and adaptations of certain title 5 U.S.C. and title 5 CFR provisions are required only to the extent that these statutory provisions limit or are inconsistent with the actions contemplated under this demonstration project. Nothing in this plan is intended to preclude the demonstration project from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this demonstration project.

A. Waivers to Title 5, United States Code

Chapter 5, section 552a: Records. Waived to the extent required to clarify that volunteers under the Voluntary Emeritus and Expert Program are considered employees of the Federal government for purposes of this section.

Chapter 31, section 3104: Employment of Specially Qualified Scientific and Professional Personnel. Waived to allow SSTM authority.

Chapter 31, section 3132: The Senior Executive Service: Definitions and exclusions. Waived as necessary to allow for the Level V SSTM authority of the S&E pay band.

Chapter 33, subchapter I: Examination, Certification, and Appointment. Waived except for sections 3302, 3321, and 3328 to the extent necessary to allow direct hire authority for qualified candidates whose positions involve 51 percent or more of time spent in direct support of STRL activities, are identified by AFC STRL organizations as hard to fill, have a history of high turnover, or require unique, laboratory-related skillsets; and to the extent necessary to allow employees appointed on flexible-length and renewable-term appointments to apply for Federal positions as status candidates.

Chapter 33, section 3308: Competitive Service; Examinations; Educational Requirements Prohibited; Exceptions. Waived to the extent necessary to allow

the qualification determination as described in 85 FR 78829 and this FRN.

Chapter 33, section 3317(a): Competitive Service; certification from registers. Waived insofar as “rule of three” is eliminated under the demonstration projects.

Chapter 33, section 3318(a): Competitive Service, selection from certificate. Waived to the extent necessary to eliminate the requirement for selection using the “Rule of Three” and other limitations on recruitment list.

Chapter 33, section 3321: Competitive Service; Probationary Period. This section is waived only to the extent necessary to replace “grade” with “pay band” and to allow for probationary periods of three years.

Chapter 33, section 3324–3325: Appointments to Scientific and Professional Positions. Waived in its entirety to fully allow for positions above GS–15 and allow SSTMs.

Chapter 33, section 3341: Waived in its entirety, to extend the time limits for details.

Chapter 35, section 3522: Agency VSIP Plans; Approval. Waived to remove the requirement to submit a plan to OPM prior to obligating any resources for voluntary separation incentive payments.

Chapter 35, section 3523(b)(3): Related to voluntary separation incentive payments. Waived to the extent necessary to utilize the authorities authorized in this FRN.

Chapter 41, section 4107(a)(1), (2), (b)(1), and (3): Pay for Degrees. Waived to the extent required to allow AFC to pay for all courses related to a degree program approved by the AFC STRL organizations.

Chapter 41, section 4108(a)–(c): Employee agreements; service after training. Waived to the extent necessary to require the employee to continue in the service of AFC for the period of the required service and to the extent necessary to permit the AFC STRL to waive in whole or in part a right of recovery.

Chapter 43, section 4301–4305: Related to performance appraisal. These sections are waived to the extent necessary to allow provisions of the performance management system as described in this FRN.

Chapter 51, section 5101–5112: Classification. Waived as necessary to allow for the demonstration project pay banding system.

Chapter 53, section 5301–5307: Related to Pay Comparability System, Special Pay Authority, and General Schedule Pay Rates. Waived to the extent necessary to allow demonstration project employees, including SSTM employees, to be treated as GS employees, and to allow base rates of pay under the demonstration project to be treated as scheduled rates of pay. SSTM pay will not exceed EX–IV and locality adjusted SSTM rates will not exceed EX III. Waived in its entirety to allow for staffing supplements.

Chapter 53, section 5331–5336: General Schedule Pay Rates. Waived in its entirety to allow for the demonstration project’s pay banding system and pay provisions.

Chapter 53, section 5361–5366: Grade and pay retention. Waived to the extent necessary to allow pay retention provisions described in this FR notice and to allow SSTMs to receive pay retention as described in 79 FR 43722.

Chapter 53, section 5379(a)(1)(A) and (b)(2): Student Loan Repayment. Waived to the extent necessary to define agency as STRL and to allow provisions of the student loan repayment authority as described in this FRN.

Chapter 55, section 5545(d): Hazardous duty differential. Waived to the extent necessary to allow demonstration project employees to be treated as GS employees. This waiver does not apply to employees in Level V of the S&E pay band.

Chapter 57, section 5753–5755: Recruitment and relocation, bonuses, retention allowances, and supervisory differentials. Waived to the extent necessary to allow: (a) employees and positions under the demonstration project to be treated as employees and

positions under the GS, (b) employees in Level V of the S&E pay band to be treated as ST and/or GS employees as appropriate, (c) provisions of the retention counteroffer and incentives as described in this FRN, and (d) to allow SSTMs to receive supervisory pay differentials as described in 79 FR 43722.

Chapter 75, section 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii): Adverse actions-definitions. Waived to the extent necessary to allow for up to a three-year probationary period and to permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference. Waived to the extent necessary to allow for two-year supervisory probationary periods and to permit re-assignment of supervisors during the probationary period without adverse action procedures for those employees serving in a supervisory probationary period.

Chapter 75, section 7512(3): Adverse actions. Waived to the extent necessary to replace "grade" with "pay band."

Chapter 75, section 7512(4): Adverse actions. Waived to the extent necessary to provide that adverse action provisions do not apply to (1) reductions in pay due to the removal of a supervisory or team leader pay adjustment/differential upon voluntary movement to a non-supervisory or non-team leader position or (2) decreases in the amount of a supervisory or team leader pay adjustment/differential during the annual review process.

Chapter 99, section 9902(f): Related to Voluntary Separation Incentive Payments. Waived to the extent necessary to utilize the authorities in this FRN.

B. Waivers to Title 5, Code of Federal Regulations

Part 212, section 212.301: Competitive Status Defined. Waived to the extent necessary to allow individuals on flexible-length and renewable term appointments to be considered status candidates as defined in this FRN.

Part 300–330: Employment (General). Other than Subpart G of 300. Waived to the extent necessary to allow provisions of the direct hire authorities as described in 79 FR 43722, 82 FR 29280, and 85 FR 78829; direct hire authority for qualified candidates whose positions involve 51 percent or more of time spent in direct support of STRL activities, are identified by the STRLs as hard to fill, have a history of high turnover, or

require unique, laboratory-related skillsets.

Part 300, section 300.601–300.605: Time-in-Grade Restrictions. Waived to eliminate time-in-grade restrictions in the demonstration project.

Part 315, section 315.201(b): Waived to the extent necessary to allow Flexible Length and Renewable Term Technical Appointments to be considered non-temporary employment for the purposes of determining creditable service toward career tenure.

Part 315, section 315.801(a), 315.801(b)(1), (c), and (e), and 315.802 (a) and (b): Probationary period and length of probationary period. Waived to the extent necessary to (1) allow for up to a three-year probationary period and to permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference and (2) to the extent necessary to allow for supervisory probationary periods to permit reassignment during the supervisory probationary period without using adverse action procedures for employees serving a probationary period.

Part 315, section 315.803(b): Agency Action during probationary period (general). Waived to allow for termination during an extended probationary period without using adverse action procedures under subpart D of 5 U.S.C. part 752.

Part 315, section 315.804: Termination of probationers for unsatisfactory performance or conduct. Waived to the extent necessary to reduce a supervisor who fails to successfully complete a supervisory probationary period to a lower grade/pay band.

Part 315, section 315.805: Termination of Probationers for Conditions Arising before Appointment. Waived to the extent necessary to permit termination during the extended probationary period without using adverse procedures.

Part 315, section 315.901–315.909: Statutory requirement. Waived to the extent necessary to

- (1) Replace "grade" with "pay band;"
- (2) Establish a two-year supervisory probationary period; and
- (3) Allow the movement of a newly hired supervisor who fails to meet requirements to a lower grade/pay band.

Part 316, section 316.301, 316.303, and 316.304: Term employment. Waived to the extent necessary to allow modified term appointments and FLRTTA as described in this FRN.

Waived to the extent necessary to allow Flexible Length and Renewable Term Technical Appointments to count toward competitive status. Waived to allow a two-year trial period under the Flexible Length and Renewable Term Technical Appointment.

Part 330, section 330.103–330.105: Requirement to Notify OPM and Requirements for Vacancy Announcements. Waived to the extent necessary to allow the STRL to publish competitive announcements outside of USAJobs. Waived to the extent necessary to allow an STRL to determine information to be published in a USAJobs flyer.

Part 332 and 335: Related to competitive examination and agency promotion programs. Waived to the extent necessary to:

- (1) Allow employees appointed on a Flexible Length and Renewable Term Technical Appointment to apply for federal positions as status candidates;
- (2) Allow no rating and ranking when there are 15 or fewer qualified applicants and no preference eligible candidates;
- (3) Allow the hiring and appointment authorities as described in this FRN;
- (4) Eliminate the "rule of three" requirement or other procedures to limit recruitment lists; and
- (5) To extend the length of details and temporary promotions without requiring competitive procedures as described in 85 FR 78829 and this FRN.

Part 335, section 335.103: Agency Promotion Programs. Waived to the extent necessary to extend the length of details and temporary promotions without requiring competitive procedures or numerous short-term renewals.

Part 337, section 337.101(a): Rating applicants. Waived to the extent necessary to allow referral without rating when there are 15 or fewer qualified candidates and no qualified preference eligible candidates.

Part 338, section 338.301: Competitive Service Appointment. Waived to the extent necessary to allow demonstrated exceptional experience or a combination of experience and education in lieu of meeting OPM individual occupational qualification requirements for S&E positions as described in 85 FR 78829 and this FRN.

Part 340, Subparts A–C: Other than full-time career employment. These subparts are waived to the extent necessary to allow a Voluntary Emeritus Corps and Voluntary Expert Program.

Part 351, Subparts B, D, E, F, and G: Waived to the extent necessary to allow the provisions of RIF.

Part 359, section 359.705: Related to SES Pay. Waived to allow demonstration project rules governing pay retention to apply to a former SES or ST placed on an SSTM position or Level IV position.

Part 410, section 410.308(a-e): Training to obtain an academic degree. Waived to the extent necessary to allow provisions described in this FRN.

Part 410, section 410.309: Agreements to Continue in Service. Waived to the extent necessary to allow the AFC STRL organizations to determine requirements related to continued service agreements, including employees under the Student Educational Employment Program who have received tuition assistance.

Part 430, Subpart B: Performance appraisal for GS, prevailing rate, and certain other employees. Waived to the extent necessary to be consistent with the demonstration project's pay-for-performance system.

Part 432, section 432.102–432.106: Performance based reduction in grade and removal actions. Waived to the extent necessary to allow provisions described in the FRN.

Part 511: Classification under the general schedule. Waived to the extent necessary to allow classification provisions outlined in this FR to include the list of issues that are neither appealable nor reviewable, the assignment of series under the project plan to appropriate career paths; and to allow appeals to be decided by the AFC EDCG. If the employee is not satisfied with the AFC EDCG's response to the appeal, he/she may then appeal to the DoD appellate level.

Part 530, Subpart C: Special Rate Schedules for Recruitment and Retention. Waived in its entirety to allow for staffing supplements, if applicable.

Part 531, Subparts B, D, and E: Determining the Rate of Basic Pay. Waived to the extent necessary to allow for pay setting and pay-for-performance under the provisions of the demonstration project. Within-Grade Increases and Quality Step Increases. Waived in its entirety.

Part 531, Subpart F: Locality-based comparability payments. Waived to the extent necessary to allow (1) demonstration project employees, except employees in Level V of the S&E pay band, to be treated as GS employees; and (2) base rates of pay under the demonstration project to be treated as scheduled annual rates of pay.

Part 531, section 531.604: Determining an Employee's Locality Rate. Waived to the extent required to allow for routine or permanent telework employees to receive the higher of

locality rates based on either their official worksite as documented on the SF 50 or the official duty site for AFC where the employee is employed from.

Part 536: Grade and pay retention. Waived to the extent necessary to

- (1) Replace "grade" with "pay band;"
- (2) Provide that pay retention provisions do not apply to conversions from GS special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of a supervisory pay adjustment upon voluntarily leaving a supervisory position;
- (3) Allow demonstration project employees to be treated as GS employees;

- (4) Provide that pay retention provisions do not apply to movements to a lower pay band as a result of not receiving the general increase due to an annual performance rating of record of "Level 1;"

- (5) provide that an employee on pay retention whose rating of record is "Level 1" is not entitled to 50 percent of the amount of the increase in the maximum rate of base pay payable for the pay band of the employee's position;

- (6) ensure that for employees of Pay Band V in the S&E career path, pay retention provisions are modified so that no rate established under these provisions may exceed the rate of base pay for GS–15, step 10 (*i.e.*, there is no entitlement to retained rate); and

- (7) Provide that pay retention does not apply to reduction in base pay due solely to the reallocation of demonstration project pay rates in the implementation of a staffing supplement. This waiver applies to ST employees only if they move to a GS-equivalent position within the demonstration project under conditions that trigger entitlement to pay retention.

Part 536, section 536.306(a): Limitation on retained rates. Waived to the extent necessary to allow SSTMs to receive pay retention as described in 79 FR 43727.

Part 537: Repayment of Student Loans. Waived to the extent necessary to define agency as STRL and to allow provisions of the student loan repayment authority.

Part 550, section 550.902: Definitions. Waived to the extent necessary to allow demonstration project employees to be treated as GS employees. This waiver does not apply to employees in Level V of the S&E pay band.

Part 575, Subparts A–D: Recruitment incentives, relocation incentives, retention incentives, and supervisory differentials. Waived to the extent necessary to allow

(1) Employees and positions under the demonstration project covered by pay banding to be treated as employees and positions under the GS system,

(2) To allow SSTMs to receive supervisory pay differentials as described in 73 FR 43727, and

(3) To allow the Director to pay an offer up to 50 percent of basic pay of either a base pay and/or a cash payment to retain quality employees; and to the extent necessary to allow SSTMs to receive supervisory pay differentials. Criteria for retention determination and preparing written service agreements will be as prescribed in 5 U.S.C. 5754 and as waived herein.

Part 591, Subpart B: Cost-of-Living Allowances and Post Differential-Non-Foreign Areas. Waived to the extent necessary to allow demonstration project employees covered by broad banding to be treated as employees under the GS.

Part 752, section 752.101, 752.201, 752.301, and 752.401: Principal statutory requirements and coverage. Waived to the extent necessary to

(1) Allow for up to a three-year probationary period;

(2) Permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference;

(3) Allow for supervisory probationary periods and to permit reassignment during the supervisory probationary period without use of adverse action procedures for those employees serving a probationary period under a supervisory probationary period;

(4) Replace "grade" with "pay band;" and

(5) Provide that a reduction in pay band is not an adverse action if it results from the employee's rate of base pay being exceeded by the minimum rate of base pay for that pay band. Waived to the extent necessary to provide that adverse action provisions do not apply to (1) conversions from GS special rates to demonstration project pay, as long as total pay is not reduced, and (2) reductions in pay due to the removal of a supervisory or team leader pay adjustment/differential upon voluntary movement to a non-supervisory or non-team leader position or decreases in the amount of a supervisory or team leader pay adjustment based on the annual review.

Part 1400, section 1400.202(a)(2): Waivers and Exceptions to Pre-appointment Investigative Requirements.

(1) To the extent necessary, waive the pre-employment investigative requirements thereby enabling STRLs to make a final job offer and establish an EOD prior to a favorable eligibility determination at the Top Secret/SCI level.

(2) For positions designated as Top Secret/Special-Sensitive and Critical-

Sensitive, apply the same waiver requirements for pre-appointment investigations IAW 5 CFR 1400.202(a)(2)(ii) for Critical-Sensitive positions with the following changes:

(a) An emergency or a national interest necessitating a pre-employment investigation waiver would include an

STRL's inability to meet mission requirements.

(b) An agency or agency head would be defined as an STRL to allow for the provisions regarding security eligibility as described in 85 FR 78829.

BILLING CODE 5001-06-P

Appendix A: Occupational Series by Career Path

[The series in S&E are from OPM's definition of Scientists and Engineers in the Introduction to Classification Standards, <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/positionclassificationintro.pdf>. The series in Support are one-grade interval series. The B&T are the rest.]

Series marked with an * are those in which AFC STRL currently has employees. Additional occupational series may be added as needed to support mission requirements.

Occupational Series in the Science & Engineering Career Path (DB)		
0170 History	0638 Recreation/Creative Arts Therapist	0896 Industrial Engineer*
0180 Psychology	0639 Educational Therapist	1220 Patent Administrator
0401 General Biological Scientist*	0644 Medical Technologist	1221 Patent Adviser
0403 Microbiologist	0660 Pharmacist	1223 Patent Classifier
0405 Pharmacologist	0662 Optometrist	1224 Patent Examiner
0408 Ecologist	0665 Speech Pathologist and Audiologist	1226 Design Patent Examiner
0410 Zoologist	0668 Podiatrist	1301 General Physical Scientist*
0413 Physiologist*	0680 Dental Officer	1306 Health Physicist*
0414 Entomologist	0690 Industrial Hygienist*	1310 Physicist*
0415 Toxicologist	0696 Consumer Safety Officer	1313 Geophysicist
0430 Botanist	0701 Veterinarian	1315 Hydrologist
0434 Plant Pathologist	0801 General Engineer*	1320 Chemist*
0435 Plant Physiologist	0803 Safety Engineer*	1321 Metallurgist

Occupational Series in the Science & Engineering Career Path (DB)		
0437 Horticulturalist	0804 Fire Protection Engineer	1330 Astronomer
0440 Geneticist	0806 Materials Engineer*	1340 Meteorologist
0454 Rangeland Manager	0807 Landscape Architect	1350 Geologist
0457 Soil Conservationist	0808 Architect	1360 Oceanographer
0460 Forester	0810 Civil Engineer	1370 Cartographer
0470 Soil Scientist	0819 Environmental Engineer*	1372 Geodesist
0471 Agronomist	0830 Mechanical Engineer*	1373 Land Surveyor
0480 Fish and Wildlife Administrator	0840 Nuclear Engineer	1380 Forest Products Technologist
0482 Fish Biologist	0850 Electrical Engineer*	1382 Food Technologist
0485 Wildlife Refuge Manager	0854 Computer Engineer*	1384 Textile Technologist
0486 Wildlife Biologist	0855 Electronics Engineer*	1386 Photographic Technologist
0487 Animal Scientist	0858 Biomedical Engineer*	1501 General Mathematician*
0601 General Health Scientist	0861 Aerospace Engineer*	1510 Actuary
0602 Medical Officer	0871 Naval Architect	1515 Operations Research Analyst*
0610 Nurse*	0880 Mining Engineer	1520 Mathematician*
0630 Dietitian and Nutritionist	0881 Petroleum Engineer	1529 Mathematical Statistician*
0631 Occupational Therapist	0890 Agricultural Engineer	1530 Statistician*
0633 Physical Therapist	0892 Ceramic Engineer	1550 Computer Scientist*
0635 Kinesiotherapist	0893 Chemical Engineer*	1560 Data Science
0637 Manual Arts Therapist	0894 Welding Engineer	2210 Information Technology - See Section III.B.1.*

Occupational Series in the Business & Technical Career Path (DE)		
0018 Safety and Occupational Health Specialist*	0685 Public Health Specialist	1210 Copyright Specialist
0060 Chaplain	0802 Engineering Technical*	1222 Patent Attorney*
0080 Security Administrator*	0856 Electronics Technical*	1311 Physical Science Technician*
0142 Workforce Development	0901 General Legal*	1410 Librarian*
0201 Human Resources Specialist*	0905 General Attorney*	1412 Technical Information Services Specialist*
0260 Equal Employment Specialist*	0950 Paralegal Specialist*	1521 Mathematics Technician
0301 Miscellaneous Admin and Program*	1001 General Arts and Information*	1640 Facility Manager*
0340 Program Manager*	1035 Public Affairs*	1670 Equipment Services Specialist*
0341 Administrative Officer*	1040 Language Specialist	1701 General Education and Training Specialist*
0343 Management and Program Analyst*	1060 Photographer*	1712 Training Instructor
0346 Logistics Manager*	1071 Audiovisual Production Specialist	1801 General Inspector and Investigator*
0391 Telecommunications*	1082 Writer/Editor	1910 Quality Assurance Specialist
0501 Financial Specialist*	1083 Technical Writer*	2001 Supply Specialist*
0505 Financial Manager*	1084 Visual Information Specialist	2003 Supply Program Manager*
0510 Accountant*	1101 General Business and Industry*	2101 Transportation Specialist*
0511 Auditor*	1102 Contracting Specialist*	2130 Traffic Management Specialist
0560 Budget Analyst*	1103 Industrial Property Manager	2150 Transportation Operations Specialist
0603 Physician's Assistant	1104 Property Disposal Specialist	2152 Air Traffic Controller*
0669 Medical Record Administrator	1170 Realty Specialist*	2210 Information Technology Specialist*
0671 Health System Specialist*	1176 Building Manager*	

Occupational Series in the Support Career Path (DK)		
0019 Safety Technician	0306 Government Information Specialist*	0356 Data Transcriber
0085 Security Guard	0309 Correspondence Clerk	0361 Equal Opportunity Assistant
0086 Security Clerk*	0318 Secretary*	0404 Biological Science Technician
0181 Psychology Aid and Technician*	0319 Closed Microphone Reporter*	0986 Legal Assistant
0186 Social Services Aid and Assistant	0322 Clerk Typist	1105 Purchasing Agent
0203 Human Resources Assistant	0326 Office Automation Clerk	2005 Supply Technician
0303 Miscellaneous Clerk and Assistant*	0335 Computer Clerk and Assistant*	
0304 Information Receptionist	0342 Support Services Administrator*	
0305 Mail and File Clerk*	0344 Management Clerk*	

Appendix B: List of Local Unions

ORG	BUS	Bargaining Unit Description	Location
FCC	AR1914	AFGE_COMBAT READ CTR, AVIATION WARFIGHTING CTR, ET AL FORT RUCKER, AL AFGE 1815	FORT RUCKER
FCC	AR2578	AFGE_US ARMY MVR CTR OF EXC, IMCOM, MICC, NETC, SEC COOP, BENNING, GA AFGE 54	FORT BENNING
FCC	AR2592	AFGE_US ARMY SIG CTR DEEAMC CL LAB, USACC, DENTAC, FORT GORDON, GA AFGE 2017	FORT GORDON
FCC	AR2844	AFGE_CAC FT LEAVENWORTH, DGSC, MEDCOM, FIREFIGHTERS, AARTS, KS AFGE 738	FORT LEAVENWORTH
TRAC	AR2844	AFGE_CAC FT LEAVENWORTH, DGSC, MEDCOM, FIREFIGHTERS, AARTS, KS AFGE 738	FORT LEAVENWORTH
DEVCOM HQ	AR2927	NFFE_NFFE/178	ABERDEEN PROVING GROUND
FCC	AR3016	AFGE_ARMY MANEUVER SPT CTR FT LEONARD WOOD MED AND DENT NONPROF AFGE LOCAL 908	FORT LEONARD WOOD

ORG	BUS	Bargaining Unit Description	Location
FCC	AR3017	AFGE_ARMY MANUEVER SPT CTR FT LEONARDWOOD AFGE LOCAL 908	FORT LEONARD WOOD
DAC	AR3080	NFFE_NFFE/2049 - (AR3080)	WHITE SANDS, NM
FCC	AR3138	NFFE_NFFE/273 - (AR3138)	FORT SILL
FCC	AR3249	LIUNA_MED CMD, NEC, IMCOM FT SAM HOUSTON LIUNA LOCAL 28	FORT SAM HOUSTON
FCC	AR3351	NAGE_HQ TRADOC; USACIMT; USMICC FDO; USAFC FCC AT FT EUSTIS VA & NAGE/SEIU	FORT EUSTIS
JMC (incl JTE)	AR3351	NAGE_HQ TRADOC; USACIMT; USMICC FDO; USAFC FCC AT FT EUSTIS VA & NAGE/SEIU	FORT EUSTIS
TRAC	AR3626	AFGE_AFGE/1178 - (AR3626)	FORT LEE
FCC	AR3809	AFGE_USA COMB ARMS SPT CMD, SUSTMNT CTR OF EXC, FT LEE, VA; AFGE 1178 (PROF)	FORT LEE
FCC	AR3810	AFGE_USA COMB ARMS SPT CMD, SUSTMNT CTR OF EXC, FT LEE, VA; AFGE 1178 (NONPROF)	FORT LEE

Dated: October 12, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 2022-22470 Filed 10-14-22; 8:45 am]

BILLING CODE 5001-06-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2022-OS-0057]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSDP&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 November 16, 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: Post-Election Voting Survey of State Election Officials; OMB Control Number 0704-PEVS.

Type of Request: New.

Number of Respondents: 55.

Responses per Respondent: 1.

Annual Responses: 55.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 13.75 hours.

Needs and Uses: The primary objective of the Post-Election Voting Survey of State Election Officials, conducted on behalf of the Federal Voting Assistance Program (FVAP), is to gather feedback from the state election officials (SEOs) responsible for administering the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) on behalf of the military and

overseas voters. This customer service focused survey will help FVAP understand how it can best engage election officials and identify areas where its processes can be improved. This ongoing evaluation will help determine the extent to which FVAP is achieving its mission and what actions FVAP might be able to take in the future to improve its products and services. Conducting this research will help FVAP meet its federal and congressional mandates in terms of ensuring that UOCAVA voters are receiving adequate support from state officials in the registration and voting process for federal elections. The data obtained through this study is also intended to provide insights into existing barriers to UOCAVA voting and recommendations for addressing these challenges. To obtain the necessary information, the Post-Election Voting Survey of State Election Officials project will use data collected from the population of SEOs from all 50 U.S. States, the District of Columbia, and the four U.S. territories covered under UOCAVA: Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands.

Affected Public: Individuals or households.

Frequency: Biennially.

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: October 12, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 2022-22519 Filed 10-14-22; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Army Corps of Engineers

Notice of Intent To Prepare a Draft Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report XIV [XIV] for the 2016 American River Watershed Common Features Project, Sacramento, CA

AGENCY: U.S. Army Corps of Engineers

ACTION: Notice of intent; correction.

SUMMARY: The U.S. Army Corps of Engineers (USACE) published a document in the **Federal Register** of October 7, 2022, concerning the intent to prepare a draft Supplemental Environmental Impact Statement (SEIS)/Subsequent Environmental Impact Report (SEIR) to the 2016 American River Watershed Common Features (ARCF) General Reevaluation Report (GRR), Final Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR). The document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Mr. Guy Romine, telephone at (916) 557-5100, email at ARCF_SEIS@usace.army.mil.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 7, 2022, in FR Doc. 2022-21870, on page 61003, in the second column, correct the **DATES** caption to read:

DATES: Written comments regarding the scope of the environmental analysis should be received by December 1, 2022.

David B. Olson,

Federal Register Liaison Officer, Army Corps
of Engineers.

[FR Doc. 2022-22526 Filed 10-14-22; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN-2022-HQ-0028]

Proposed Collection; Comment Request

AGENCY: Department of the Navy,
Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Department of the Navy announces a proposed public information collection

and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 16, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24 Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket 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.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Department of the Navy Information Management Control Officer, 2000 Navy Pentagon, Rm. 4E563, Washington, DC 20350, or call Ms. Sonya Martin at 703-614-7585.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Personalized Recruiting for Immediate and Delayed Enlistment Modernization (PRIDE Mod); OMB Control Number 0703-0062.

Needs and Uses: The information collection requirement is necessary to support the U.S. Navy's process to recruit and access persons for naval service.

Affected Public: Individuals or households.

Annual Burden Hours: 60,000.
Number of Respondents: 60,000.
Responses per Respondent: 1.
Annual Responses: 60,000.
Average Burden per Response: 1 hour.
Frequency: On occasion.

Dated: October 12, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022-22478 Filed 10-14-22; 8:45 am]

BILLING CODE 5001-06-P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Senior Executive Service Performance Review Board

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the membership of the Defense Nuclear Facilities Safety Board (DNFSB) Senior Executive Service (SES) Performance Review Board (PRB).

DATES: These appointments are effective on November 14, 2022.

ADDRESSES: Send comments concerning this notice to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004-2001.

FOR FURTHER INFORMATION CONTACT: LeMont Neal by telephone at (202) 826-9667, or by email at LemontN@dnfsb.gov.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314 (c)(1) through (5) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The PRB shall review and evaluate the initial summary rating of the senior executives' performance, the executives' responses, and the higher-level officials' comments on the initial summary rating. In addition, the PRB will review and recommend executive performance bonuses and pay increases.

The DNFSB is a small, independent Federal agency; therefore, the members of the DNFSB SES Performance Review Board listed in this notice are drawn from the SES ranks of other agencies. The following persons comprise a standing roster to serve as members of the Defense Nuclear Facilities Safety Board SES Performance Review Board: Andrea Kock, Deputy Office Director for Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission

Delores Thompson, Counsel to the Inspector General, U.S. Department of Labor, Office of Inspector General, Office of Legal Services
Michael Mikulka, Assistant Inspector General for Investigations, Office of Investigations—Labor Racketeering and Fraud, U.S. Department of Labor OIG

Authority: 5 U.S.C. 4314.

Dated: October 11, 2022.

Joyce Connery,

Chair.

[FR Doc. 2022-22488 Filed 10-14-22; 8:45 am]

BILLING CODE 3670-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2022-SCC-0093]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Aid Program—Application for Section 7002 Assistance

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before November 16, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection request (ICR) by selecting "Department of Education" under "Currently Under Review," then check the "Only Show ICR for Public Comment" checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the "View Information Collection (IC) List" link. Supporting statements and other supporting documentation may be found by clicking on the "View Supporting Statement and Other Documents" link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Faatimah Muhammad, 202-453-6827.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA)

(44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed ICR that is described below. The Department is especially interested in public comments addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public record.

Title of Collection: Impact Aid Program—Application for Section 7002 Assistance.

OMB Control Number: 1810-0036.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 215.

Total Estimated Number of Annual Burden Hours: 323.

Abstract: The U.S. Department of Education (ED) is requesting an extension for the Application for Assistance under section 7002 of title VII of the Elementary and Secondary Education Act (ESEA). This application is for a grant program otherwise known as Impact Aid Payments for Federal Property. Local Educational Agencies (LEAs) that have lost taxable property due to Federal activities request financial assistance by completing an annual application. Regulations for section 7002 of the Impact Aid Program are found at 34 CFR 222, subpart B. Applicants prepare and submit these applications through an e-application on ED's Impact Aid Grant System website. The e-application offers recurring LEA applicants significant advantages in preparing the application because it pre-populates much of the LEA's identifying information and Federal property data. The e-application automatically checks for completion of

all necessary items and includes arithmetic checks for table subtotals and the application total. This software reduces the number of errors in applications submitted to ED.

Dated: October 12, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022-22479 Filed 10-14-22; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2022-SCC-0126]

Agency Information Collection Activities; Comment Request; Federal Student Loan Debt Relief Application and Verification Forms Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Department requested the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection and is now requesting an extension.

DATES: The Department requested emergency processing and OMB approval for this information collection by October 7, 2022. A regular clearance process is also hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before December 16, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2022-SCC-0126. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be*

accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Team, Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W203, Washington, DC 20202-8240.

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. The Department 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: Federal Student Loan Debt Relief Application and Verification Forms Request.

OMB Control Number: 1845-0167.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 38,237,500.

Total Estimated Number of Annual Burden Hours: 8,236,075.

Abstract: The Department requested emergency processing and OMB approval for this information collection by October 7, 2022, for a new information collection. The Department is now requesting a 60-day public comment period for the regular

information collection. This collection will be used to obtain information from federal student loan borrowers to determine eligibility for loan discharge announced by the Secretary of Education on August 24, 2022 under the authority of title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070 *et seq.*); 20 U.S.C. 1018(f) and 1087e(h); the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1098 bb) (including any waivers or modifications that the Secretary of Education deems necessary to make to any statutory or regulatory provision applicable to the federal student financial assistance programs under title IV of the HEA to achieve specific purposes listed in the section in connection with a war, other military operation, or a national emergency); and, 31 U.S.C. 7701 and Executive Order 9397, as amended by Executive Order 13478 (November 18, 2008). To implement the Secretary's directive, the Department must, as soon as practicable, establish a process available to all federal student loan borrowers to request a discharge, attest to their income eligibility for loan discharge, and verify that income, if requested by the Department. Federal Student Aid has developed application forms (borrower and parent), an income verification form, and a parent income waiver request in compliance with this directive. As designed, each student loan borrower would complete an online or paper student loan debt relief application form to request consideration for loan discharge within 12 months of the end of the payment pause (December 31, 2022) and must verify their income, if required, by March 31, 2024.

Dated: October 12, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022-22495 Filed 10-14-22; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open in-person/virtual hybrid meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the

Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 9, 2022, 6 p.m.–8 p.m.

ADDRESSES: This meeting will be open to the public virtually via Zoom only. To attend virtually, please send an email to: orssab@orem.doe.gov by no later than 5 p.m. ET on Wednesday, November 2, 2022.

Board members, Department of Energy (DOE) representatives, agency liaisons, and Board support staff will participate in-person, following COVID-19 precautionary measures, at: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

Attendees should check the website listed below for any meeting format changes due to COVID-19 protocols.

FOR FURTHER INFORMATION CONTACT:

Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM-942, Oak Ridge, TN 37831; Phone (865) 241-3315; or Email: Melyssa.Noel@orem.doe.gov. Or visit the website at www.energy.gov/orssab.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE-EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation
- Public Comment Period
- Motions/Approval of October 12, 2022 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Subcommittee Reports

Public Participation: The in-person/virtual hybrid meeting is open to the public virtually via Zoom only. Written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5 p.m. ET on Wednesday, November 2, 2022 will be read aloud during the meeting. Comments will be accepted after the meeting, by no later

than 5 p.m. ET on Monday, November 14, 2022. Please submit comments to orssab@orem.doe.gov. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit written public comments should email them as directed above.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: <https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings>.

Signing Authority

This document of the Department of Energy was signed on October 11, 2022, by Shena Kennerly, Acting Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 12, 2022.

Treena V. Garrett,

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

[FR Doc. 2022-22507 Filed 10-14-22; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Case Number 2021-004; EERE-2021-BT-WAV-0009]

Energy Conservation Program: Decision and Order Granting a Waiver to GE Appliances, a Haier Company, From the Department of Energy Miscellaneous Refrigeration Products Test Procedure

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

ACTION: Notification of decision and order.

SUMMARY: The U.S. Department of Energy (“DOE”) gives notification of a Decision and Order (Case Number 2021-004) that grants to GE Appliances,

a Haier Company (“GEA”) a waiver from specified portions of the DOE test procedure for determining the energy consumption of a specified miscellaneous refrigeration product. Under the Decision and Order, GEA is required to test and rate the specified basic model of its product in accordance with the alternate test procedure set forth in the Decision and Order.

DATES: The Decision and Order is effective on October 17, 2022. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for miscellaneous refrigeration products located at title 10 of the Code of Federal Regulations (“CFR”), part 430, subpart B, appendix A that addresses the issues presented in this waiver. At such time, GEA must use the relevant test procedure for this product for any testing to demonstrate compliance with the applicable standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: AS_Waiver_Request@ee.doe.gov.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with section 430.27(f)(2) of title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notification of the issuance of its Decision and Order as set forth in this document. The Decision and Order grants GEA a waiver from the applicable test procedure at 10 CFR part 430, subpart B, appendix A for the specific basic model for which GEA petitioned for waiver, designated “S–IGH–R” and described as an “In-Home Grower”, and provides that GEA must test and rate the product using the alternate test procedure specified in the Decision and Order. GEA’s representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy

consumption of the product. (42 U.S.C. 6293(c))

Consistent with 10 CFR 430.27(j), not later than December 16, 2022, any manufacturer currently distributing in commerce in the United States products employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver. Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of those products in the United States. 10 CFR 430.27(j). Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Case # 2021–004

Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (“EPCA”),¹ authorizes the U.S. Department of Energy (“DOE”) to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which, in addition to identifying particular types of consumer products and commercial equipment as covered under the statute, permits the Secretary of Energy to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)) DOE added miscellaneous refrigeration products (“MREFs”) as covered products through a final determination of coverage published in the **Federal Register** on July 18, 2016. 81 FR 46768.

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) certifying to DOE

that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for MREFs is set forth in the Code of Federal Regulations (“CFR”) at 10 CFR part 430, subpart B, appendix A, “Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products” (“appendix A” or “MREF test procedure” for the purposes of this document).

Any interested person may submit a petition for waiver from DOE’s test procedure requirements. 10 CFR 430.27(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 430.27(l). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.* When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is

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

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

required to demonstrate compliance. 10 CFR 430.27(h)(3).

II. GEA's April 2021 Petition for Waiver and Interim Waiver

On April 9, 2021, DOE received from GEA a petition for waiver and interim waiver from the MREF test procedure. (GEA, No.1 at p. 1)³ Pursuant to 10 CFR 430.27(e)(i), DOE posted the petition on the DOE website at: www.energy.gov/eere/buildings/current-test-procedure-waivers.⁴

The petition addressed GEA's In-Home Grower, a product with lighting, temperature, humidity, and nutrient water control that allows the user to grow plants within their home year-round. GEA stated that the average compartment temperatures of the In-Home Grower exceed the 55 °F standardized temperature required for testing under the existing DOE test procedure (see section 3.2 of appendix A) and, therefore, the product cannot be tested using the existing test procedure. GEA also described characteristics of this basic model that GEA stated would prevent the use of certain test setup, stabilization, temperature control, and energy use determination requirements in appendix A. (GEA, No. 1 at pp. 3–4) GEA subsequently submitted additional correspondence to DOE in support of its petition on April 26, 2021⁵ and on June 2, 2021.⁶

On July 7, 2021, DOE published a notification of petition for waiver and denial of an interim waiver for the alternative test approach described by GEA in its April 26, 2021, correspondence. 86 FR 35766 (“July 2021 Notification of Petition for Waiver”). In the July 2021 Notification of Petition for Waiver, DOE acknowledged that, based upon GEA's petition, absent an interim waiver, GEA's In-Home Grower cannot be tested and rated for energy consumption according to the MREF test procedure on a basis representative of its true energy consumption characteristics. *Id.* at 86 FR 35768. However, DOE tentatively determined that GEA's

proposed alternative test procedure would not result in a measurement of the energy use of the basic model that is representative of an average use cycle or period of use, and therefore the petition for waiver was unlikely to be granted as submitted. *Id.* Specifically, DOE determined that the requested test approach to isolate the refrigeration system energy consumption would not provide a representative measurement of energy use for the basic model during an average use cycle or period of use. *Id.* at 86 FR 35770. DOE requested comment on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. *Id.*

In response to the July 2021 Notification of Petition for Waiver, GEA submitted a comment stating that while it believed the alternate test procedure it had proposed would appropriately measure the energy consumption of its In-Home Grower, GEA proposed to use a different alternate test procedure that would measure all energy consumed by the product when tested under normal operating conditions. (GEA, No. 5 at pp. 1–2).

III. November 2021 Notice of Petition for Waiver

On September 17, 2021, GEA submitted to DOE a new petition for waiver (“September 2021 petition for waiver”) for the same basic model with a revised alternate test approach.⁷ GEA requested to waive the current test procedure, calculations, and accompanying conditions for testing coolers as specified in section 6.2.2 of appendix A.⁸ GEA asserted that the In-Home Grower is fundamentally different from all other known miscellaneous refrigeration products. The primary assertion of the petition was that the basic model for which the waiver was requested contains design characteristics that prevent testing of the basic model according to the prescribed MREF test procedure. GEA stated that the In-Home Grower, when tested at its coldest setting in a 90 °F ambient temperature, cannot achieve the 55 °F standardized temperature required for

the MREF test procedure (see section 3.2 of appendix A as it appeared in September 2021). GEA stated that its testing in a 90 °F ambient condition resulted in compartment temperatures of 79.90 °F and 79.97 °F.

The DOE test procedure at appendix A simulates typical room conditions (72 °F) with door openings, by testing at 90 °F without door openings. 10 CFR 430.23(ff)(7). The test procedure directly measures the energy consumed during steady-state operation and defrosts, if applicable. Additionally, the DOE test procedure incorporates correction factors to account for differences in these user-related thermal loads for different types of consumer refrigeration products (*i.e.*, MREFs are typically used less frequently than a primary refrigerator-freezer in a household and thus have a correction factor of 0.55). See, for example for automatic defrost models, section 5.2.1.1 of appendix A as it appeared in September 2021.⁹

GEA stated in its September 2021 petition for waiver that there is no need to elevate the ambient temperature for the test to account for door openings and loads because the In-Home Grower has a very low number of door openings and, after the initial loading with plants, will typically not have additional loads introduced. GEA sought to waive the requirement for testing the In-Home Grower at a 90 °F ambient condition. See section 2.1.1 of appendix A as it appeared in September 2021. GEA instead requested to test the In-Home Grower in a 72 °F ambient condition, which it asserted better represents typical use of the product. GEA further stated that testing at a 72 °F ambient with the product temperature set to 60 °F (the minimum temperature set point) yields compartment temperatures between 59.15 and 61.41 °F. GEA also sought to waive the requirement in section 6.2.2 of appendix A as it appeared in September 2021¹⁰ that performance be calculated at a standardized compartment temperature of 55 °F, since the In-home Grower is not capable of maintaining the 55 °F standardized compartment temperature. Instead, GEA requested that the model be tested in the 72 °F ambient condition using default settings.

Additionally, GEA sought to waive the existing DOE test procedure requirement to measure the internal compartment temperatures of the unit under test. See section 5.1 of appendix

³ A notation in this form provides a reference for information that is in the docket for this test procedure waiver (Docket No. EERE-2021-BT-WAV-0009) (available at www.regulations.gov/docket/EERE-2021-BT-WAV-0009). This notation indicates that the statement preceding the reference is document number 1 in the docket and appears at page 1 of that document.

⁴ The petition did not identify any of the information contained therein as confidential business information.

⁵ This document can be found in the docket for this test procedure waiver under Document No. 002.

⁶ This document can be found in the docket for this test procedure waiver under Document No. 003.

⁷ This document can be found in the docket for this test procedure waiver under Document No. 006.

⁸ References to appendix A in GEA's September 2021 petition for waiver refer to appendix A as it appeared in the CFR at the time of GEA's submission. DOE amended appendix A in a final rule published October 12, 2021. Among other amendments, the revised appendix A replaces certain enumerated provisions with incorporation by reference to the updated industry standard Association of Home Appliance Manufacturers (“AHAM”) HRF-1–2019, *Energy and Internal Volume of Consumer Refrigeration Products* (“HRF-1–2019”).

⁹ This corresponds to Section 5.8.2.1.1 of HRF-1–2019, as referenced by the current version of appendix A.

¹⁰ This corresponds to Section 5.9.5 of HRF-1–2019, as referenced by the current version of appendix A.

A as it appeared in September 2021.¹¹ GEA claimed that the rotation of the compartments significantly increases the test burden of temperature measurements, as the thermocouple wires would require a customized testing setup to avoid tangling of the wires and movement of the temperature masses. Under GEA’s requested approach, compartment temperature measurements would not be necessary because no interpolation would be made to reflect performance at the standardized 55 °F compartment temperature. (GEA, No. 6 at p. 4)

GEA also sought to waive the stabilization and test period requirements specified in sections 2.9 and 4 of appendix A as it appeared in September 2021, respectively.¹² Specifically, GEA requested an 8-hour stabilization period (the duration of each rotation) and 24-hour test period (the duration of one full rotation) based on the rotation of the internal compartments, rather than based on compressor cycling as specified in appendix A. (*Id.*)

GEA’s requested alternate test procedure addressed the test procedure requirements to be waived as discussed in the previous paragraphs. GEA’s requested approach also included additional test instructions regarding setup and control settings instructions.

Because the In-Home Grower supplies water and nutrients to plants during normal operation, GEA’s suggested alternate test procedure provided instructions for filling nutrient tanks with ambient-temperature water prior to the start of the test.

The proposed alternate test approach also provided instructions for product settings, as the suggested test procedure would not be based on the product maintaining compartment temperature to the 55 °F standardized compartment temperature specified in appendix A. Specifically, GEA requested that the In-Home Grower be controlled via use of an application on a connected device and that the product be operated using default settings.

In summary, GEA’s suggested alternate test procedure would measure the daily energy consumption of the basic model by providing:

- (1) Directions for filling the nutrient water tanks with water at ambient temperature;
- (2) A specific stabilization period of 8 hours (in place of the requirements of

section 2.9 of appendix A as it appeared in September 2021);

(3) A specific test period of 24 hours (in place of the test period described in section 4.1 of appendix A as it appeared in September 2021);

(4) An ambient test condition of 72 °F (in place of the requirement in section 2.1.1 of appendix A as it appeared in September 2021);

(5) That no compartment temperature measurements be taken during the test (in place of the requirements in section 5.1 of appendix A as it appeared in September 2021); and

(6) That the product be controlled using an application from a connected device and operated using default settings. (GEA, No. 6 at p. 6)

On November 16, 2021, DOE published a notification that announced its receipt of the petition for waiver. 86 FR 63350 (“November 2021 Notification of Petition for Waiver”). In the November 2021 Notification of Petition for Waiver, DOE described GEA’s September 2021 petition for waiver and the suggested alternate test procedure. Further, DOE explained that it considers the In-Home Grower to meet the definition of a cooler in 10 CFR 430.2, but that it tentatively determined that the cooler energy conservation standards would not be applicable to the product.

In the November 2021 Notification of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure and on DOE’s tentative conclusion that the In-Home Grower, while being a cooler, would not be subject to cooler energy conservation standards due to its unique characteristics. 86 FR 63533–63534. DOE received no comments in response to the November 2021 Notification of Petition for Waiver.

For the reasons explained here and in the November 2021 Notification of Petition for Waiver, absent a waiver, the basic model identified by GEA in its petition cannot be tested and rated for energy consumption on a basis representative of its true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by GEA and concludes that it will allow for the accurate measurement of the energy use of the product, while alleviating the testing problems associated with GEA’s implementation of DOE’s applicable MREF test procedure for the specified basic models.

Thus, DOE is requiring that GEA test and rate specified MREF basic model according to the alternate test procedure specified in this Decision and Order.

Additionally, DOE has determined that while the In-Home Grower basic model meets the cooler definition, it is not subject to the cooler energy conservation standards because of its unique characteristics, as discussed in the November 2021 Notification of Petition for Waiver (see 86 FR at 633543–4).

IV. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission staff concerning the GEA petition for waiver.

V. Order

After careful consideration of all the material that was submitted by GEA, in this matter, it is *ordered* that:

(1) GEA must, as of the date of publication of this Order in the **Federal Register**, test and rate the following MREF basic model with the alternate test procedure as set forth in paragraph (2):

Brand	Basic model
Profile	S-IHG-R.

(2) The alternate test procedure for the GEA basic model listed in paragraph (1) of this Order is the test procedure for MREFs prescribed by DOE at 10 CFR part 430, subpart B, appendix A, with the modifications provided below. All other requirements of appendix A and DOE’s other relevant regulations remain applicable.

Replace section 5.1.(f) of appendix A with modified section (f). Also add new sections 5.1.(g), 5.1.(h), 5.2.(c), 5.2.(d), and 5.3.(g). The revised and new sections shall read as follows.

5.1. Test Setup and Test Conditions

* * * * *

(f) For a compartment with an internal rotating assembly, section 5.5.6 “Temperature Measurement” of HRF–1–2019 is not applicable and no compartment temperature measurements are required.

(g) For in-home plant grower products with nutrient water tank(s), fill the tank(s) to maximum fill levels with water at 72 °F+/- 5 °F prior to start of the stabilization period.

(h) For in-home plant grower products, the ambient temperature shall be 72 +/- 1 °F during the stabilization and test periods.

5.2. Test Conduct

* * * * *

(c) For a compartment with an internal rotating assembly, testing shall be conducted using default temperature settings as described in product installation instructions or in a product control application on a connected device, in lieu of the temperature settings specified in Table 1 of this section. For such compartments, only a first test using the default setting is required.

¹¹ This corresponds to Section 5.5.6 of HRF–1–2019, as referenced by the current version of appendix A.

¹² These sections correspond to Sections 3.28 and 5.7 of HRF–1–2019 as referenced by the current version of appendix A.

(d) For in-home plant grower products without defrost, the test period shall be a 24-hour period following an 8-hour stabilization period.

5.3. Test Cycle Energy Calculations

* * * * *

(g) For plant grower products tested using the test period defined in section 5.2.(d) of this appendix, the test cycle energy shall be calculated as:

$$E = \frac{1440 \times EP}{T}$$

Where:

E = total per-cycle energy consumption in kilowatt-hours per day;

1440 = conversion factor to adjust to a 24-hour average use cycle in minutes per day;

EP = energy expended in kilowatt-hours during the test;

T = test period duration in minutes.

(3) **Representations.** GEA may not make representations about the energy use of a basic model listed in paragraph (1) of this Order for compliance or marketing, unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 430.27.

(5) DOE issues this waiver on the condition that the statements, representations, and information provided by GEA are valid. If GEA makes any modifications to the controls or configurations of these basic models, such modifications will render the waiver invalid with respect to that basic model, and GEA will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, GEA may request that DOE rescind or modify the waiver if GEA discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) GEA remains obligated to fulfill any applicable requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. GEA

may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of the In-Home Grower. Alternatively, if appropriate, GEA may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

Signing Authority

This document of the Department of Energy was signed on October 4, 2022, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 12, 2022.

Treena V. Garrett,

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

[FR Doc. 2022-22501 Filed 10-14-22; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22-12-000]

Joint FERC-DOE Supply Chain Risk Management Technical Conference; Initial Notice of Joint Supply Chain Risk Management Technical Conference of the Federal Energy Regulatory Commission and the Department of Energy

The Federal Energy Regulatory Commission and the Department of Energy will convene a Technical Conference in the above-referenced proceeding on December 7, 2022, from approximately 8:30 a.m. to 5:00 p.m. Eastern Time. The conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room.

The purpose of this conference is to discuss supply chain security challenges related to the Bulk-Power System, ongoing supply chain-related activities, and potential measures to secure the supply chain for the grid's hardware, software, computer, and networking equipment. FERC Commissioners and DOE's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) Director will be in attendance, and panels will involve multiple DOE program offices, the North American Electric Reliability Corporation (NERC), trade associations, leading vendors and manufacturers, and utilities.

The conference will be open for the public to attend, and there is no fee for attendance. Supplemental notices will be issued prior to the conference with further details regarding the agenda, how to register to participate, and the format. Information on this technical conference will also be posted on the Calendar of Events on the Commission's website, www.ferc.gov, prior to the event. The conference will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347-3700. Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to accessibility@ferc.gov, call toll-free (866) 208-3372 (voice) or (202) 208-8659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

For more information about this technical conference, please contact Simon Slobodnik at Simon.Slobodnik@ferc.gov or (202) 502-6707. For information related to logistics, please contact Lodie White at Lodie.White@ferc.gov or (202) 502-8453.

Dated: October 11, 2022.

Kimberly D. Bose,
Secretary.

[FR Doc. 2022-22474 Filed 10-14-22; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23-6-000.

Applicants: Buena Vista Energy Center, LLC.

Description: Buena Vista Energy Center, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.

- Filed Date:* 10/11/22.
Accession Number: 20221011-5288.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: EG23-7-000.
Applicants: EnerSmart Imperial Beach BESS LLC.
Description: EnerSmart Imperial Beach BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 10/11/22.
Accession Number: 20221011-5349.
Comment Date: 5 p.m. ET 11/1/22.
Take notice that the Commission received the following electric rate filings:
Docket Numbers: ER20-1721-001.
Applicants: Energy Harbor LLC.
Description: Compliance filing: Informational Filing Regarding Generation Facilities Sale to be effective N/A.
Filed Date: 10/11/22.
Accession Number: 20221011-5165.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER20-2446-005.
Applicants: Bitter Ridge Wind Farm, LLC.
Description: Supplemental Information/Informational Filing Pursuant to Schedule 2 of the PJM Tariff and Request for Waiver.
Filed Date: 10/7/22.
Accession Number: 20221007-5177.
Comment Date: 5 p.m. ET 10/28/22.
Docket Numbers: ER22-1640-001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022-10-11 Responses for Additional Information re: Order 2222 Compliance Filing to be effective 10/1/2029.
Filed Date: 10/11/22.
Accession Number: 20221011-5347.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-42-000.
Applicants: Northern Virginia Electric Cooperative, Inc., PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Northern Virginia Electric Cooperative, Inc. submits tariff filing per 35.13(a)(2)(iii): Second Revised No. 3724 NITSA among PJM and NOVEC to be effective 9/7/2022.
Filed Date: 10/7/22.
Accession Number: 20221007-5141.
Comment Date: 5 p.m. ET 10/28/22.
Docket Numbers: ER23-43-000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) Rate Filing: 5th Revised NITSA/NOA Between PNM and Incorporated County of Los Alamos to be effective 10/1/2022.
Filed Date: 10/7/22.
Accession Number: 20221007-5143.
Comment Date: 5 p.m. ET 10/28/22.
Docket Numbers: ER23-44-000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) Rate Filing: San Juan Switching Station Participation Agreement to be effective 10/8/2022.
Filed Date: 10/7/22.
Accession Number: 20221007-5146.
Comment Date: 5 p.m. ET 10/28/22.
Docket Numbers: ER23-45-000.
Applicants: NTE Southeast Electric Company, LLC.
Description: Tariff Amendment: Cancellation entire tariff to be effective 10/10/2022.
Filed Date: 10/7/22.
Accession Number: 20221007-5155.
Comment Date: 5 p.m. ET 10/28/22.
Docket Numbers: ER23-46-000.
Applicants: Kleantricity, Inc.
Description: Tariff Amendment: Cancellation entire tariff to be effective 10/11/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5000.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-47-000.
Applicants: Endeavor Wind I, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 11/30/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5023.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-48-000.
Applicants: West Line Solar, LLC.
Description: Baseline eTariff Filing: West Line Solar, LLC MBR Tariff to be effective 10/15/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5030.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-49-000.
Applicants: Big Sky North, LLC.
Description: § 205(d) Rate Filing: Big Sky North, LLC Amended and Restated LGIA Co-Tenancy Agreement to be effective 10/12/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5032.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-50-000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO-NE and NEPOOL; Revisions to Modify the Schedule for FCA 18 to be effective 12/10/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5174.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-51-000.
Applicants: Florida Power & Light Company.
Description: § 205(d) Rate Filing: Third Revised Rate Schedule No. 104-FPL, DEF, JEA, and COT to be effective 12/11/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5196.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-52-000.
Applicants: Westlake Chemicals & Vinyls LLC.
Description: § 205(d) Rate Filing: Notice of Succession for Axiall to Westlake to be effective 10/12/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5217.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-53-000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ISA, SA No. 5490; Queue No. AC1-071 to be effective 11/7/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5223.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-54-000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ICESA, Service Agreement No. 3477; Queue No. R11/Z2-109 to be effective 12/11/2019.
Filed Date: 10/11/22.
Accession Number: 20221011-5243.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-55-000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Atkinson County S1 (Atkinson Solar) LGIA Termination Filing to be effective 10/11/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5250.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-56-000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Sunflower Solar (Lucedale Solar Project) LGIA Termination Filing to be effective 10/11/2022.
Filed Date: 10/11/22.
Accession Number: 20221011-5253.
Comment Date: 5 p.m. ET 11/1/22.
Docket Numbers: ER23-57-000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff

filing per 35.13(a)(2)(iii): Hecate Energy Panther Path LGIA Filing to be effective 9/27/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5255.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–58–000.
Applicants: Twin Eagle Resource Management, LLC.

Description: § 205(d) Rate Filing: Amendment to Market-Based Rate Tariff with Change in Category Status to be effective 12/11/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5275.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–59–000.
Applicants: Presumpscot Hydro LLC.
Description: § 205(d) Rate Filing:

Notice of Succession Dichotomy to Presumpscot to be effective 12/31/9998.
Filed Date: 10/11/22.

Accession Number: 20221011–5285.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–60–000.
Applicants: New York State Electric & Gas Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: New York State Electric & Gas Corporation submits tariff filing per 35.13(a)(2)(iii): NYISO–NYSEG Joint 205 of Amended & Restated SunEast Dog Corners SGIA2546—CEII to be effective 9/27/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5293.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–61–000.
Applicants: Lancaster Area Battery Storage, LLC.

Description: § 205(d) Rate Filing: Co-Tenancy Agreement Certificate of Concurrence to be effective 10/15/2022.

Filed Date: 10/11/22.

Accession Number: 20221011–5302.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–62–000.
Applicants: Lancaster Area Battery Storage, LLC.

Description: § 205(d) Rate Filing: Master Interconnection Services Agreement Certificate of Concurrence to be effective 10/15/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5303.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–63–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 2025; Queue No. P36 (amend) to be effective 8/19/2008.

Filed Date: 10/11/22.
Accession Number: 20221011–5307.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–64–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX–Buckeye Corpus Christi Solar Generation Interconnection Agreement to be effective 9/19/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5331.
Comment Date: 5 p.m. ET 11/1/22.

Docket Numbers: ER23–65–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX–Tulsita Solar Generation Interconnection Agreement to be effective 9/19/2022.

Filed Date: 10/11/22.
Accession Number: 20221011–5342.
Comment Date: 5 p.m. ET 11/1/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–2–000.
Applicants: Lucky Corridor, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Ameren Services Company.

Filed Date: 10/7/22.
Accession Number: 20221007–5196.
Comment Date: 5 p.m. ET 10/28/22.

The filings are accessible in the Commission’s eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission’s Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 11, 2022.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2022–22487 Filed 10–14–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
CXA Temple 2, LLC	EG22–158–000
Ector County Generation, LLC	EG22–159–000
SR Bell Buckle, LLC	EG22–160–000
SR Cedar Springs, LLC	EG22–161–000
SR Clay, LLC	EG22–162–000
SR DeSoto I, LLC	EG22–163–000
SR Turkey Creek, LLC	EG22–164–000
SR DeSoto I Lessee, LLC	EG22–165–000
Allora Solar, LLC	EG22–166–000
Bulldog Solar, LLC	EG22–167–000
Cabin Creek Solar, LLC	EG22–168–000
PGR 2021 Lessee 12, LLC	EG22–169–000
Gunsight Solar, LLC	EG22–170–000
PGR 2021 Lessee 9, LLC	EG22–171–000
PGR 2021 Lessee 11, LLC	EG22–172–000
PGR 2021 Lessee 13, LLC	EG22–173–000
PGR 2021 Lessee 15, LLC	EG22–174–000
PGR 2021 Lessee 19, LLC	EG22–175–000
Phobos Solar, LLC	EG22–176–000
Sonny Solar, LLC	EG22–177–000
Java Solar, LLC	EG22–178–000
Limestone Wind Project, LLC	EG22–179–000

	Docket Nos.
Lockhart Solar PV, LLC	EG22-180-000
Lockhart Reserve, LLC	EG22-181-000
Lockhart Solar PV II, LLC	EG22-182-000
Lockhart Transmission Holdings, LLC	EG22-183-000
TN Solar 1, LLC	EG22-184-000
EEC Skyhawk Lessee LLC	EG22-185-000
Top Hat Wind Energy LLC	EG22-186-000
Top Hat Wind Energy Holdings LLC	EG22-187-000
KCE NY 6, LLC	EG22-188-000
KCE TX 13, LLC	EG22-189-000
KCE TX 19, LLC	EG22-190-000
KCE TX 21, LLC	EG22-191-000
Brotman Generating, LLC	EG22-192-000
Mark One II, LLC	EG22-193-000
Brotman II, LLC	EG22-194-000
Powells Creek Farm Solar, LLC	EG22-195-000
Salt City Solar LLC	EG22-196-000
ENGIE Solidago Solar LLC	EG22-197-000
Sunnybrook Farm Solar, LLC	EG22-198-000

Take notice that during the month of September 2022, the status of the above-captioned entities as Exempt Wholesale Generators Companies became effective by operation of the Commission’s regulations. 18 CFR 366.7(a) (2021).

Dated: October 11, 2022.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2022-22484 Filed 10-14-22; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP19-495-000, CP19-495-001]

Double E Pipeline, LLC; Notice of Request for Extension of Time

Take notice that on October 4, 2022, Double E Pipeline LLC (Double E) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time until October 15, 2024, to complete construction of, and place into service, its Double E Pipeline Project (Project), which extends from the Marlan Processing Plant, owned and operated by Pronto Midstream, LLC, a subsidiary of Matador Resources Company, in Eddy County, New Mexico, to the project’s ultimate terminus in Pecos County, Texas. as authorized in the October 15, 2020 Order Issuing Certificate (Certificate Order).¹ Ordering Paragraph B(1) of the Certificate Order required Double E to complete the construction

of the proposed Project facilities² and make them available for service within two years from issuance of the order.³

Double E commenced construction of the Project on January 12, 2021.⁴ Double E has since completed construction of the Project facilities and placed the Project facilities, except for the Lobo Processing Plant and the Big Eddy Plant receipt point meter stations, into service on November 18, 2021.⁵ The Lobo Processing Plant receipt meter is currently under construction and Double E anticipates it will be completed and made available for service by December 2022. Double E is in discussions with its customer at the Big Eddy Plant receipt meter regarding the timing of those facilities and anticipates starting construction of those facilities in late 2023 or early 2024. For these reasons, Double E requests an extension to October 15, 2024, for the date to place the remaining facilities in service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Double E’s request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you

² The Double E Pipeline Project consists of a 116.6-mile-long trunkline pipeline, several ancillary components including lateral pipe connecting the trunkline to processing plants; several meter stations and meters to receive gas from and deliver gas to diverse markets; and appurtenant facilities to maintain reliable performance of the pipeline.

³ *Id.* at ordering para. (B)(1).

⁴ Order Granting Double E Pipeline’s Request to Commence General Construction Activities Docket No. CP 14-495-000 (Jan. 4, 2020).

⁵ Notification of Project In-Service of Double E Pipeline, LLC for Double E Pipeline Project, Docket No. CP19-495-000 (Nov. 29, 2021).

should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,⁶ the Commission will aim to issue an order acting on the request within 45 days.⁷ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁸ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission’s environmental analysis for the certificate complied with the National Environmental Policy Act.⁹ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their

⁶ Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

⁷ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁸ *Id.* at P 40.

⁹ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission’s environmental analysis for the permit order complied with NEPA.

¹ *Double E Pipeline, LLC*, 173 FERC ¶ 61,074 (2020) (Certificate Order).

issuance.¹⁰ The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and three copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. eastern time on October 26, 2022.

Dated: October 11, 2022.

Kimberly D. Bose,
Secretary.

[FR Doc. 2022-22475 Filed 10-14-22; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23-48-000]

West Line Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of West Line Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal

Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 31, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: October 11, 2022.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2022-22485 Filed 10-14-22; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2022-0606; FRL-10105-03-OAR]

Notice of Data Availability Relevant to Management of Regulated Substances Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: This Notice of Data Availability (NODA) is to alert stakeholders of information from the U.S. Environmental Protection Agency (EPA) regarding the United States' hydrofluorocarbon reclamation market and to solicit stakeholder input. The Agency is making available a draft report, *Analysis of the U.S. Hydrofluorocarbon Reclamation Market: Stakeholders, Drivers, and Practices*, which analyzes the United States' hydrofluorocarbon reclamation market and describes the reclamation process, factors affecting costs of reclamation, incentives, and barriers to refrigerant reclamation. The Agency is providing this information in preparation for an upcoming regulatory action which EPA intends to propose under subsection (h) of the American Innovation and Manufacturing Act of 2020. The notice identifies possible data gaps and requests comment on areas where additional information could improve the Agency's information on the United States hydrofluorocarbon reclamation market and practices. The Agency is also providing notice of a stakeholder meeting to enable stakeholders to provide input as the Agency prepares to engage in rulemaking.

DATES: To ensure that comments can be accounted for in an upcoming proposed rule that EPA is considering, please submit comments to the Agency by November 7, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2022-0606, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue

¹⁰ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Annie Kee, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–564–2056; or email address: kee.annie@epa.gov. You may also visit EPA's website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

SUPPLEMENTARY INFORMATION:

I. Public Participation

The U.S. Environmental Protection Agency (EPA) is interested in receiving comments on the draft report developed in support of this notice of data availability (NODA) to inform the Agency's regulatory process for an upcoming proposed rule that EPA is considering. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2022–0606, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. You may find the following suggestions helpful for preparing your comments: Explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and make sure to submit your comments by the comment period deadline identified. Please provide any published studies or raw data supporting your position. Confidential Business Information (CBI) should not be submitted through www.regulations.gov. Please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section if submitting a comment containing CBI.

II. Background

The Agency is providing information in preparation for an upcoming regulatory action under the American Innovation and Manufacturing Act of 2020 (AIM Act or Act), codified at 42 U.S.C. 7675. Among other provisions,

subsection (h) of the Act authorizes EPA to establish certain requirements for management of certain hydrofluorocarbons (HFCs) and their substitutes. Specifically, subsection (h)(1) of the Act directs the Agency to establish regulations to control, where appropriate, practices, processes, or activities regarding the servicing, repair, disposal, or installation of equipment, for purposes of maximizing the reclamation and minimizing the release of certain HFCs from equipment and ensuring the safety of technicians and consumers. Subsection (h) also provides that “[i]n carrying out this section, the Administrator shall consider the use of authority available to the Administrator under this section to increase opportunities for the reclaiming of regulated substances used as refrigerants” (subsection (h)(2)(A)) and authorizes EPA in promulgating regulations carrying out subsection (h) of the AIM Act to “coordinate those regulations with any other [EPA] regulations” involving “the same or a similar practice, process, or activity regarding the servicing, repair, disposal, or installation of equipment,” or reclaiming (subsection (h)(3)). Such regulations could potentially include the refrigerant management program established under title VI of the Clean Air Act.

EPA is seeking comment on the accuracy of the data and analyses presented in the draft report in the docket to this notice regarding the United States' hydrofluorocarbon refrigerant reclamation market and welcomes input on those data and potential data gaps. Readers should note that EPA will only consider comments about the draft report provided in the docket, and the Agency is not soliciting comments on any other topic through this notice. EPA plans to undergo a future notice and comment rulemaking process, which will be a separate action, that will outline the Agency's approach to the management of HFCs and their substitutes under the AIM Act. EPA will solicit public feedback on these issues through that separate notice and comment process, and therefore is not accepting public comment on these matters through this notice. Public comments that pertain to issues beyond the scope of this notice will not be considered as the Agency updates the draft report. To the extent such comments are relevant to the previously referenced future and separate rulemaking, those comments should be resubmitted through that future rulemaking process in order to ensure that they are duly considered by the

Agency in that process. Use of AIM Act terminology in this notice is for communication purposes only and should not be viewed as indications of how EPA will define these terms in any future rulemaking action. EPA intends to provide more information on the status of rulemakings and stakeholder interaction, including opportunities for submitting public comment, on the Agency's website: <https://www.epa.gov/climate-hfcs-reduction>. EPA will hold a virtual stakeholder meeting for input on the draft report and an upcoming regulatory action which EPA intends to propose under subsection (h) of the American Innovation and Manufacturing Act of 2020. Information concerning this meeting will be available on the Agency's website: <https://www.epa.gov/climate-hfcs-reduction>.

III. What information is available?

This notice provides for public review and comment on the draft report, *Analysis of the U.S. Hydrofluorocarbon Reclamation Market: Stakeholders, Drivers, and Practices*, that is available in the docket. The draft report describes EPA's current understanding of the U.S. HFC refrigerant reclamation market and provides information on the reclamation process, factors affecting costs of reclamation, incentives, and barriers to reclamation. EPA requests comment on the information and analysis in the draft report, and information on potential data gaps.

The report provides background information on the reclamation industry in support of an upcoming proposed rule that EPA is considering under subsection (h) of the AIM Act to establish regulations to control, where appropriate, practices, processes, or activities regarding the servicing, repair, disposal, or installation of equipment, for purposes of maximizing the reclamation and minimizing the release of certain HFCs from equipment and ensuring the safety of technicians and consumers. The draft report provides information on the following:

- Background information on the refrigerant reclamation of HFCs, federal and state statutory and regulatory provisions
- Subsectors and applications using refrigerants
- Historical reclamation market in the U.S., the reclamation process, factors affecting costs of reclamation, and incentives for refrigerant reclamation
- Safety of technicians and consumers
- Barriers and key challenges to refrigerant reclamation.

IV. What is EPA taking comment on and what supporting documentation do I need to include in my comments?

EPA is accepting comments on possible data gaps and areas where additional information could improve the Agency's information outlined in this notice and contained in the draft report, *Analysis of the U.S. Hydrofluorocarbon Reclamation Market: Stakeholders, Drivers, and Practices*. Specifically, EPA requests comment on topics contained in the draft report, including but not limited to:

- Current reclamation process, practices, and technologies
- Supply chain of reclaimed refrigerants (e.g., recovery, collection, stockpiling, destruction)
- Costs of reclamation (e.g., price of refrigerants, transport, storage, operating costs of reclamation systems)
- Incentives for reclamation
- Safety of technicians and consumers (e.g., outreach, best practices)
- Barriers and challenges to reclamation (e.g., contamination and accommodation of blends and cylinders with mixed refrigerants, market demand).

EPA is also interested in responses to any of the following questions related to this draft report, including but not limited to:

- Current recovery and reclamation practices, technologies, and trends:
 - What are some major changes and/or trends in reclamation technology and equipment over the past 25 years?
 - What are the current trends for the price of refrigerants and how can this affect reclamation and recovery?
 - How do reclaimers address waste oils, impurities, etc.?
 - What type of equipment do reclaimers use (e.g., off-the-shelf reclamation equipment, modified off-the-shelf reclamation equipment, custom-built equipment)?
 - What are the current practices for refrigerant recovery at equipment end-of-life?
 - Supply chain:
 - What are the primary sources of recovered refrigerant (technicians, distributors, wholesalers, etc.)?
- Stationary vs. motor vehicle air conditioning systems?
 - Are Original Equipment Manufacturers (OEMs) purchasing reclaimed HFCs for initial equipment charge?
 - Besides refrigeration and air conditioning (e.g., fire suppression), are there other sectors where reclaimed or reprocessed HFCs are being used?
 - Barriers and challenges to recovery and reclamation:

- What are major barriers to increasing the amount of refrigerant recovered and reclaimed? For example, increasing the amount of reclaimed material re-entering the market or the increased use of reclaimed material in other sectors (i.e., beyond refrigeration and air conditioning)?

- What are the losses of refrigerant during recovery and/or the reclamation process (e.g., chronic leaking) and what steps can be taken to minimize the losses (e.g., best practices, technologies)?

- How are multi-component refrigerant blends handled during recovery and/or the reclamation process?

EPA requests that commenters provide corrected information or suggested language on the draft report, along with the rationale as to why the existing text was incorrect or incomplete. In addition, please provide any published studies or raw data supporting your comments.

Cynthia A. Newberg,

Director, Stratospheric Protection Division.

[FR Doc. 2022-22458 Filed 10-14-22; 8:45 am]

BILLING CODE 6560-50-P

EXECUTIVE OFFICE OF THE PRESIDENT

National Space Council

Notice of In-space Authorization and Supervision Policy Listening Sessions; Request for Comments

AGENCY: National Space Council, Executive Office of the President (EOP).

ACTION: Notice; request for comments.

SUMMARY: On 9 September 2022, Vice President Kamala Harris, Chair of the National Space Council, requested Council Members to provide “a proposal for the authorization and supervision of commercial novel space activities within 180 days[.]” The White House National Space Council in the Executive Office of the President is organizing a series of virtual 2 hour listening sessions to engage with members of the public and learn about novel space capabilities and innovative missions, experiences with United States regulatory bodies, and approaches to mission authorization and supervision that can evolve over time.

DATES:

1. *Novel Space Capabilities:*
Monday, 14 November 2022 1 to 3 p.m.
ET

2. *Approaches for Authorization & Supervision:*

Monday, 21 November 2022 1 to 3 p.m. ET

Registration deadlines:

1. *Novel Space Capabilities:*
Sunday, 13 November 2022 11:59 a.m. ET
2. *Approaches for Authorization & Supervision:*
Sunday, 20 November 2022 11:59 a.m. ET

Written comments regarding these topics are not necessary but invited and must be received within 45 days of this publication.

ADDRESSES: Register for a virtual listening session using the session-specific links below:

Novel Space Capabilities: <https://pitc.zoomgov.com/meeting/register/vJIsd-Gurj4tGy6OkzdSEGbJGjshsVTsoqI>

Approaches to Authorization & Supervision: <https://pitc.zoomgov.com/meeting/register/vJIsf-CtrjooEzU71BfF2SeAksTFKshLyY>

Please send written comments to Diane Howard at MBX.NSpC.IASP@ovp.eop.gov

FOR FURTHER INFORMATION CONTACT: Diane Howard at MBX.NSpC.IASP@ovp.eop.gov or by calling 202.456.7831.

SUPPLEMENTARY INFORMATION:

Perspectives gathered during the virtual listening sessions will inform the National Space Council as it develops a whole-of-government framework that provides a clear, predictable, and flexible process in furtherance of the *United States Space Priorities Framework (December 2021)* which states that “U.S regulations must provide clarity and certainty for the authorization and supervision of non-governmental space activities, including for novel activities such as on-orbit services, orbital debris removal, space-based manufacturing, commercial human spaceflight, and recovery and use of space resources.”

Novel activities relate to those missions/activities that are not directly reviewed under existing regulatory regimes, including assembly and manufacturing, mining, and fueling stations. Participants are invited to share information about their missions—the different phases from cradle to grave as well the multiple aspects of these phases. i.e. the communications aspect, role of imagery in operations, in-space safety protocols such as conjunction assessment and collision avoidance, and any others participants believe are appropriate to be considered.

Pursuant to Executive Order 14056 and Title V of Public Law 100–685, National Space Council is soliciting public input through these virtual listening sessions to obtain information and recommendations from a wide array of stakeholders, including representatives from diverse industries, academia, other relevant organizations and institutions, and the general public. Virtual listening sessions will inform National Space Council Members as they develop applicable national space policy as described herein.

The virtual listening sessions will each focus on a specific theme, as described below:

1. Session on Novel Space Capabilities: 14 November 2022, 1 to 3 p.m. ET

Commercial spaceflight technologies in the United States have matured significantly over the last decade. As a direct result, the United States commercial space sector has begun to engage in a range of new activities in outer space and is planning for many more. Some of these activities are novel in and of themselves, others are novel because of who performs them or where, while still others are novel combinations of more established activities.

In the United States Space Priorities Framework (SPF), the Biden-Harris Administration highlighted the importance of an enabling policy and regulatory environment to the nation's innovation ecosystem and its thriving economic development.

U.S. regulations must provide clarity and certainty for the authorization and continuing supervision of non-governmental space activities, including for novel activities such as on-orbit servicing, orbital debris removal, space-based manufacturing, commercial human spaceflight, and recovery and use of space resources.

2. Session on Approaches for Authorization & Supervision: 21 November 2022, 1 to 3 p.m. ET

Article VI of the Outer Space Treaty obligates the United States to authorize and provide continuous supervision for the space activities of its non-governmental entities. Authorization refers to governmental permission to perform a mission or activity and supervision means ongoing governmental oversight of some sort or degree sufficient to ensure consistency with the Outer Space Treaty. The goal is a clear, predictable, and flexible regulatory and policy environment for private sector space activities that will grow and evolve in response to technological advancement and enable

continued sustainability of the space environment. This requires understanding of the operational phase of these missions.

Participants are invited to share information about their experiences and opinions about obtaining authorization to perform their current and planned activities and if/how these activities are being supervised, if current, and ideas for supervision of planned missions, to include incentives, monitoring, reporting, and others.

Speakers will have 3 minutes each to present comments and participants will be allowed to provide further details and perspectives in written format within 45 days of this publication.

Diane Howard,

*Director of Commercial Space Policy,
National Space Council.*

[FR Doc. 2022–22413 Filed 10–13–22; 11:15 am]

BILLING CODE 3395–F2–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1053; FR ID 108761]

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 collections. 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 comments shall be submitted on or before December 16, 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1053.

Title: Misuse of internet Protocol Captioned Telephone Service (IP CTS); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 186,012 respondents; 672,819 responses.

Estimated Time per Response: 0.1 hours (6 minutes) to 40 hours.

Frequency of Response: Annual, every five years, monthly and ongoing reporting requirements; Recordkeeping requirements; Third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, enacted on July 26, 1990.

Total Annual Burden: 339,781 hours.

Total Annual Cost: \$72,000.

Needs and Uses: On August 1, 2003, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, Declaratory Ruling, 68 FR 55898, September 28, 2003, clarifying that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS)

and that eligible providers of such services are eligible to recover their costs from the Interstate TRS Fund (Fund) in accordance with section 225 of the Communications Act.

On July 19, 2005, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, Order, 70 FR 54294, September 14, 2005, clarifying that two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a type of TRS eligible for compensation from the Fund.

On January 11, 2007, the Commission released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, Declaratory Ruling, 72 FR 6960, February 14, 2007, granting a request for clarification that internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Fund.

On August 26, 2013, the Commission issued Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order, 78 FR 53684, August 30, 2013, to regulate practices relating to the marketing of IP CTS, impose certain requirements for the provision of this service, and mandate registration and certification of IP CTS users.

On June 8, 2018, the Commission issued Misuse of internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order and Declaratory Ruling, 83 FR 30082, June 27, 2018 (2018 IP CTS Modernization Order), to facilitate the Commission's efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program through regulating practices related to the marketing of IP CTS, generally prohibiting the provision of IP CTS to consumers who do not genuinely need the service, permitting the provision of IP CTS in emergency shelters, and approving the use of automatic speech recognition to generate captions without the assistance of a communications assistant.

On February 15, 2019, the Commission issued Misuse of Internet Protocol Captioned Telephone Service;

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order, and Order, 84 FR 8457, March 8, 2019 (2019 IP CTS Program Management Order), requiring the submission of IP CTS user registration information to the telecommunications relay service (TRS) User Registration Database (Database) so that the Database administrator can verify IP CTS users to reduce the risk of waste, fraud, and abuse in the IP CTS program.

On June 30, 2022, the Commission issued Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of internet Protocol Captioned Telephone Service, CG Docket Nos. 03–123, 10–51, and 13–24, Report and Order, FCC 22–51, published at 87 FR 57645, September 21, 2022 (Registration Grace Period Order), allowing IP CTS and Video Relay Service (VRS) providers to provide compensable service to a new user for up to two weeks after submitting the user's information to the Database if the user's identity is verified within that period, in order to offer more efficient service to IP CTS and VRS users without risk of waste, fraud, and abuse to the Fund. The programmatic changes in information collection burdens that apply to VRS due to the Registration and Grace Period Order will be addressed separately in modifications to information collection No. 3060–1089.

This notice and request for comments pertains to the programmatic changes in information collection burdens that apply to IP CTS due to the Registration Grace Period Order, the extension of the currently approved information collection requirements for CTS and IP CTS rules, and updates to the estimates of existing burdens that were included in the November 2019 PRA submission to OMB.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–22520 Filed 10–14–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1005; FR ID 109195]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before November 16, 2022.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/>

public/do/PRAMain, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–1005.

Title: Numbering Resource Optimization-Phase 3.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, Local, or Tribal Government.

Number of Respondents and Responses: 38 respondents; 254 responses.

Estimated Time per Response: 25–40 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 153, 154, 201–

205, 207–209, 218, 225–227, 251–252, 271, and 332.

Total Annual Burden: 6,380 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality:

The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission’s rules.

Needs and Uses: The Commission established a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use this safety valve to grant requests from carriers that demonstrate the following:

- (1) The carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of six months-to-exhaust requirement); and
- (2) Projected growth is based on the carrier’s actual growth in the market or rate area, or in the carrier’s actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market.

The Commission lifted the ban on service-specific and technology-specific overlays (collectively, specialized overlays or SOs), allowing state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. To provide further guidance to state commissions, the Commission set forth the criteria that each request for delegated authority to implement a SO should address. This will enable us to examine the feasibility of SOs in a particular area, and to determine whether the Commission’s stated goals are likely to be met if the SO is implemented. Specifically, state commissions should also specifically address the following:

- (1) The technologies or services to be included in the SO;
- (2) The geographic area to be covered;
- (3) Whether the SO will be transitional;
- (4) When the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay;
- (5) Whether the SO will include take-backs;
- (6) Whether there will be 10-digit dialing in the SO and the underlying area code(s);
- (7) Whether the SO and underlying area code(s) will be subject to rationing; and

(8) Whether the SO will cover an area in which pooling is taking place.

The Commission uses the information it collects to assist the state commissions in carrying out their delegated authority over numbering resources.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–22528 Filed 10–14–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, October 20, 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 2022–21: DSCC, Bennet for Colorado, and People for Patty Murray

Notice of Availability for REG 2022–05 (Conduit Reporting Threshold)

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

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.

Laura E. Sinram,

Secretary and Clerk of the Commission.

[FR Doc. 2022–22627 Filed 10–13–22; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2022–N–12]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is establishing FHFA–29, “OGC Matter Tracking and Reporting System” (System) in order to collect information FHFA’s Office of General Counsel (OGC) will use to track assignments, projects, and other deliverables.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on October 17, 2022, unless otherwise revised pursuant to comments received. Comments must be received on or before November 16, 2022. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by “No. 2022–N–12,” using any one of the following methods:

- *Agency Website:* www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Please include “Comments/No. 2022–N–12,” in the subject line of the message.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2022–N–12, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2022–N–12, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.* See

SUPPLEMENTARY INFORMATION for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT:

Stacy Easter, Privacy Act Officer, privacy@fhfa.gov or (202) 649–3803; or Tasha Cooper, Senior Agency Official for Privacy, privacy@fhfa.gov or (202) 649–3091 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on a new system of records and will take all comments into consideration. See 5 U.S.C. 552a(e)(4) and (11). In addition to referencing “Comments/No. 2022–N–12,” please reference “FHFA–29, OGC Matter Tracking and Reporting System.”

FHFA will make all comments timely received available for examination by the public through the electronic comment docket for this notice, which is located on the FHFA website at <https://www.fhfa.gov>. All comments received will be posted without change and will include any personal information you provide, such as name, address (mailing and email), telephone numbers, and any other information you provide.

II. Introduction

This notice informs the public of FHFA’s proposal to establish and maintain a new system of records. This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when establishing a new or making a significant change to an agency’s system of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business.

Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. Records and information in this system of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, “*Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*”, prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. New System of Records

The information in this system of records will be used by FHFA to track matters, including but not limited to assignments, projects, and other deliverables, for FHFA’s OGC. The new system of records is described in detail below.

SYSTEM NAME AND NUMBER:

OGC Matter Tracking and Reporting System, FHFA–29.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized cloud service provider (Amazon Web Service, which is FedRAMP authorized).

SYSTEM MANAGER(S):

General Counsel, Office of General Counsel, (202) 649–3065, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 CFR 1200.1–1200.2; 5 U.S.C. 301; 44 U.S.C. 3101; and 12 U.S.C. 4511–4526.

PURPOSE(S) OF THE SYSTEM:

The information in this system of records will be used by FHFA to create

and maintain a database of services and legal advice in support of the Director and FHFA staff on legal matters related to the functions, activities, and operations of FHFA and the regulated entities. In addition, the system of records will be used to track the status, progress, and disposition of matters assigned to the legal staff, generate reports about any past or planned activities for each matter, and capture summary information (such as timelines, due dates, and work assignments). The System will also maintain historical reference information pertaining to such matters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this System are: OGC current and former employees and contractor personnel assigned to each respective matter; and individuals or companies and associated entities that are relevant to an OGC matter, (including but not limited to banks or other lending institutions), parties or witnesses in civil proceedings or administrative actions, current or former directors, officers, employees, and agents of the entities that FHFA regulates, interagency partners, and current, former, or potential loan recipients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this System may contain information such as the names, business email addresses, and business telephone numbers for current or former FHFA employees and contractor personnel, and descriptions of the matters as provided by the OGC employees and contract personnel assigned to each respective matter. The descriptions of OGC matters may include the names of individuals or companies and associated entities that are relevant to an OGC matter, such as, without limitation, banks or other lending institutions, parties, witnesses, current or former directors, officers, employees, and agents of the entities that FHFA regulates, interagency partners, and current, former, or potential loan recipients, and may derive from pleadings and discovery materials generated in connection with civil proceedings or administrative actions, as well as correspondence or memoranda related to work assignments.

RECORD SOURCE CATEGORIES:

The names, business email addresses, and business telephone numbers for FHFA employees and contractor personnel are obtained directly from the FHFA Active Directory. The

descriptions of the matters are provided by the OGC employees and contractor personnel assigned to each respective matter and may derive from pleadings or discovery materials in connection with civil proceedings or administrative actions, as well as correspondence or memoranda related to work assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to (i) respond to a suspected or confirmed breach or (ii) prevent, minimize, or remedy harm caused by such breach.

(2) To a federal agency or federal entity, when FHFA determines information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or; (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (e.g., federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a

statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and those matters appeared to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

(7) To outside counsel contracted by FHFA, the U.S. Department of Justice (DOJ), (including United States Attorney Offices), or other federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

a. FHFA;

b. Any employee of FHFA in his/her official capacity;

c. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

d. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(8) To the National Archives and Records Administration or other federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(9) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as relevant and necessary to such audit or oversight functions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic format. Electronic records are stored on FHFA's secured network, FHFA-authorized cloud service providers and FHFA-authorized contractor networks located within the Continental United States.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records will be retrieved primarily by an individual's name or business email address but may also be obtained by a search using any search term or filter.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with FHFA's Comprehensive Record Schedule, Item 6.2 (N1-543-11-1, approved on 01/11/2013).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are protected by controlled access procedures. Only FHFA staff (and FHFA contractors assisting such staff), whose official duties require access, are allowed to view, administer, and control these records. The System Owner controls access to this System and limits access in accordance with the above.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" Below.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" Below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this System should address their inquiry to the Privacy Act Officer, via email to privacy@fhfa.gov or by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2022-22426 Filed 10-14-22; 8:45 am]

BILLING CODE 8070-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**Notice of Meeting of the Employee Thrift Advisory Council**

DATES: October 27, 2022 at 10 a.m.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1-202-599-1426, Code: 970 258 547#; or via web: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmE3OGUwNTYtNTFjOC0YzQyLTg3ZjQtNmExODUwZDhiNzk5%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-e3fd-4f35-b43d-1a7afae5910d%22%2c%22Oid%22%3a%22533f2df2-5cef-4200-af1c-6d760c60d9cf%22%7d

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942-1640.

SUPPLEMENTARY INFORMATION:**Meeting Agenda**

1. Approval of the minutes of the May 24, 2022, Joint Board/ETAC meeting
2. Election of ETAC Chair
3. FY22 TSP Review
4. September 2022 Investment Program Review—G, F, C, S, I, and L Funds
5. Converge Update
6. FY2023 FRTIB Budget
7. Participant Satisfaction Report
8. Legislative Update
9. New Business

Authority: 5 U.S.C. 552b(e)(1).

Dated: October 12, 2022.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2022-22512 Filed 10-14-22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****Mine Safety and Health Research Advisory Committee (MSHRAC)**

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Mine Safety and Health Research Advisory Committee (MSHRAC). This is a virtual meeting only. It is open to the public, limited only by the number of web conference lines (500 web conference lines are available). If you wish to attend virtually, please register according to the instructions in the addresses section below. Time will be available for public comment.

DATES: The meeting will be held on December 8, 2022, from 10:00 a.m. to 3:30 p.m., EST.

ADDRESSES: To attend the virtual meeting, please register at the website of the National Institute for Occupational Safety and Health (NIOSH) at www.cdc.gov/niosh/mining/features/2022-12mshrac.html or by telephone at (412) 386-4541 at least 5 business days in advance of the meeting. Registrants will receive Zoom web conference access information sent to their provided email address upon successful registration.

FOR FURTHER INFORMATION CONTACT:

George W. Luxbacher, P.E., Ph.D., Designated Federal Officer, MSHRAC, NIOSH, CDC, 1600 Clifton Road NE, Mailstop V24-4, Atlanta, Georgia 30329-4027; Telephone: (404) 498-2808; Email: GLuxbacher@cdc.gov.

SUPPLEMENTARY INFORMATION:

Purpose: This Committee is charged with providing advice to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NIOSH, on priorities in mine safety and health research, including grants and contracts for such research, 30 U.S.C. 812(b)(2), section 102(b)(2).

Matters to be Considered: The agenda will include discussions on NIOSH mining safety and health research organizational structure, capabilities, projects, and outcomes. The meeting will also include an update from the NIOSH Associate Director for Mining. Agenda items are subject to change as priorities dictate.

Public Participation

Written Public Comment: The public may submit written comments or questions in advance of the meeting, to the contact person above. Written comments received in advance of the meeting will be included in the official record of the meeting, and questions will be answered during the oral public comment period open to public participation.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. The public comment session will be held on December 8, 2022, at 3:00 p.m., EST, or at the conclusion of planned presentations, and conclude following the final call for public comment. Members of the public will be given 5 to 10 minutes each for comments.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

*Director, Strategic Business Initiatives Unit,
Office of the Chief Operating Officer, Centers
for Disease Control and Prevention.*

[FR Doc. 2022-22454 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

**Centers for Disease Control and
Prevention**

[30Day-23-1154]

**Agency Forms Undergoing Paperwork
Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Generic Clearance for CDC/ATSDR Formative Research and Tool Development” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on July 22, 2022 to obtain comments from the public and affected agencies. CDC did not receive comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

- (a) 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;
- (b) 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;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) 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; and
- (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Generic Clearance for CDC/ATSDR Formative Research and Tool Development (OMB Control No. 0920-1154, Exp. 1/31/2023)—Extension—Office of Scientific Integrity (OSI), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) requests approval for an Extension of a Generic Clearance for CDC/ATSDR Formative Research and Tool Development. This information collection request is designed to allow CDC to conduct formative research information collection activities used to inform many aspects of surveillance, communications, health promotion, and research project development at CDC. Formative research is the basis for developing effective strategies including communication channels, for influencing behavior change. It helps researchers identify and understand the characteristics—interests, behaviors and needs—of target populations that influence their decisions and actions.

Formative research is integral in developing programs as well as improving existing and ongoing programs. Formative research looks at the community in which a public health intervention is being or will be implemented and helps the project staff understand the interests, attributes and needs of different populations and persons in that community. Formative research occurs before a program is designed and implemented, or while a program is being conducted.

At CDC, formative research is necessary for developing new programs or adapting programs that deal with the complexity of behaviors, social context, cultural identities, and health care that

underlie the epidemiology of diseases and conditions in the U.S. CDC conducts formative research to develop public-sensitive communication messages and user-friendly tools prior to developing or recommending interventions, or care. Sometimes these studies are entirely behavioral but most often they are cycles of interviews and focus groups designed to inform the development of a product.

Products from these formative research studies will be used for prevention of disease. Findings from these studies may also be presented as evidence to disease-specific National Advisory Committees, to support revisions to recommended prevention and intervention methods, as well as new recommendations.

Much of CDC’s health communication takes place within campaigns that have fairly lengthy planning periods—timeframes that accommodate the standard federal process for approving data collections. Short term qualitative interviewing and cognitive research techniques have previously proven invaluable in the development of scientifically valid and population-appropriate methods, interventions, and instruments.

This request includes studies investigating the utility and acceptability of proposed sampling and recruitment methods, intervention contents and delivery, questionnaire domains, individual questions, and interactions with project staff or electronic data collection equipment. These activities will also provide information about how respondents answer questions and ways in which question response bias and error can be reduced.

This request also includes collection of information from public health programs to assess needs related to initiation of a new program activity or expansion or changes in scope or implementation of existing program activities to adapt them to current needs. The information collected will be used to advise programs and provide capacity-building assistance tailored to identify needs.

Overall, these development activities are intended to provide information that will increase the success of the surveillance or research projects through increasing response rates and decreasing response error, thereby decreasing future data collection burden to the public. The studies that will be covered under this request will include one or more of the following investigational modalities: (1) structured and qualitative interviewing for surveillance, research, interventions and

material development; (2) cognitive interviewing for development of specific data collection instruments; (3) methodological research; (4) usability testing of technology-based instruments and materials; (5) field testing of new methodologies and materials; (6) investigation of mental models for health decision-making, to inform health communication messages; and (7)

organizational needs assessments to support development of capacity. Respondents who will participate in individual and group interviews (qualitative, cognitive, and computer assisted development activities) are selected purposively from those who respond to recruitment advertisements. In addition to utilizing advertisements for recruitment, respondents who will

participate in research on survey methods may be selected purposively or systematically from within an ongoing surveillance or research project.

Participation of respondents is voluntary. There is no cost to participants other than their time. The total estimated annual burden requested is 20,000 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response
General public and health care providers	Screener	10,000	1	15/60
	Interview	5,000	1	1
	Focus group interview	5,000	1	2
	Survey	5,000	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022-22506 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23-0976]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Million Hearts Hypertension Control Champions Challenge” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on December 21, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Million Hearts Hypertension Control Champions Challenge (OMB Control No. 0929-0976, Exp. 11/30/2022)—Extension—National Center for Chronic Disease Prevention and Health

Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Cardiovascular disease is a leading cause of death for men and women in the United States, among the most costly health problems facing our nation today, and among the most preventable. Heart disease and stroke also contribute significantly to disability. High blood pressure, also known as hypertension, is one of the leading causes of heart disease and stroke. Currently, about 78 million American adults have high blood pressure but only about half (48%) have adequately controlled blood pressure. The costs of hypertension are estimated at \$48.9 billion annually in direct medical costs.

In September 2011, CDC launched the Million Hearts initiative to prevent one million heart attacks and strokes by 2017. In February 2022, CDC launched Million Hearts 2027 to continue to prevent one million heart attacks, strokes, and related health conditions. In order to achieve this goal, at least 10 million more Americans must have their blood pressure under control. Million Hearts is working to reach this goal through the promotion of clinical practices that are effective in increasing blood pressure control among patient populations. There is scientific evidence that provides general guidance on the types of system-based changes to clinical practice that can improve patient blood pressure control, but additional information is needed to fully understand implementation practices so that they can be shared and promoted.

In 2013, CDC launched the Million Hearts Hypertension Control Challenge, authorized by Public Law 111-358, the America Creating Opportunities to

Meaningfully Promote Excellence in Technology, Education and Science Reauthorization Act of 2010 (COMPETES Act). The Challenge is designed to help CDC: (1) identify clinical practices and health systems that have been successful in achieving high rates of hypertension control; and (2) develop models for dissemination. The Challenge is open to single practice providers, group practice providers, and healthcare systems. Providers whose hypertensive population achieves exemplary levels of hypertension control are recognized as Million Hearts Hypertension Control Champions.

Interested clinicians or practices complete a web-based application form which collects the minimum amount of data needed to demonstrate hypertension control among their adult patients, including: (a) Two point-in-time measures of the clinical hypertension control rate for the patient population; (b) the size of the clinic population served; (c) a brief description of the characteristics of the patient population served and geographic location; and (d) a description of the sustainable systems and strategies adopted to achieve and maintain hypertension control rates. CDC scientists or contractors review each application form and rank applications by reported hypertension control rate.

In the second phase of assessment, applicants with the highest preliminary scores are asked to participate in a two-

hour data verification and validation process. The applicant reviews the application form with a reviewer, describes how information was obtained from the providers' (or practices') electronic records, chart reviews, or other sources, and reviews the methodology used to calculate the reported hypertension control rate. Data verification and validation is conducted to ensure that all applicants meet eligibility criteria and assure accuracy of their reported hypertension control rate according to a standardized method. Applicants must have achieved a hypertension control rate of at least 80% among their adult patients aged 18–85 years with hypertension.

Up to 35 finalists who pass the data verification and background check are selected as Champions. Several Champions participate in a one-hour, semi-structured interview and provide detailed information about the patient population served, the geographic region served, and the strategies employed by the practice or health system to achieve exemplary rates of hypertension control, including barriers and facilitators for those strategies. Based on the information collected for Challenges in 2013 through 2020, CDC recognized a total of 133 public and private health care practices and systems as Million Hearts Hypertension Control Champions. The Champions are announced roughly annually, approximately six months after the Challenge application period ends.

CDC plans to conduct the Million Hearts Hypertension Control Challenge annually through 2027. The 2023 Challenge is planned to launch in February 2023, coinciding with American Heart Month. The application period will be open for approximately 45–60 days, with recognition of the 2023 Champions in the fall of 2023. A similar calendar year schedule is planned for 2024 and 2025.

CDC will use the information collected through the Million Hearts Hypertension Control Challenge to increase widespread attention to hypertension at the clinical practice level, improve understanding of successful and sustainable implementation strategies at the practice or health system level, bring visibility to organizations that invest in hypertension control, and motivate individual practices to strengthen their hypertension control efforts. Information collected through the Million Hearts Hypertension Control Challenge will link success in clinical outcomes of hypertension control with information about strategies that can be used to achieve similar favorable outcomes so that the strategies can be replicated by other providers and health care systems.

CDC requests OMB approval for an estimated 215 annual burden hours. Participation is voluntary, and there are no costs to the respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Clinicians, practices, and healthcare systems	Million Hearts Hypertension Control Champion Application Form.	200	1	30/60
Finalists	Data Verification Form	40	1	2
Champions	Semi-structured Interview Guide	35	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–22504 Filed 10–14–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Advisory Board on Radiation and Worker Health for the Energy Employees Occupational Illness Compensation Program Act of 2000.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking

nominations for membership on the Advisory Board on Radiation and Worker Health (ABRWH) for the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The ABRWH consists of not more than 20 members appointed by the President of the United States, and shall reflect a balance of scientific, medical, and worker perspectives.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the ABRWH's objectives. Nominees will be appointed based on their demonstrated

qualifications, professional experience, and knowledge of issues the ABRWH may be asked to consider. Federal employees will not be considered for membership.

DATES: Nominations for individuals to serve on the ABRWH must be submitted (postmarked, if sending by mail; submitted electronically; or received, if hand delivered) no later than November 16, 2022. Packages received after this time will not be considered.

ADDRESSES: Nominations may be submitted, including attachments, by any of the following methods below:

- *Electronically: Email:* (recommended) to Nancy Adams, dcas@cdc.gov (Specify in the email subject line, “Advisory Board on Radiation and Worker Health Nomination”); or
- *Mail: Express Delivery, hand delivery messenger, or courier service:* Submit one copy of all required documents to the following address: Nancy Adams, ABRWH, Office of the Director, National Institute of Occupational Safety and Health, Centers for Disease Control and Prevention, 395 E Street SW, Suite 9200, Patriots Plaza, Washington, DC 20201.

Follow-up communications with nominees may occur as necessary throughout the process.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, National Institute for Occupational Safety and Health (NIOSH), (202) 321-9956, dcas@cdc.gov (specify in the email subject line, “Advisory Board on Radiation and Worker Health Nomination”).

SUPPLEMENTARY INFORMATION: The Centers for Disease Control and Prevention (CDC) invites interested parties to submit nominations for individuals to serve on the ABRWH for the Energy Employees Occupational Illness Compensation Program Act of 2000. The ABRWH was established pursuant to section 3624 of Public Law 106-398, and section 4 of Executive Order 13179, “Providing Compensation to America’s Nuclear Weapons Workers,” dated December 7, 2000. The ABRWH is governed by the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. 2), which sets forth standards for the formation and use of advisory committees. The statutory authority for the ABRWH is codified at 42 U.S.C. 7384o. The ABRWH currently operates under Executive Order 13889, dated March 22, 2022.

Section 4(b) of Executive Order 13179 establishes that the ABRWH shall provide advice to the Secretary, HHS on (1) the development of guidelines to assess the likelihood that an individual

with cancer sustained the cancer in the performance of duty at a Department of Energy (DOE) or an Atomic Weapons Employer (AWE) facility, and methods for arriving at and providing reasonable estimates of the radiation doses received by individuals applying for assistance under this program for whom there are inadequate records of radiation exposure; (2) the scientific validity and quality of dose reconstruction efforts performed for purposes of the compensation program; and (3) upon request by the Secretary, HHS, whether there is a class of employees at any DOE or AWE facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation dose may have endangered the health of members of the class. More information on the ABRWH is available at <https://www.cdc.gov/niosh/ocas/ocasadv.html>.

As required by 42 U.S.C. 7384o(a)(2), the President shall make appointments to the Board in consultation with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a balance of scientific, medical, and worker perspectives. The U.S. Department of Health and Human Services (HHS) policy stipulates that committee membership shall be made without discrimination on the basis of race, color, sex, religion, ethnicity, age, disability, gender, sexual orientation, gender identity, HIV status, genetic information, cultural, religious, or socioeconomic status. Minorities, women, and people with disability are encouraged to submit their nomination. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. government. Current participation on Federal workgroups or prior experience serving on a Federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. ABRWH members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports, and they serve with compensation and may receive reimbursement for travel expenses for their attendance at ABRWH meetings, including per diem in lieu of subsistence, as authorized by the Federal travel regulations. The activities of the ABRWH may necessitate its members to obtain a top-secret security clearance.

HHS may consider representation of a nominee’s knowledge, experience, and expertise in the fields of health physics, industrial hygiene, toxicology,

epidemiology, occupational medicine, or the worker perspective in the nuclear facilities spanning the operationally and geographically diverse DOE and AWE facilities covered by the EEOICPA programs; or familiarity, experience, or history of participation with the EEOICPA program. Any interested person or organization may nominate one or more individuals for membership. Interested persons are also invited and encouraged to submit statements in support of nominees.

The ABRWH consists of not more than 20 members appointed by the President of the United States. As required by 42 U.S.C. 7384o(a)(2), the President makes appointments to the ABRWH in consultation with organizations with expertise on worker health issues in order to ensure that the membership of the ABRWH reflects a balance of scientific, medical, and worker perspectives. As required by 42 U.S.C. 7384o(a)(3), the President designates a Chair for the ABRWH from among its members. The authorizing statutory provision under 42 U.S.C. 7384o and section 4 of Executive Order 13179 do not include a limit for terms of appointment for ABRWH members.

Nomination Process: Any interested person or organization may nominate one or more qualified individuals for membership. If you would like to nominate an individual or yourself for appointment to the ABRWH, please submit the following information:

- The nominee’s contact information (name, title, business address, business phone, fax number, and/or business email address) and current employment or position.

- A copy of the nominee’s resume or curriculum vitae; category of membership (e.g., scientific, medical, and/or worker perspective) that the nominee represents; a summary of the background, experience, and qualifications that addresses the nominee’s suitability for the nominated membership category identified above.

- Articles or other documents the nominee has authored that indicate the nominee’s knowledge, experience, and expertise in the fields of health physics, industrial hygiene, toxicology, epidemiology, occupational medicine, or the worker perspective in the nuclear facilities covered by the EEOICPA program; or familiarity, experience, or history of participation with the EEOICPA program. Nominations may be submitted by the candidate him or herself, or by the person/organization recommending the candidate.

- At least one letter of recommendation from person(s) not employed by the U.S. Department of

Health and Human Services. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (e.g., CDC, NIH, FDA, etc.).

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022-22456 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23-1132]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Performance Progress and Monitoring Report (PPMR)” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on February 14, 2022 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Performance Progress and Monitoring Report (PPMR) (OMB Control No. 0920-1132, Exp. 10/31/2022)—Extension—Office of Scientific Integrity (OSI), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Each year, approximately 80% of the CDC’s budget is distributed via contracts, grants and cooperative agreements, from the Office of Financial Resources (OFR) to partners (Awardees) throughout the world in an effort to promote health, prevent disease, injury and disability and prepare for new health threats. OFR is responsible for the stewardship of these funds while providing excellent, professional services to our partners and stakeholders.

Currently, CDC uses the Performance Progress and Monitoring Report (PPMR,

OMB Control No. 0920-1132), a set of progress reporting forms for Non-Research awards to collect information semi-annually from Awardees regarding the progress made over specified time periods on CDC funded projects. The PPMR was originally modified from SF-PPR (OMB Control No. 0970-0406), a similar progress report that was owned by the Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS). The PPMR was created by CDC to provide an agency-wide collection tool that would be able to obtain data on the progress of CDC Awardees for the purposes of evaluation, and to bring the Awardee reporting procedure into compliance with the Paperwork Reduction Act (PRA).

The information collected enables the accurate, reliable, uniform, and timely submission to CDC of each Awardee’s work plans and progress reports, including strategies, activities and performance measures. The information collected by the PPMR is designed to align with, and support the goals outlined for each of the CDC Awardees. Collection and reporting of the information will occur in an efficient, standardized, and user-friendly manner that will generate a variety of routine and customizable reports. The PPMR will allow each Awardee to summarize activities and progress towards meeting performance measures and goals over a specified time period specific to each award. CDC will also have the capacity to generate reports that describe activities across multiple Awardees. In addition, CDC will use the information collection to respond to inquiries from HHS, Congress and other stakeholder inquiries about program activities and their impact. The current submission process allows Awardees to submit a completed PDF version of the PPMR by uploading it to www.grants.gov, or directly to the programs at CDC that will be performing the evaluation.

This Extension request is being submitted to allow CDC to continue collection of this valuable information from Awardees for an additional three years. There are no anticipated changes to the information collection instruments or associated burden at this time. CDC requests OMB approval for an estimated 12,936 annual burden hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
CDC Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. A–F).	5,200	1	2
CDC Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. G).	1,632	1	5/60
NHSS Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. A–F).	60	1	40

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–22505 Filed 10–14–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–22CC]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Assessment for the Be Antibiotics Aware (BAA) Consumer and Healthcare Professional Campaign” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on January 31, 2022, to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessment for the *Be Antibiotics Aware (BAA)* Consumer and Healthcare Professional Campaign—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Antibiotic resistance (AR) is one of the most urgent threats to public health in the United States. Antibiotic resistant bacteria have grown more virulent, prevalent, and diverse and can spread between human and animals. Each year there are more than 2.8 million antibiotic-resistant infections in the United States and 35,000 individuals

die as a result. At least 30% of antibiotics prescribed to outpatients and emergency departments are unnecessary which amounts to 47 million excess prescriptions per year. One of the main side effects of taking antibiotics is alteration of the microbiome which could lead to infections such as *C. difficile*, the inability to treat infections, prolonged illness, or even death. Risk factors for AR include lack of knowledge, sub-therapeutic doses, excessive use, antibiotic residues, and incorrect storage. In addition, there can be impacts on productivity, healthcare costs, and it can serve as a drain on the economy.

The National Action Plan calls for federal agencies to accelerate their response to AR. The 2020–2025 National Action Plan calls for CDC to decrease healthcare-associated AR infections by 20% by 2025 and community-acquired AR infections by 10% by 2025. One way to decrease the use of unnecessary antibiotic prescriptions is through antibiotic stewardship. The goals of the *Be Antibiotics Aware* campaign are to seek optimization of antibiotic prescribing and use in order to improve patient safety and healthcare quality, and to combat AR by raising knowledge and awareness, and motivating behavior change among consumer and healthcare professional (HCP) audiences.

Online panel surveys will be utilized to recruit participants. Surveys will be distributed to consumer and HCP audiences both pre- and post-campaign. Consumer audiences include:

- (1) Healthy adults who visit urgent care, ages 18–64,
 - (2) Community dwelling older adults, ages 65+, and
 - (3) Family caregivers of nursing home (long-term care) residents.
- HCP audiences include:
- (1) Hospitalists,
 - (2) Dentists,
 - (3) Community pharmacists,
 - (4) Physicians and advanced practice providers in nursing homes, and
 - (5) Nurses in nursing homes.

This program evaluation will assist CDC in determining if the *Be Antibiotics Aware* media campaign, along with partner outreach, was successful in raising knowledge and awareness and motivating behavior change among the

intended consumer and HCP audiences in select markets. The information gathered from this evaluation will also be used to inform refinement and implementation of the campaign (materials and tactics).

CDC requests OMB approval for an estimated 842 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per (in hours)
Consumer Audiences	BAA Consumer Pre-Campaign Web Survey	473	1	20/60
Consumer Audiences	BAA Consumer Post-Campaign Web Survey	473	1	20/60
HCP Audiences	BAA HCP	788	1	20/60
Consumer Audiences	BAA Consumer Pre-Campaign Web Survey Pre-Campaign Web Survey	473	1	20/60
HCP Audiences	BAA HCP Post-Campaign Web Survey	788	1	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022-22502 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23-22EN]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Synopses of State Dental Public Health Programs” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on May 6, 2022 to obtain comments from the public and affected agencies. CDC received one comment. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Synopses of State Dental Public Health Programs—Existing Collection in use without an OMB Control Number—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This request is to collect information about human resources, programs, and infrastructure in oral health departments within a state health department for all 50 states and Washington, DC. Oral health affects our ability to eat, speak, smile, and show emotions. Oral health also affects a person’s self-esteem, school performance, and attendance at work or school. Oral diseases—which range from cavities and gum disease to oral cancer—cause pain and disability for millions of Americans and cost taxpayers billions of dollars each year. CDC supports states in their efforts to reduce oral disease and improve oral health by using effective interventions. CDC provides state and territorial health departments with funding, guidance, and technical assistance to monitor oral disease across populations and to implement and evaluate oral health interventions.

The Association of State and Territorial Dental Directors (ASTDD) is a national non-profit organization representing the directors and staff of state public health agency programs for oral health. It was organized in 1948 and is one of 20 affiliates of the Association of State and Territorial Health Officials (ASTHO). ASTDD formulates and promotes the establishment of national dental public health policy. In addition, ASTDD; assists state dental programs in the development and implementation of programs and policies for the prevention of oral diseases; builds awareness and strengthens dental public health professionals’ knowledge and skills by developing position papers and policy statements; provides information on oral health to health officials and policy makers; and conducts

conferences for the dental public health community. The word "state" is used to indicate U.S. states, the District of Columbia, U.S. territories, and other U.S.-associated jurisdictions, except where explicitly noted otherwise.

In 1994, ASTDD originated the annual Synopses of Dental Programs to share information among dental directors and partners. The Synopses of State Oral Health Programs (hereby referred to as State Synopses) described program

activities and successes and the challenges that programs faced during the previous year. In 1997, ASTDD changed the format to a more structured questionnaire. Since 1998, ASTDD has been supported to collect data through cooperative agreements with CDC. This collection is necessary because no other agency or entity produces similar analyses or reports, and the Synopsis questionnaire is the only national data collection source tracking states' efforts

to improve oral health and contributions to progress toward the national targets for Healthy People objectives for oral health.

OMB approval is requested for three years. CDC requests approval for an estimated 299 annual burden hours. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State Oral Health Director or designated program contact.	Synopses of State Dental Public Health Programs.	51	1	352/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022-22503 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-23-23AA; Docket No. CDC-2022-0122]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled DELTA Achieving Health Equity through Addressing Disparities (AHEAD) Cooperative Agreement Evaluation. This project aims to collect information from DELTA AHEAD recipients to assess implementation and program impact, and to further understand the facilitators, barriers, and other critical

factors associated with program activities.

DATES: CDC must receive written comments on or before December 16, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2022-0122 by either of the following methods:

- *Federal eRulemaking Portal:*

www.regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329; Telephone: 404-639-7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register**

concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

DELTA Achieving Health Equity through Addressing Disparities (AHEAD) Cooperative Agreement Evaluation—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The goal of this project is to collect monitoring data for performance and implementation of the cooperative agreement: Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) Achieving Health Equity through Addressing Disparities (AHEAD). The Centers for Disease Control and Prevention (CDC) seeks OMB approval for three years for a new information collection request to collect information from 22 recipients (State Domestic Violence Coalitions) and all 32 sub-recipients (Coordinated Community Response Teams) funded through CDC's DELTA AHEAD Program cooperative agreement. CDC will collect information from DELTA AHEAD recipients as part of its program evaluation to assess the implementation and impact of the Notice of Funding Opportunity (NOFO) and further understand the facilitators, barriers, and critical factors to implement specific violence prevention strategies and conduct program evaluation activities.

Intimate Partner Violence (IPV) is a serious, yet preventable public health problem that affects millions of people in the United States each year. Data from CDC's 2015 National Intimate Partner and Sexual Violence Survey (NISVS) indicate that about one in four women and one in 10 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime and reported some form of IPV-related impact. This form of violence disproportionately affects marginalized populations in the United States. Evidence suggests an increase in new cases and severity of IPV, particularly for marginalized groups, during the COVID-19 pandemic pointing to the need to adapt IPV prevention strategies during shutdowns and other national

and global emergencies. Such disparities in the risk of IPV are created and maintained through systemic health and social inequities. To achieve health equity requires addressing root causes (e.g., discrimination and biases in societal values, public policy) that differentially disadvantage groups based on characteristics such as race, ethnicity, gender, and ability, and are often expressed as racism, sexism, and disability discrimination.

Information to be collected will provide crucial data for program performance monitoring and provide CDC with the capacity to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources. Information to be collected will also strengthen CDC's ability to monitor awardee progress, provide data-driven technical assistance, and disseminate the most current surveillance data on unintentional and intentional injuries.

Monitoring the impact of population-based strategies and identifying new insights and innovative solutions to health problems are two of the noted public health activities that all public health systems should undertake. For NCIPC, these objectives cannot be satisfied without the systematic collection of data and information from state health departments. The information collection will enable the accurate, reliable, uniform, and timely submission to NCIPC of each awardee's progress report and injury indicators, including strategies and performance measures. Funded recipients are expected to use data to identify populations and environments at differential risk for violence due to inequitable access to conditions needed for health and safety. By increasing equitable access to Social Determinants of Health (SDOH), funded recipients

reduce risk factors for and/or increase protective factors against IPV. Authorized by the Family Violence and Prevention Services Act (FVPSA), CDC has funded the DELTA Program since 2002. The DELTA program funds State Domestic Violence Coalitions (SDVCs) to implement statewide IPV prevention efforts and assist and fund local communities to do the same.

The information collection and reporting requirements have been carefully designed to align with and support the specific goals and outcomes outlined in the cooperative agreement. This funding opportunity includes two funding options. Category A recipients will have existing high capacity to implement primary prevention strategies and will build upon existing efforts. Category B recipients will focus on gathering publicly available data to better understand gaps in IPV prevention resources, building capacity to implement and evaluate IPV primary prevention in their state and selected communities, and using evaluation data for quality improvement.

Using recipients' annually submitted progress, outcomes, performance indicators, and related measures, CDC will aggregate and synthesize those data to inform the CDC evaluation of the cooperative agreement initiative across all recipients to capture program impact at the community and state levels, as well as performance monitoring and continuous program improvement. The CDC evaluation will inform and highlight the progress and achievements that recipients are making toward reducing IPV using community and societal level primary prevention approaches in addressing risk and protective factors.

CDC requests OMB approval for an estimated 962 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
DELTA AHEAD State Domestic Violence Coalition (SDVC) Project Leads	Annual Performance Report	22	4	10	880
DELTA AHEAD SDVC Evaluators	Key Informant Interview—Project Lead.	22	2	30/60	22
DELTA AHEAD SDVC staff	Key Informant Interview—Evaluator Prevention Infrastructure Assessment.	22	2	30/60	22
DELTA AHEAD Coordinated Community Response Team (CCRT) Staff.	Sub-recipient Survey	22	3	20/60	22
		32	2	15/60	16
Total .....	.....	.....	.....	.....	962

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Scientific Integrity, Office of Science,
Centers for Disease Control and Prevention.

[FR Doc. 2022-22508 Filed 10-14-22; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines Meeting

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Advisory Commission on Childhood Vaccines (ACCV) provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other issues related to the implementation of the National Vaccine Injury Compensation Program (VICP) and concerning other matters as described under the Public Health Service Act. To ensure compliance with the statutory requirement that the ACCV meet not less than four times per year, this notice announces that the ACCV meeting originally scheduled for March 3, 2022, has been rescheduled for December 2, 2022.

DATES: The ACCV meeting will be held on December 2, 2022, from 1:00 p.m.–4:00 p.m. Eastern Time.

ADDRESSES: This meeting will be held by Zoom webinar.

• Webinar link: <https://hrsa.gov.zoomgov.com/j/1603695024?pwd=ZG4rUWw>

0NUI7N2d0OWRZWWjVmNIZz09.

• Conference call-in number: 833 568 8864, Meeting ID: 160 369 5024, Passcode: 72471327.

FOR FURTHER INFORMATION CONTACT: Pita Gomez, Principal Staff Liaison, ACCV, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 945-9386 or email: ACCV@HRSA.gov.

SUPPLEMENTARY INFORMATION: All 2022 ACCV meetings were originally announced in the **Federal Register**, Vol. 87, No. 20 on Monday, January 31, 2022, (FR Doc. 2022-01848 Filed 1-28-22), and the notice canceling the March 3, 2022, meeting was published on February 28, 2022 (FR Doc. 2022-04127 Filed 2-25-22).

Since priorities dictate ACCV meeting times, be advised that start times, end times, and agenda items are subject to change. Agenda items may include but

are not limited to, updates from the Division of Injury Compensation Programs (HRSA), Torts Branch (Department of Justice), Office of Infectious Disease and HIV/AIDS Policy (HHS), Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, Evaluation and Research (Food and Drug Administration). Refer to the ACCV website at <https://www.hrsa.gov/advisory-committees/vaccines/index.html> for all current and updated information concerning the ACCV meeting, including draft agendas and meeting materials that will be posted 5 calendar days before the meeting.

The ACCV meeting will be public, and members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACCV should be sent to Pita Gomez using the contact information above at least 5 business days before the meeting date.

Individuals who need special assistance or another reasonable accommodation should notify Pita Gomez using the contact information listed above at least 10 business days before the meeting they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022-22486 Filed 10-14-22; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Health Center Program Forms OMB No. 0915-0285 Revision

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 December 16, 2022.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

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 request collection title for reference.

Information Collection Request Title: Health Center Program Forms, OMB No. 0915-0285 Revision.

Abstract: The Health Center Program, administered by HRSA, is authorized under section 330 of the Public Health Service (PHS) Act (42 U.S.C. 254b). Health centers are community-based and patient-directed organizations that deliver affordable, accessible, quality, and cost-effective primary health care services to patients regardless of their ability to pay. Nearly 1,400 health centers operate approximately 14,000 service delivery sites that provide primary health care to more than 30 million people in every U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the Pacific Basin. HRSA uses forms for new and existing health centers and other entities to apply for various grant and non-grant opportunities, renew grant and non-grant designations, report progress, and change their scopes of project.

Need and Proposed Use of the Information: Health Center Program-specific forms are necessary for award processes and oversight of the Health Center Program and other relevant programs. These forms provide HRSA staff and objective review committee panels with information essential for application evaluation, funding recommendation and approval, designation, and monitoring. These forms also provide HRSA staff with information essential for evaluating compliance with Health Center Program statutory and regulatory requirements.

HRSA intends to make several changes to its forms:

- HRSA will modify the following forms to streamline and clarify data currently being collected: 1A, 1B, 1C, 2, 4, 6A, 8, Checklist for Adding a New Service, Checklist for Adding a New Service Delivery Site, Checklist for Adding a New Target Population, Checklist for Deleting Existing Service, Checklist for Deleting Existing Service Delivery Site, Expanded Services Patient Impact, Health Center Controlled Networks Progress Report, Native Hawaiian Health Care Improvement Act (NHHCIA) Non-Competing Continuation (NCC) Clinical and Financial Performance Measures, NHHCIA NCC Income Analysis Form, NHHCIA NCC Project Work Plan Progress Report, NHHCIA NCC Project Work Plan Update, Operational Plan, Project Narrative Update, Project Overview Form, Project Work Plan, and the Summary Page—Service Area Competition.

- HRSA will add forms necessary for funding applications and program

monitoring: Applicant Qualification Criteria Form, Financial Performance Indicators, Funding Request Summary Form, fiscal year (FY) 2022 Accelerating Cancer Screening Progress Report, Patient Impact Form, Project Cover Page, Progress Report—Non-Capital Investments, School-Based Health Center Location Form, Quality Improvement Fund (QIF) Evaluative Measures Report, QIF Project Plan Form and QIF Progress Report.

- HRSA will remove forms to further streamline information collected by HRSA and reduce burden: Clinical Performance Measures, Diabetes Action Plan, Expanded Services, Financial Performance Measures, FY 2018 Expanding Access to Quality Substance Use Disorder—Mental Health Integrated Behavioral Health Services Progress Reporting, Health Center Program Supplemental Information, HRSA Electronic Handbooks Action Plan, and the Program Specific Form Instructions.

Likely Respondents: Health Center Program award recipients (those funded under section 330 of the PHS Act) and

Health Center Program look-alikes, state and national technical assistance organizations, and other organizations seeking funding.

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
Applicant Qualification Criteria Form	500	1	500	1.00	500
Capital Semi Annual Progress Report	1,317	2	2,634	1.00	2,634
Checklist for Adding a New Service	450	1	450	2.00	900
Checklist for Adding a New Service Delivery Site	1,480	1	1,480	2.00	2,960
Checklist for Adding a New Target Population	100	1	100	2.00	200
Checklist for Deleting Existing Service	500	1	500	2.00	1,000
Checklist for Deleting Existing Service Delivery Site	750	1	750	2.00	1,500
Environmental Information and Documentation	750	1	750	0.50	375
Equipment List	1,375	1	1,375	0.50	688
Expanded Services Patient Impact	996	1	996	1.00	996
Federal Object Class Categories Form	735	1	735	0.25	184
Financial Performance Indicators	20	1	20	1.00	20
Form 12: Organization Contacts	1,058	1	1,058	1.00	1,058
Form 1A: General Information Worksheet	1,058	1	1,058	1.00	1,058
Form 1B: Funding Request Summary	1,000	1	1,000	0.75	750
Form 1C: Documents on File	1,058	1	1,058	0.50	529
Form 2: Staffing Profile	1,058	1	1,058	1.00	1,058
Form 3: Income Analysis	1,058	1	1,058	1.00	1,058
Form 3A: Look-Alike Budget Information	50	1	50	1.00	50
Form 4: Community Characteristics	1,058	1	1,058	1.00	1,058
Form 5A: Services Provided	1,058	1	1,058	1.00	1,058
Form 5B: Service Sites	1,058	1	1,058	1.00	1,058
Form 5C: Other Activities/Locations	1,058	1	1,058	1.00	1,058
Form 6A: Current Board Member Characteristics	1,058	1	1,058	1.00	1,058
Form 6B: Request for Waiver of Board Member Requirements	1,058	1	1,058	1.00	1,058
Form 8: Health Center Agreements	1,058	1	1,058	1.00	1,058
Funding Request Summary Form School-Based Health Center	500	1	500	0.50	250
Funding Sources	735	1	735	0.50	368
FY2020 Ending the HIV Epidemic Primary Care HIV Prevention PCHP Progress Reporting	182	1	182	1.00	182
FY2022 Accelerating Cancer Screening Progress Report ..	10	1	10	1.50	15
Health Center Controlled Networks Progress Report	90	1	90	1.00	90
Health Center Program Progress Report	735	1	735	1.00	735
HRSA Loan Guarantee Program Application	20	1	20	1.00	20
NHHCIA NCC Clinical Performance Measures	6	1	6	1.50	9
NHHCIA NCC Financial Performance Measures	6	1	6	0.50	3
NHHCIA NCC Income Analysis Form	6	1	6	0.15	1
NHHCIA NCC Project Work Plan Progress Report	6	1	6	0.15	1

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHHCIA NCC Project Work Plan Update	6	1	6	0.15	1
Operational Plan	500	1	500	3.00	1,500
Other Requirements for Sites	600	1	600	0.50	300
Participating Health Centers List	90	1	90	1.00	90
Patient Impact Form	500	1	500	1.00	500
Patient Target and Calculations	1,058	1	1,058	1.00	1,058
Progress Report—Non-Capital Investments	1,400	4	5,600	1.50	8,400
Project Cover Page	735	1	735	1.00	735
Project Narrative Update	883	1	883	4.00	3,532
Project Overview Form	182	1	182	1.00	182
Project Plan	182	3	546	1.50	819
Project Qualification Criteria	735	1	735	1.00	735
Project Work Plan	135	1	135	4.00	540
Proposal Cover Page	735	1	735	1.00	735
QIF Evaluative Measures Report	12	1	12	1.50	18
QIF Progress Report	12	1	12	1.50	18
QIF Project Plan Form	100	1	100	1.00	100
Summary Page (New Access Point-Funding Type)	500	1	500	1.00	500
Summary Page Service Area Competition	450	1	450	0.50	225
Total	33,830	.....	39,711	.....	46,586

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. 2022-22510 Filed 10-14-22; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 20-103: Collaborative Program Grant for Multidisciplinary Teams (RM1).

Date: October 31, 2022.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301-435-1180, ruvinser@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Instrumentation and Systems Development.

Date: November 2, 2022.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janice Patricia Dionisio Duy, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-3139, janice.duy@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics A.

Date: November 2-3, 2022.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-4390, shan.wang@nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

Date: November 3-4, 2022.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-4005, turchij@mail.nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.

Date: November 3-4, 2022.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW, Washington, DC 20037.

Contact Person: Christine Jean DiDonato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1014J, Bethesda, MD 20892, (301) 435-1042, didonatocj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: November 3-4, 2022.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, 7400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Mufeng Li, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-5653, limuf@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

Date: November 3-4, 2022.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301-827-7088, methode.bacanamwo@nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Organization and Delivery of Health Services Study Section.

Date: November 3-4, 2022.

Time: 9 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Catherine Hadelier Maulsby, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-1266, maulsbych@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms of Cancer Therapeutics C.

Date: November 3-4, 2022.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gloria Huei-Ting Su, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-496-0465, gloria.su@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: November 3-4, 2022.

Time: 9:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301-402-7278, movsesyanv@csr.nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Systemic Injury by Environmental Exposure.

Date: November 3-4, 2022.

Time: 9:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jodie Michelle Fleming, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812R, Bethesda, MD 20892, (301) 867-5309, flemingjm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics on Mycology and Parasitology.

Date: November 3, 2022.

Time: 10 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Velasco Cimica, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-1760, velasco.cimica@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: November 3-4, 2022.

Time: 10 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4152, MSC 7846, Bethesda, MD 20892, (301) 827-6009, lin.reigh-yi@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 7, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22418 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD R25 Educational Grants.

Date: November 4, 2022.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Boulevard, Room 8339, MSC 9670, Bethesda, MD 20892-8401, 301-496-8683, el6r@nih.gov.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Research Center Review.

Date: November 10, 2022.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Katherine Shim, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIH/NIDCD, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301-496-8683, katherine.shim@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 7, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22421 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 Eye Institute Special Emphasis Panel; NEI Mentored Clinician Scientist Applications (K08/K23).

Date: November 10, 2022.

Time: 9:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700B Rockledge Dr., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Jeanette M. Hosseini, Ph.D., Scientific Review Officer, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 301-451-2020, jeanetteh@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: October 7, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22416 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pain Neurobiology.

Date: November 8, 2022.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-8515, janrz2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cancer Immunology and Immunotherapy.

Date: November 9-10, 2022.

Time: 8:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Capitol, 550 C Street SW, Washington, DC 20024.

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301-451-4467, howardz@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomedical Sensing, Measurement and Instrumentation.

Date: November 9-10, 2022.

Time: 9 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven Anthony Ripp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3010, steven.ripp@nih.gov.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Basic Mechanisms of Cancer Health Disparities Study Section.

Date: November 9-10, 2022.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (612) 309-2479, sulagna.banerjee@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrine and Metabolic Systems.

Date: November 9, 2022.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Victoria Martinez Virador, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-4703, victoria.virador@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: November 9-10, 2022.

Time: 9:15 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karobi Moitra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-6893, karobi.moitra@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration—F03A.

Date: November 9-10, 2022.

Time: 9:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301-435-3009, elliottro@csr.nih.gov.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.

Date: November 9-10, 2022.

Time: 9:30 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20876 (Virtual Meeting).

Contact Person: Michelle Marie Arnold, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451-7806, michelle.arnold@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics B.

Date: November 9-10, 2022.

Time: 9:30 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Pantazatos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-2381, dennis.pantazatos@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity, Allergies and Mucosal Immunology (HAMI).

Date: November 9-10, 2022.

Time: 10 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kaushiki Mazumdar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-1427, kaushiki.mazumdar@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: November 9-10, 2022.

Time: 10 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Diana Maria Ortiz-Garcia, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-5614, diana.ortiz-garcia@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-NS-22-034: HEAL Initiative.

Date: November 9, 2022.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-8515, janrz2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motivated Behavior, Alcohol and Neurotoxicology.

Date: November 9, 2022.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301-435-1242, kgt@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 7, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22417 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Radiotherapeutics for Nasopharyngeal Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to Molecular Targeting Technologies, Inc. (MTTI); a Delaware corporation, with its principle place of business in West Chester, Pennsylvania, to practice the inventions embodied in the issued patents and patent applications listed in the Supplementary Information section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NHLBI Office of Technology Transfer and Development November 1, 2022 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Michael Davis, JD, Ph.D., Deputy Director, NHLBI OTTAD, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892-2479, phone number 301-451-9032, or michael.davis4@nih.gov.

SUPPLEMENTARY INFORMATION: The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to MTTI:

NIH Ref No.	Patent No. or patent application No.	Issue date	Filing date	Title
E-150-2016-0-US-01	62/333,427 .....	.....	May 9, 2019	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-PCT-02.	PCT/US2017/031696 .....	.....	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-CN-03.	201780029003X .....	.....	November 9, 2018	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-EP-04	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-JP-05	2018-558662	TBD (Allowed)	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-US-06	10,696,637	June 30, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-SG-07.	11201809982R	November 8, 2021	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-CH-08.	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-DE-09	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-FR-10	(Certificate No. 602017027023.7). 3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.

NIH Ref No.	Patent No. or patent application No.	Issue date	Filing date	Title
E-150-2016-0-GB-11.	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-IE-12	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-IT-13	3455206	November 4, 2020	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-1-PCT-01.	PCT/US2017/054863 .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-CN-02.	201780095506.7 .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-EP-03	17928082.1 .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-JP-04	2020-519137 .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-SG-05.	112020002882V .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-US-06	10,981,866	April 20, 2021	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.
E-150-2016-1-HK-07	62020015610.2 .....	.....	October 3, 2017	Chemical Conjugates of Evans Blue Derivatives And Their Use As Radiotherapy And Imaging Agents.

The patent rights in these inventions have been assigned to the Government of the United States of America. The prospective patent license may be granted in a field of use directed to radiotherapeutics for nasopharyngeal cancer and the extent of the exclusive license may be territorially restricted to the United States, its Territories, Commonwealths and Possessions; and Asia.

The invention pertains to a radiotherapeutics against cancers that express somatostatin receptor. Radionuclide therapy directed against tumors that express somatostatin receptors (SSTRs) has proven effective for the treatment of advanced, low- to intermediate-grade neuroendocrine tumors. The subject radiotherapeutic covered by the patent estate includes a somatostatin (SST) peptide derivative like octreotate (TATE), conjugated to an Evans Blue (EB) analog, and further chelated via DOTA to therapeutic radionuclide ¹⁷⁷Lu, a beta emitter. The EB analog reversibly binds to circulating serum albumin and improves the pharmacokinetics of SST peptide derivatives and reduce peptide-receptor radionuclide therapy toxicity. EB analog conjugated to octreotate (EB-TATE) has been shown by the inventors to provide reversible albumin binding *in vivo* and extended half-life in circulation. When EB-TATE is slowly released into the

tumor microenvironment, tumor uptake and internalization into SSTR positive tumors resulted in delivery of radioactive particles and tumor cell killing. EB-TATE displayed significantly more favorable pharmacokinetics than TATE alone by achieving higher tumor to non-tumor penetration as evidenced by positron emission tomography.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license.

Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act*, 5 U.S.C. 552.

Michael D. Davis,

Deputy Director, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2022-22476 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors of the NIH Clinical Center.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the Clinical Center, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors of the NIH Clinical Center.

Date: November 14, 2022.

Time: 10 a.m. to 5:30 p.m.

Agenda: To review and evaluate to review and evaluate the Rehabilitation Medicine Department, presentations, interviews and reports.

Place: Clinical Center, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Date: November 15, 2022.

Time: 10 a.m. to 12:30 p.m.

Agenda: To review and evaluate to review and evaluate the Rehabilitation Medicine Department, presentations, interviews and reports.

Place: Clinical Center, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ronald Neumann, MD, Senior Investigator, Clinical Center, National Institutes of Health, 10 Center Drive, Bethesda, MD 20892, 301-496-6455, rneumann@cc.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: October 11, 2022.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22420 Filed 10-14-22; 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; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: November 15, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Michael M. Opat, 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 3G22, Rockville, MD 20852, 240-627-3319, michael.opata@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: October 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22499 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: November 7-8, 2022.

Open: November 07, 2022, 9:30 a.m. to 10 a.m.

Agenda: staff reports on divisional, programmatic, and special activities.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Closed: November 07, 2022, 10 a.m. to 5:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Closed: November 08, 2022, 9:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Contact Person: Lisa L. Cunningham, MA, BA, Ph.D., Senior Investigator, National Institute on Deafness, and other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, 301-443-2766, lisa.cunningham@nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: <https://www.nidcd.nih.gov/about/advisory-committees>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 7, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22422 Filed 10-14-22; 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 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract

proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Diagnostics Pre-Clinical Services Program (N01).

Date: November 1, 2022.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Scott Jakes, 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 3F30, Rockville, MD 20852, (240) 669-5931, jakesse@mail.nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Diagnostics Pre-Clinical Services Program, Task Area A (N01).

Date: November 3, 2022.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Scott Jakes, 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 3F30, Rockville, MD 20852, (240) 669-5931, jakesse@mail.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: October 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22492 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: November 14–15, 2022.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@csr.nih.gov.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: November 14, 2022.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW, Washington, DC 20037.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301-806-6596, rubertm@csr.nih.gov.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Immunopathogenesis and Vaccine Development Study Section.

Date: November 14, 2022.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, prasads@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Health Services and Clinical Informatics Research.

Date: November 14–15, 2022.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Kate Baker, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-5117, katie.baker2@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Therapeutic Immune Regulation.

Date: November 14–15, 2022.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yue Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 803C, Bethesda, MD 20892, (301) 867-5309, wuy25@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-RM-22-009; -010 and -012 Review Panel; Somatic Mosaicism across Human Tissues.

Date: November 14–15, 2022.

Time: 10 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301-435-1022, balasundaramd@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology SBIR/STTR.

Date: November 14, 2022.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Ann Sanders, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301-496-3553, jennifer.sanders@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Genetics and Genomics.

Date: November 14, 2022.

Time: 1 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Paul Chadwick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3586, chadwickbp@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22493 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Scientific Information Reporting System (SIRS) (National Institute of General Medical Sciences)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this 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.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Ming Lei, Director, Division for Research Capacity Building, NIGMS, NIH, Natcher Building, Room 2AS44C, 9000 Rockville

Pike, Bethesda, MD 20892, or call non-toll-free number (301) 827-5323 or Email your request, including your address to: leim@mail.nih.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on August 12, 2022, page 49875 (87 FR 49875) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of General Medical Sciences (NIGMS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Scientific Information Reporting System (SIRS), 0925-0735—Expiration Date 10/31/2022, EXTENSION, National Institutes of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

Need and Use of Information Collection: The SIRS is an online data collection system whose purpose is to obtain supplemental information to the annual Research Performance Progress Report (RPPR) submitted by grantees of the Institutional Development Award (IDeA) Program and the Native American Research Centers for Health

(NARCH) Program. The SIRS will collect program-specific data not requested in the RPPR data collection system. The IDeA Program is a congressionally mandated, long-term interventional program administered by NIGMS aimed at developing and/or enhancing the biomedical research competitiveness of States and Jurisdictions that lag in NIH funding. The NARCH Program is an interagency initiative that provides support to American Indian and Alaska Native (AI/AN) tribes and organizations for conducting research in their communities in order to address health disparities, and to develop a cadre of competitive AI/AN scientists and health professionals. The data collected by SIRS will provide valuable information for the following purposes: (1) evaluation of progress by individual grantees towards achieving grantee-designated and program-specified goals and objectives, (2) evaluation of the overall program for effectiveness, efficiency, and impact in building biomedical research capacity and capability, and (3) analysis of outcome measures to determine need for refinements and/or adjustments of different program features including but not limited to initiatives and eligibility criteria. Data collected from SIRS will be used for various regular or ad hoc reporting requests from interested stakeholders that include members of Congress, state and local officials, other federal agencies, professional societies, media, and other parties.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 760.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
SIRS	Principal Investigators, COBRE Phase I	61	1	4	244
SIRS	Principal Investigators, COBRE Phase II	40	1	4	160
SIRS	Principal Investigators, COBRE Phase III	15	1	4	60
SIRS	Principal Investigators, INBRE	24	1	6	144
SIRS	Principal Investigators, IDeA-CTR	8	1	4	32
SIRS	Principal Investigators, NARCH	24	1	5	120
Total .....	.....	172	172	.....	760

Dated: October 12, 2022.

David N. Bochner,

Project Clearance Liaison, National Institute of General Medical Sciences, National Institutes of Health.

[FR Doc. 2022-22468 Filed 10-14-22; 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 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 on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research.

Date: December 6, 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: Soyoun Cho, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 11601 Landsdown Street, Room 09C63, Bethesda, MD 20892, (301) 594-9460, Soyoun.cho@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: October 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022-22500 Filed 10-14-22; 8:45 am]

BILLING CODE 4140-01-P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation quarterly business meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will have its next quarterly meeting on Wednesday, October 26, 2022, from 1:30 p.m. to 4:30 p.m. Eastern Time. The meeting will be held through videoconferencing and a recording will be made available afterwards on www.achp.gov.

DATES: The quarterly meeting will take place on Wednesday, October 26, 2022 starting at 1:30 p.m. Eastern Time.

ADDRESSES: The meeting will take place via videoconferencing. A recording will be made available on www.achp.gov.

FOR FURTHER INFORMATION CONTACT:

Tanya DeVonish, 202-517-0205, tdevonish@achp.gov.

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into their decision making. For more information on the ACHP, please visit our website at www.achp.gov.

The agenda for the upcoming quarterly meeting of the ACHP is the following:

- I. Vice Chairman's Welcome and Report
- II. Acting Executive Director's Report
- III. Climate Change and Historic Preservation Task Force
- IV. Workforce Development and the Inflation Reduction Act
- V. Native American Affairs
 - A. White House Council on Native American Affairs
 - B. Updating ACHP Policy Statement on Burials, Human Remains, and Funerary Objects
 - C. Native Languages Memorandum of

- Agreement
- D. Other Reports
- VI. Section 106
 - A. Electric Vehicle Supply Equipment Exemption
 - B. Army Program Comment on Vietnam War Era Historic Housing, Associated Buildings and Structures, and Landscape Features
 - C. GSA Exemption Update
 - D. Other Reports
- VII. Communications, Education, and Outreach
 - A. Career and Preservation Discussions at Historically Black Colleges and Universities
 - B. Other Reports
- VIII. Historic Preservation Policy and Programs
 - A. Traditional Trades and Potential Inflation Reduction Act Opportunities
 - B. Other Reports
- IX. New Business
- X. Adjourn

Due to continuing COVID-related conditions, the meeting will take place using a combination of Zoom videoconferencing and in-person attendance. Due to technical limitations, only ACHP and ACHP member staff will be able to watch live. However, a recording of the meeting will be posted on www.achp.gov when the proceedings conclude.

Authority: 54 U.S.C. 304102.

Dated: October 11, 2022.

Javier E. Marques,

General Counsel.

[FR Doc. 2022-22427 Filed 10-14-22; 8:45 am]

BILLING CODE 4310-K6-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2022-0751]

Certificate of Alternative Compliance for the PHILLY SHIPYARD, INC. HULL NO. 038, O.N. 1321554

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificate of alternative compliance.

SUMMARY: The Coast Guard announces that the Chief of the Prevention Division, Fifth Coast Guard District, has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the PHILLY SHIPYARD, INC. HULL NO. 038, O.N. 1321554. We are issuing this notice because its publication is required by statute. Due to the

construction and placement of the fore masthead light and aft masthead light arrangements, PHILLY SHIPYARD, INC. HULL NO. 038, O.N. 1321554, cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificate of Alternative Compliance was issued on October 7, 2022.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Mr. Julio A. Martinez, Marine Safety Specialist, Inspections and Investigations Branch, Fifth Coast Guard District, U. S. Coast Guard; telephone (757) 398-6689, email julio.a.martinez@uscg.mil.

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.¹

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,² and the Chief of the Prevention Division would then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal provisions without interference with the vessel's special function.³ If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.⁴

The Chief of the Prevention Division, Fifth Coast Guard District, U.S. Coast Guard, certifies that the PHILLY SHIPYARD, INC. HULL NO. 038, O.N. 1321554 is a vessel of special construction or purpose, and that, with

respect to the horizontal distance between the fore masthead light and aft masthead light arrangements, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The Chief of the Prevention Division, Fifth Coast Guard District, further finds and certifies that the horizontal distance of 19.68 meters between the fore masthead light and aft masthead light arrangements, are in the closest possible compliance with the applicable provisions of the 72 COLREGS.⁵

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: October 11, 2022.

Michael C. Reed,

Captain, U.S. Coast Guard, Chief, Prevention Division, Fifth Coast Guard District.

[FR Doc. 2022-22473 Filed 10-14-22; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. FEMA-2022-0028]

Privacy Act of 1974; System of Records

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify and reissue a current DHS system of records titled, "Department of Homeland Security/Federal Emergency Management Agency-011 Training and Exercise Program Records System of Records." This system of records allows DHS/Federal Emergency Management Agency (FEMA) to collect from and maintain records on current and former FEMA employees and contractors, current and former members of the first responder and emergency management communities, and other individuals who have applied or registered to participate in training and exercise programs or who have assisted with FEMA's training and exercise programs. DHS/FEMA is updating this system of records notice (SORN) to include: (1) Modifying system location; (2) supplementing legal authorities; (3) clarifying the purpose of the SORN; (4) expanding the categories of records; (5)

clarifying the sources of records; (6) revising the routine uses; and (7) adjusting the retention and disposal schedule of records. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in DHS's inventory of record systems.

DATES: Submit comments on or before November 16, 2022. This modified system will be effective upon publication. New or modified routine uses will be effective November 16, 2022.

ADDRESSES: You may submit comments, identified by docket number FEMA-2022-0028 by one of the following methods: Federal e-Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Fax: 202-343-4010. Mail: Lynn Parker Dupree, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528-0655.

Instructions: All submissions received must include the agency name and docket number FEMA-2022-0028. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

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

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Tammi Hines, (202) 212-5100, Senior Director for Information Management, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20472. For privacy questions, please contact: Lynn Parker Dupree, (202) 343-1717, Privacy@hq.dhs.gov, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528-0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act, this modified system of records notice is being published because the Federal Emergency Management Agency (FEMA) collects, maintains, uses, retrieves, and disseminates personally identifiable information of individuals who participate in a wide range of training and exercise programs for its employees and contractors as well as its partners in the first responder, emergency management, and flood insurance communities, including personnel from federal, state, local, tribal, territorial, foreign, or international government agencies.

¹ 33 U.S.C. 1605.

² 33 CFR 81.5.

³ 33 CFR 81.9.

⁴ 33 U.S.C. 1605(c) and 33 CFR 81.18.

⁵ 33 U.S.C. 1605(a); 33 CFR 81.9.

Partners and participants in FEMA trainings often include fire, medical, emergency management, and law enforcement professionals; nongovernmental and volunteer disaster relief organizations; and private sector professionals such as flood insurance representatives. FEMA programs that sponsor and provide this type of training include the National Training and Education Division, including the Emergency Management Institute (EMI) and the Center for Domestic Preparedness (CDP), the National Processing Service Centers, the United States Fire Administration (USFA), the Federal Insurance Mitigation Administration (FIMA) and Mission Support (MS). These programs train participants on situational awareness and emergency management skills necessary to effectively prevent, respond to, recover from, and mitigate all hazards.

FEMA established this system of records in order to collect and maintain personally identifiable information (PII) on individuals who apply, register for, or participate in FEMA training and exercise programs and information on individuals who are points of contact or representatives for the organizations employing or sponsoring these individuals applying or registering for or attending FEMA trainings. FEMA uses this information to facilitate an individual's participation and determine eligibility for training, housing, and stipend reimbursement programs. FEMA also uses this information to compile statistical information and to administer and measure effectiveness of FEMA training and exercise programs. FEMA uses sensitive information to ensure accuracy of academic records, reimburse funds to registered students, and to distinguish the identity of individuals with identical names and birth dates. The type and amount of PII FEMA collects varies depending on the programs. FEMA collects this information through paper forms and electronically through information technology (IT) systems.

FEMA updates the following categories within this system of records:

First, the system location is being modified to include records maintained at CDP Headquarters in Anniston, Alabama and housed within the Center for Domestic Preparedness Training Infrastructure (CDP-TI) system and records housed within the United States Fire Administration Learning Management System (USFA-LMS).

Second, the legal authorities are being supplemented to include the Post-Katrina Emergency Management Reform Act (PKEMRA) and Occupational Safety

and Health Administration [OSHA] Personal Protective Equipment (No. 1910.134).

Third, the purpose of the system is being clarified to include assessment of the health and fitness of individuals participating in training exercises. FEMA needs to collect medical capability and physical fitness information for respiratory safety and Occupation Safety and Health Administration (OSHA) compliance.

Fourth, new categories of records are being expanded to include FEMA student identifier (FEMASID), formal education level, military experience, past medical history, body composition, experience with respirators, cardiac and respiratory assessment, hearing and vision assessment, musculoskeletal assessment, pregnancy history, and medication list. FEMA collects formal education level from individuals when they request training or complete course evaluations. FEMA collects military experience (yes/no) to enable CDP to assess any underlying conditions that may not be apparent to the applicant. For instance, military personnel may have been exposed to toxic agent/harsh environments that may impact their respiratory system. This is a required question under OSHA App C. The remaining new categories are additionally required for respiratory safety and Occupation Safety and Health Administration (OSHA) compliance.

Fifth, sources of records are being clarified to include first responders such as current and former fire, medical, emergency management, and law enforcement professionals; nongovernmental and volunteer disaster relief organizations; and private sector professionals such as flood insurance representatives.

Sixth, routine uses E is being revised and routine use F is being added to comply with OMB Memorandum M-17-12 requiring disclosure of information necessary to respond to a breach either of the agency's PII or, as appropriate, to assist another agency in its response to a breach. The incident-related routine uses will help identify what information was potentially compromised, the population of individuals potentially affected, the purpose for which the information had originally been collected, the permitted uses and disclosures of the information, and other information that may be useful when developing the agency's incident response. Existing routine uses I, J, M, and O are being updated to include non-profit/non-governmental entities. Additionally, former Routine Use M is being revised to align with the

DHS SORN template. Former Routine Use H has been removed from the System of Records Notice.

Finally, the retention and disposal schedule of records are being adjusted to supersede the original schedules as a result of the National Archives and Records Administration's (NARA) update to the General Records Schedule (GRS) and to comply with Occupational Safety and Health Administration (OSHA) retention requirements for medical records.

The purpose of this system is to facilitate registration, participation, completion, documentation of FEMA's training and exercise programs, including assessment of the health and fitness of individuals participating in training exercises; determine eligibility for training, housing, travel, and stipend reimbursement programs; and compile statistical information to administer and measure effectiveness of FEMA training and exercise programs.

FEMA collects, uses, maintains, retrieves, and disseminates the records within this system under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121 *et seq.*; the Federal Fire Prevention and Control Act of 1974 as amended, 15 U.S.C. 2201 *et seq.*; 44 U.S.C. 3101; 6 U.S.C. 748; the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006; Occupational Safety and Health Administration [OSHA] Personal Protective Equipment (No. 1910.134); Homeland Security Presidential Directives, and several Executive Orders, as described in the authorities section of this notice. This updated system of records strengthens privacy protections and provides greater transparency regarding FEMA's training and exercise records by encompassing the full range of the Agency's training and exercise programs into a single system of records. FEMA limits access to the information in this system by verifying the status and "need to know" of individuals registering for and participating in the Agency's training and exercise programs to further safeguard individuals' privacy.

The updated routine uses are compatible with the purpose for original collection of the information; FEMA shares exercise information with other federal agencies when FEMA needs to use the recipient agency's IT system for registration and participation in FEMA's training and exercise programs.

FEMA conducts and hosts training and exercise programs to foster the development of mission critical skills among communities through participation in their programs. FEMA

shares exercise and training information with federal, state, local, tribal, territorial, foreign, or international government agencies, nongovernmental/volunteer organizations, and private sector organizations when necessary to facilitate the development of training and exercise programs, coordinate, facilitate, and track participation in training and exercise programs, and for statistical purposes. FEMA also shares academic records such as transcripts with educational institutions; however, FEMA's information sharing with education institutions for transcript purposes only takes place if it is requested by the student.

Consistent with DHS's information-sharing mission, information stored in the DHS/FEMA-011 Training and Exercise Program Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/FEMA may share information with appropriate federal, state, local, tribal, territorial, foreign, international government agencies, and non-profit/non-governmental entities consistent with the routine uses set forth in this system of records notice.

Additionally, the Final Rule to exempt this system of records from certain provisions of the Privacy Act remains unchanged and in effect. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The fair information practice principle found in the Privacy Act underpin statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the Judicial Redress Act, along with judicial review for denials of such requests. In addition, the Judicial Redress Act prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/FEMA-011 Training and Exercise Program Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

DHS/FEMA-011 Training and Exercise Program Records.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

Records are maintained at the FEMA Headquarters in Washington, DC, and field offices. Additionally, records are maintained in various FEMA training and exercise information technology (IT) systems, such as the National Emergency Training Center (NETC) Admissions System, United States Fire Administration Learning Management System (USFA-LMS), the Center for Domestic Preparedness Training Infrastructure (CDP-TI), the Independent Study Database System, the FEMA Employee Knowledge Center, and the Radiological Emergency Preparedness Program Online Operation Center.

SYSTEM MANAGER(S):

Director, National Training and Education Division, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20472

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5196; Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. 2201 *et seq.*; 44 U.S.C. 3101-3106; 6 U.S.C. 748; Homeland Security Presidential Directive 8; Homeland Security Presidential Directive 5; the Reorganization Plan No. 3 of 1978, 5 U.S.C. 301; 31 U.S.C. 3716; 31 U.S.C. 321, Executive Order No. 13111; Executive Order No. 12148; Executive Order No. 12127; 15 U.S.C. 2206; Chief Financial Officer Bulletin, Financial and Acquisition Management Division, Number 117, June 23, 2003, Subject: Invitational Travel; Executive Order No. 9397 amended by Executive Order No. 13478; and 31 U.S.C. 7701 (1996) Authorize the Collection of the Social Security number; Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006, Public Law 109-295, 120 Stat. 1355, October 4, 2006; and Occupational Safety and Health Administration (OSHA) Personal Protective Equipment (No. 1910.134).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to facilitate registration, participation, completion, documentation of FEMA's training and exercise programs, including assessment of the health and fitness of individuals participating in training exercises; determine eligibility for training, housing, travel, and stipend reimbursement programs; and compile statistical information to administer and measure effectiveness of FEMA training and exercise programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who has applied for, participated in, been named as a reference for, or assisted with a training or exercise program recommended, sponsored, or operated by FEMA. This includes current and former employees of DHS, any other federal government employee or contractor, volunteers, other federal, state, local, tribal, territorial, foreign, or international government agencies, and non-profit/non-governmental personnel. The categories of individuals also include individuals from the private sector and other participants in FEMA training and exercise programs such as instructors, developers, observers, and interpreters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name (First, Middle, Last, Suffix);
 Date of birth;
 Social Security number (SSN);
 Alternate unique number assigned in lieu of an SSN (if the individual does not have a SSN or doesn't know his or her SSN);
 Gender/Sex;
 Race and ethnicity (for statistical purposes only);
 U.S. Citizenship;
 City and country of birth (collected for non-U.S. citizens);
 Information related to disabilities requiring special assistance;
 Phone numbers;
 Email addresses;
 Mailing addresses;
 Military Rank/Prefix;
 Unique user ID (for IT system registration);
 Individual's password (for IT system access; only accessible by the individual; disclosed as part of the authentication process);
 Individual's security questions and answers (for IT system access);
 Individual's employer or organization being represented;
 Individual's employment status;
 Individual's position title;
 Individual's professional certifications;

Category of position;
 Years of experience;
 Type of experience;
 Primary responsibility;
 Reason for applying/registering for training/exercise;
 Reference point of contact name;
 Reference point of contact phone number;
 Reference point of contact addresses;
 Relationship of individual to the reference point of contact;
 Organization type/Jurisdiction (*e.g.*, federal, state, local, tribal, territorial, foreign, or international government agencies);
 Organization identification number (non-proprietary);
 Number of staff in the organization;
 Size of population served by the organization;
 Nomination forms;
 Registration/Application forms;
 Training/Exercise rosters and sign-in sheets;
 Training instructor and exercise role lists;
 Training/exercise schedules, including location and venue, type, target capabilities, and mission;
 Financial information, such as bank routing and account number;
 Payment records, including financial, travel, and related expenditures;
 Examination and testing materials;
 Grades and student evaluations;
 Course and instructor critiques;
 Reports pertaining to and resulting from training and exercises;
 Formal education level
 Military experience
 Medical capability/Physical Fitness Information
 Past medical history
 Body composition
 Experience with respirators
 Cardiac and Respiratory assessment
 Hearing and vision assessment
 Musculoskeletal assessment
 Pregnancy history
 Medication list

RECORD SOURCE CATEGORIES:

Records are obtained on paper and through IT systems directly from all individuals who register for, apply for, participate in, or assist with FEMA's training or exercise programs including FEMA employees and contractors, volunteers, other federal employees and other participants such as current and former fire, medical, emergency management, and law enforcement professionals; nongovernmental and volunteer disaster relief organizations; and private sector professionals such as flood insurance representatives, instructors, course developers, observers, and interpreters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agencies conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his or her official capacity;
3. Any employee or former employee of DHS in his or her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another federal agency or federal entity, when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed

breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

G. To an appropriate federal, state, local, tribal, territorial, foreign, or international government agency, law enforcement agency, or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

I. To federal, state, local, tribal, territorial, foreign, international government agency, or non-profit/non-governmental entity if necessary to obtain information relevant to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit.

J. To federal, state, local, tribal, territorial, foreign, international government agency, or non-profit/non-governmental entity in response to its request, in connection with the hiring of a prospective employee or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, or for general inquiries by a state agency or state entity in connection with monitoring status and activities of its employees, to the extent that the information is relevant and necessary to the requesting agency's role and authority on such decisions and matters.

K. To physician(s) in order to provide information about a student or participant in need of medical care and

who is unable to provide the information him- or herself.

L. To members of the National Fire Academy (NFA) and Emergency Management Institute (EMI) Boards of Visitors federal advisory committees for the purpose of evaluating NFA's and EMI's programmatic statistics.

M. To a federal, state, local, tribal, territorial, foreign, international government agencies or non-profit/non-governmental entity for a statistical or research purpose, including the development of methods or resources to support statistical or research activities, provided that the records support DHS programs and activities that relate to the purpose(s) stated in this SORN, and will not be used in whole or in part in making any determination regarding an individual's rights, benefits, or privileges under federal programs, or published in any manner that identifies an individual.

N. To Department of Treasury for the processing and issuance of stipend payments to reimburse training, exercise, housing, or conference related expenses.

O. To federal, state, local, tribal, territorial, foreign, international government agencies, non-profit/non-governmental entity, or educational institutions for the maintenance/ updating of student academic records (such as transcripts).

P. To other federal agencies that support FEMA's training and exercise efforts through use of IT system(s).

Q. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/FEMA stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, SSN, or unique user ID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

FEMA's training and exercise records retention is generally covered under General Records Schedule (GRS) 2.6 item 10 and NARA Authority N1-311-08-2 1A. Under GRS 2.6 item 10, records are temporary, destroyed when 3 years old, or 3 years after superseded or obsolete, whichever is appropriate. Under NARA Authority N1-311-08-2 1A, records are retired to the Federal Records Center (FRC) five years after the cutoff and destroyed forty years after the cutoff. Finally, in accordance with OSHA 29 CFR 1910.1020(d)(1)(i), medical records are retained for at least thirty years and then destroyed.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FEMA safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. FEMA imposes strict controls to minimize the risk of compromising the information it stores. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a testing and evaluation system. However, DHS/FEMA will consider individual requests to determine whether or not information may be released. Individuals seeking notification of or access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and FEMA's Freedom of Information Act (FOIA) Officer whose contact information can be found at <https://www.dhs.gov/foia-contact-information>. If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528-0655, or electronically by <https://www.dhs.gov/dhs-foia-privacy-act-request-submission-form>.

Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be

available under the Freedom of Information Act.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. An individual may obtain more information about this process at <https://www.dhs.gov/foia>. In addition, you should:

Explain why you believe the Department would have information on you; Identify which component(s) of the Department you believe may have the information about you; Specify when you believe the records would have been created; Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, individuals may make a request for amendment or correction of a record of the Department about the individual by writing directly to the Department component that maintains the record, unless the record is not subject to amendment or correction. The request should identify each particular record in question, state the amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. If the individual believes that the same record is in more than one system of records, the request should state that and be addressed to each component that maintains a system of records containing the record.

NOTIFICATION PROCEDURES:

See "Record Access Procedure" above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(6) has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

HISTORY:

January 22, 2015, 80 FR 3241.

Lynn Parker Dupree,
Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2022-22450 Filed 10-14-22; 8:45 am]

BILLING CODE 9110-17-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7061-N-16]

60-Day Notice of Proposed Information Collection: Inspector Candidate Assessment Questionnaire; OMB Control No.: 2577-0243

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* December 16, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone (202) 402-3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

FOR FURTHER INFORMATION CONTACT: Leea Thornton, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone (202) 402-6455. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Thornton.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the

information collection described in section A.

A. Overview of Information Collection

Title of Proposal: Inspector Candidate Assessment Questionnaire.

OMB Approval Number: 2577-0243.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: Form HUD 50002A and Form HUD 50002B—HFA.

Description of the Need for the Information and Proposed Use: To meet the requirements of HUD's Uniform Physical Condition Standards (UPCS), the Physical Condition of Multifamily Properties and the Public Housing Assessment System (PHAS) regulations, the Department conducts physical condition inspections of approximately 14,000 multifamily and public housing properties annually. HUD uses contract inspectors that are trained and certified in the UPCS protocol by HUD to conduct UPCS inspections. Individuals who wish to be trained and certified UPCS by HUD are requested to electronically submit the questionnaire via the internet. The questionnaire provides HUD with basic knowledge of an individual's inspection skills and abilities.

As part of aligning REAC UPCS inspections with those conducted by state Housing Finance Agencies, state HFA staff also may fill out a form for information purposes only prior to attending the UPCS training.

Respondents: Applicants to the UPCS inspector certification program and state HFA staff.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD 50002A	200	1	200	0.33	66	\$34.86	\$2300.76
HUD 50002B—FHA	35	1	35	0.25	9	34.86	313.74
Total Burden .....	.....	.....	235	1	75	.....	2614.50

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Laura Miller-Pittman,
Chief, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2022-22509 Filed 10-14-22; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Geological Survey**

[GX23GG009950000]

Public Meeting of the Scientific Earthquake Studies Advisory Committee (SESAC)**AGENCY:** Department of the Interior.**ACTION:** Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA) of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the SESAC will take place.

DATES: The meeting will be a hybrid meeting held in person and virtually via Microsoft Teams from 1:00 p.m. to 5:00 p.m. (PDT) on November 3, 2022, and from 8:00 a.m. to 12 Noon (PDT) on November 4, 2022.

ADDRESSES: The meeting will be held in person at the USGS, Building 19, Moffett Field, California and virtually on Microsoft Teams. Comments can be sent to Dr. Gavin Hayes, USGS, by email at ghayes@usgs.gov or by telephone at 303-374-4449.

FOR FURTHER INFORMATION CONTACT: Dr. Gavin Hayes, USGS, by email at ghayes@usgs.gov or by telephone at 303-374-4449. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C., appendix 2), the Government in the Sunshine Act of 1976 (5 U.S.C. 552B, as amended), and 41 CFR 102-3.140 and 102-3.150.

Purpose of the Meeting: The SESAC will review current activities of the USGS Earthquake Hazards Program (EHP), discuss future priorities, and consider its draft report to the USGS Director.

Agenda Topics: Earthquake Hazards Program (EHP) strategic planning; administration priorities and interactions; budget opportunities; balance of activities supported by the EHP; external grants; National Earthquake Hazards Reduction Program (NEHRP); National Seismic Hazard Model; ShakeAlert; reports from SESAC sub-committees; and the draft report to the USGS Director.

Meeting Accessibility/Special Accommodations: The meeting is open to the public and will take place from 1:00 p.m. to 5:00 p.m. (PDT) on November 3, 2022, and from 8:00 a.m. to 12 Noon (PDT) on November 4, 2022. Members of the public wishing to attend the meeting should contact Dr. Gavin Hayes (see **FOR FURTHER INFORMATION CONTACT**). Virtual meeting instructions will be provided to registered attendees prior to the meeting.

Please make requests in advance for sign-language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure of Comments: There will be an opportunity for public comments during both days of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the SESAC for consideration. To allow for full consideration of information by the SESAC members, written comments must be provided to Dr. Gavin Hayes (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to SESAC members before the meeting.

Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. appendix 2.

Linda R. Huey,

Program Specialist, Natural Hazards Mission Area.

[FR Doc. 2022-22437 Filed 10-14-22; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[LLCO923000-L1440000-ET0000;COC-080815]

Notice of Proposed Withdrawal and Public Meeting, Thompson Divide Area, Colorado**AGENCY:** Bureau of Land Management (BLM), Interior.**ACTION:** Notice of proposed withdrawal.

SUMMARY: On behalf of the Bureau of Land Management (BLM) and the U.S. Department of Agriculture (USDA), Forest Service, the Secretary of the Interior proposes to withdraw approximately 224,793.73 acres, including approximately 200,518.28 acres of National Forest System lands, approximately 15,464.99 acres of BLM-managed public lands, and approximately 8,810.46 acres of reserved Federal mineral interest, from all forms of entry, appropriation, and disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights. The boundary of the proposed withdrawal area also includes approximately 35,472.94 acres of non-Federal lands with no Federal interest, which would not be subject to the proposed withdrawal unless they are subsequently acquired by the Federal Government. The withdrawal is proposed for a period of 20 years to protect agricultural, ranching, wildlife, air quality, recreational, ecological, and scenic values in the Thompson Divide Area of Colorado. This notice segregates the land for 2 years from all forms of entry, appropriation, and disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights, and initiates a 90-day public comment period on the proposed withdrawal.

DATES: Comments must be received by the BLM January 16, 2023. A public meeting is scheduled for December 14, 2022.

ADDRESSES: Comments should be sent to State Director, Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, or email them to: BLM_CO_Thompson_Divide@blm.gov. Information regarding the proposed withdrawal will be available at the BLM Colorado State Office and at the USDA

Forest Service, Rocky Mountain Region, 1617 Cole Boulevard, Building 17, Lakewood, Colorado 80401.

A meeting will be held on December 14, 2022, at the Carbondale & Rural Fire Protection District, 300 Meadowood Drive, Carbondale, CO 81623.

FOR FURTHER INFORMATION CONTACT:

Jennifer Jardine, Senior Realty Specialist, BLM Colorado State Office, telephone: (970) 385-1224; email: jjardine@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Jardine. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The petitioner is the BLM, with consent from the applicant, the USDA Forest Service. The petition/application requests the Secretary of the Interior to withdraw the following Federal lands and interests in lands, and all non-Federal lands that are subsequently acquired by the Federal Government, from all forms of entry, appropriation, and disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights:

National Forest System Lands

New Mexico Principal Meridian, Colorado

T. 51 N., R. 5 W.,

Secs. 7 and 18, unsurveyed;

Sec. 19, unsurveyed, that portion lying westerly of the Crawford Reservoir sub-watershed boundary and that portion lying westerly of the Muddy Creek sub-watershed boundary;

Sec. 30, unsurveyed, that portion lying westerly of the Muddy Creek sub-watershed boundary.

T. 50 N., R. 5½ W.,

Secs. 1, 2, and 11, those portions lying westerly of the Muddy Creek sub-watershed boundary.

T. 51 N., R. 5½ W.,

Secs. 11 thru 14 and sec. 24;

Secs. 25 and 36, those portions lying westerly of the Muddy Creek sub-watershed boundary.

T. 50 N., R. 6 W.,

Sec. 1;

Sec. 11, that portion lying easterly of the Gunnison/Montrose County boundary;

Secs. 12 and 13, those portions lying westerly of the Muddy Creek sub-watershed boundary;

Sec. 14, that portion lying easterly of the Gunnison/Montrose County boundary

and northerly of the Crystal Creek or Iron Creek sub-watershed boundary.

Sixth Principal Meridian, Colorado

T. 13 S., R. 86 W.,

Sec. 19, that portion lying easterly of the Raggeds Wilderness Area boundary;

Sec. 29, W½;

Sec. 30, excepting M.S. Nos. 3831, 3832, 4243, 4472, 4767, 4768, 4469, 5600, 7129, 8496 and 12805;

Sec. 32, N½.

T. 14 S., R. 86 W.,

Sec. 6, lots 4 thru 7;

Sec. 18, lots 3 and 4, E½SW¼, and SE¼;

Secs. 19 and 20;

Sec. 21, W½;

Sec. 26, SW¼;

Sec. 27;

Sec. 28, lots 1 thru 4, W½NE¼, E½NW¼, NW¼NW¼, E½SW¼, SW¼SW¼, and W½SE¼;

Sec. 29, NE¼NE¼, W½NE¼, W½, W½SE¼, and SE¼SE¼;

Sec. 30, lots 5 and 6, lots 11 thru 14, and lots 19 and 20;

Sec. 32, N½;

Sec. 33, lots 1 and 2, W½NE¼, and NW¼;

Sec. 34, N½;

Sec. 35, N½;

T. 13 S., R. 87 W.,

Sec. 20, unsurveyed, that portion lying southeasterly of the Raggeds Wilderness Area;

Sec. 21, unsurveyed, that portion lying southeasterly of the Raggeds Wilderness Area boundary, excepting M.S. Nos. 14344, 15668, 17918, and 17919;

Sec. 22, unsurveyed, that portion lying southwesterly of the Raggeds Wilderness Area boundary, excepting M.S. No. 2694;

Sec. 24, unsurveyed, those portions lying easterly of the Raggeds Wilderness Area boundary;

Sec. 25, unsurveyed, that portion lying easterly and southerly of the Raggeds Wilderness Area boundary, excepting M.S. Nos. 3831, 3831, and 4124;

Sec. 26, unsurveyed, that portion lying southerly of the Raggeds Wilderness Area boundary, excepting M.S. Nos. 1286 and 2721;

Sec. 27, unsurveyed, that portion lying southwesterly of the Raggeds Wilderness Area boundary, excepting M.S. Nos. 2701, 2703, 2813, 2814, 2867, 3440, 3466, 3504, 3728, 3729, 3804, 4149, 4421, 5146, 5322, 5511, 14392, and 17240;

Sec. 28, unsurveyed, that portion lying easterly of the Raggeds Wilderness Area boundary, excepting M.S. Nos. 1109, 1110, 1112, 2753, 2754, 2935, 3082, 3440, 3504, 3511, 3804, M.S. Nos. 4446 thru 4449, and M.S. Nos. 5146, 5147, 6382, 14344, 14392, 17240, 17919, and 20024;

Sec. 29, unsurveyed, that portion lying easterly and southerly of the Raggeds Wilderness Area boundary;

Secs. 30 thru 32, unsurveyed, those portions lying southerly of the Raggeds Wilderness Area boundary;

Sec. 33, unsurveyed, excepting M.S. Nos. 1156, 2731, 2935, 3470 A&B, 3471 A&B, 3716, 3804, 4445, 5146, 5147, 5870, and 20023, and S.T.A. No. 0441;

Sec. 34, unsurveyed, excepting M.S. Nos. 1156, 2702, 2703, 2731, 2786, 2801, 2814, 3299, 3466, 3467, 3503, 3737, 4421, 5342, 5511, 7123, the Irwin Townsite, and S.T.A. Nos. 0440, 0441, and 0442;

Sec. 35, unsurveyed, excepting M.S. Nos. 745, 1286, and 2693, M.S. Nos. 2695 thru 2700, and M.S. Nos. 2709, 2724, 3386, 3768, 4005, 4236, 4257, 4258, 4955, 5342, 5343, 5520, 7123, 8067, and 17714;

Sec. 36, unsurveyed, excepting M.S. Nos. 2693, 2697, 2724, 2829, 2863, 3386, 3390, 4124, 7856, 17714, and 20926;

T. 14 S., R. 87 W.,

Sec. 1;

Sec. 2, excepting M.S. Nos. 745, 1209, and 2989, M.S. Nos. 2695 thru 2700, and M.S. Nos. 2989, 3137, 3768, 3801, 3802, 4257, 4955, 15096, and 19527;

Sec. 3, excepting M.S. Nos. 745, 1209, 1348, 3542, 3736 A, 3737, 4401, and 4955, and the Irwin Townsite;

Secs. 4 thru 8;

Sec. 9, N½;

Sec. 10, N½, N½SW¼, and SE¼;

Sec. 11, excepting M.S. Nos. 2989, 3801, and 15096;

Secs. 12 and 13;

Sec. 14, that portion lying northerly of the Coal Creek sub-watershed boundary and that portion lying westerly of the Ruby Anthracite Creek sub-watershed boundary and northerly of the West Elk Wilderness Area boundary;

Sec. 15, that portion lying northeasterly of the West Elk Wilderness Area boundary;

Sec. 23, that portion lying northerly of the Coal Creek sub-watershed boundary;

Sec. 24.

T. 9 S., R. 88 W.,

Sec. 4, lot 2, W½, SW¼SE¼, and W½SE¼SE¼, partly unsurveyed;

Secs. 5 and 6, unsurveyed;

Sec. 7, unsurveyed, except H.E.S. No. 370;

Sec. 8, unsurveyed;

Sec. 9, NE¼, W½, and W½SE¼, partly unsurveyed, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River;

Sec. 16, NW¼, W½SW¼, and NW¼NW¼SE¼, partly unsurveyed, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory line, of Crystal River

Sec. 17, unsurveyed;

Sec. 18, unsurveyed, excepting H.E.S. No. 370;

Sec. 19, unsurveyed;

Sec. 20, partly unsurveyed, that portion lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River;

Sec. 21, NW¼NW¼, and SW¼SW¼, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the crystal river, and a parcel of land as described in book 518, page 282, recorded on September 5, 1986, Pitkin county, Colorado, lying westerly of easterly ordinary high-water mark, an ambulatory line, of the Crystal River;

Sec. 29, N½NE¼ and W½, partly unsurveyed, those portions lying

- westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River;
- Secs. 30 and 31, unsurveyed;
- Sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$, partly unsurveyed, those portions lying westerly of easterly ordinary high-water mark, an ambulatory line, of the Crystal River;
- Sec. 33, lots 12, 20, and 23, those portions lying westerly of easterly ordinary high-water mark, an ambulatory line, of the Crystal River.
- T. 10 S., R. 88 W.,
- Sec. 4, lot 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Secs. 5 thru 7;
- Sec. 8, that portion lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River;
- Sec. 9, W $\frac{1}{2}$ SW $\frac{1}{4}$, that portion lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River;
- Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
- Sec. 18, lots 5 thru 10, NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
- Sec. 19, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Secs. 30 and 31, those portions lying westerly of easterly ordinary high-water mark, an ambulatory line, of the Crystal River.
- T. 11 S., R. 88 W.,
- Sec. 6, lots 1 thru 8, lots 10 thru 15, and lots 17 and 18, E $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Crystal River, excepting those portions of lots 2, 7 and 10 not reconveyed to the United States as described in Special Warranty Deed in book 788, page 29, recorded on July 24, 1995, Pitkin county, Colorado.
- T. 12 S., R. 88 W.,
- Sec. 19, that portion lying southerly of the Raggeds Wilderness Area boundary;
- Sec. 20, that portion lying southerly and westerly of the Raggeds Wilderness Area boundary;
- Sec. 27, that portion lying westerly of the Raggeds Wilderness Area boundary;
- Sec. 28, excepting the Raggeds Wilderness Area;
- Sec. 29, that portion lying southerly and westerly of the Raggeds Wilderness Area boundary;
- Sec. 30, lots 1 thru 4, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 31;
- Secs. 32 and 33, those portions lying northwesterly of the Raggeds Wilderness Area boundary.
- T. 13 S., R. 88 W.,
- Sec. 6, lots 1 thru 5, lots 7 thru 14, and lots 16 thru 22, SE $\frac{1}{4}$, E.S. No. 366 Tract A, and a parcel of land donated to the United States as described in Book 259, Page 348, recorded on December 1, 1936, Gunnison County, Colorado;
- Sec. 7;
- Sec. 17, partly unsurveyed, that portion lying southwesterly of the Raggeds Wilderness Area boundary;
- Sec. 18;
- Sec. 19, lot 7 and lots 9 thru 12, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 20, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$, those portions lying southwesterly of the Raggeds Wilderness Area boundary;
- Secs. 21, 22, 25, 26, and 27, those portions lying southerly of the Raggeds Wilderness Area boundary;
- Sec. 28;
- Sec. 29, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
- Sec. 30, lots 1 thru 9 and lots 12, 13, and 14, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Secs. 31 thru 34;
- Sec. 35; that portion lying southwesterly of the Raggeds Wilderness Area boundary;
- Sec. 36, that portion lying southerly of the Raggeds Wilderness Area boundary.
- T. 14 S., R. 88 W.,
- Secs. 1 thru 5, unsurveyed;
- Sec. 6, unsurveyed, that portion lying northerly of the West Elk Wilderness Area boundary;
- Secs. 7 and 8, unsurveyed, those portions lying northeasterly of the West Elk Wilderness Area boundary;
- Secs. 9 and 10, unsurveyed, those portions lying northerly of the West Elk Wilderness Area boundary;
- Secs. 11 and 12, unsurveyed;
- Sec. 13, unsurveyed, that portion lying northeasterly of the West Elk Wilderness Area boundary;
- Secs. 14 and 15, unsurveyed, those portions lying northerly of the West Elk Wilderness Area boundary;
- Sec. 16, unsurveyed, that portion lying northeasterly of the West Elk Wilderness Area boundary.
- T. 7 S., R. 89 W.,
- Sec. 17, that portion lying easterly of the Fourmile Creek sub-watershed boundary;
- Sec. 19, those portions lying southerly of the Fourmile Creek sub-watershed boundary;
- Sec. 20, that portion lying southeasterly of the Fourmile Creek sub-watershed boundary;
- Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 28, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 29;
- Sec. 30, that portion lying southerly of the Fourmile Creek sub-watershed boundary;
- Sec. 31, lots 4, 5, 8, and 9, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 33, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 8 S., R. 89 W.,
- Sec. 3, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 4, lots 2, 3, and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
- Secs. 5 thru 8;
- Sec. 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
- Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 15, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 16, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
- Sec. 17, NE $\frac{1}{4}$, W $\frac{1}{2}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Secs. 18 and 19;
- Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
- Sec. 21;
- Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
- Sec. 27, W $\frac{1}{2}$;
- Sec. 28, E $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 30, lots 1 thru 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Secs. 31, 32, and 33;
- Sec. 34, W $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$.
- T. 9 S., R. 89 W.,
- Sec. 1, lots 1 thru 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 2, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
- Secs. 4 thru 9;
- Sec. 10, W $\frac{1}{2}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 11, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 13;
- Sec. 14, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and S $\frac{1}{2}$;
- Secs. 16 and 17;
- Sec. 18, that portion lying easterly of the Gunnison/Mesa County boundary;
- Secs. 19 thru 22;
- Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
- Secs. 24 and 25;
- Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
- Sec. 27, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Secs. 28 thru 33;
- Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 35, E $\frac{1}{2}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 36.
- T. 10 S., R. 89 W.,
- Sec. 1;
- Sec. 2, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
- Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
- Sec. 4, lots 1 thru 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 5 thru 9;
- Sec. 10, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 11, lots 1 thru 8, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and a parcel of land as described in special warranty deed recorded under document No. 405835 on June 30, 1997, Pitkin County, Colorado;

- Secs. 12, 13, and 14;
 Sec. 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and
 S $\frac{1}{2}$;
- Secs. 16 thru 36.
- T. 11 S., R. 89 W.,
 Secs. 1 thru 6;
 Sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and
 SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 10, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and
 SW $\frac{1}{4}$;
- Sec. 11;
- Sec. 12, that portion lying westerly of the
 Grand Mesa, Uncompahgre, and
 Gunnison National Forests boundary and
 that portion northerly of the Pitkin
 County boundary;
- Sec. 13, that portion lying westerly of the
 Grand Mesa, Uncompahgre, and
 Gunnison National Forests boundary;
- Secs. 14, 15, 16, and 21;
- Sec. 22, NE $\frac{1}{4}$, W $\frac{1}{2}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 23, N $\frac{1}{2}$;
- Sec. 24, NW $\frac{1}{4}$;
- Sec. 26, S $\frac{1}{2}$, unsurveyed, that portion
 lying westerly of Raggeds Wilderness
 Area boundary;
- Sec. 27, NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Secs. 28 and 33;
- Sec. 34, that portion lying northwesterly of
 the Raggeds Wilderness Area boundary;
- Sec. 35, unsurveyed, that portion lying
 westerly of the Raggeds Wilderness Area
 boundary.
- T. 12 S., R. 89 W.,
 Secs. 2 and 3, those portions lying westerly
 of the Raggeds Wilderness Area
 boundary;
- Sec. 10;
- Secs. 11, 12, and 13, those portions lying
 westerly of the Raggeds Wilderness Area
 boundary;
- Secs. 14 and 23;
- Sec. 24, that portion lying southwestly
 and westerly of the Raggeds Wilderness
 Area boundary;
- Sec. 25;
- Sec. 26, E $\frac{1}{2}$.
- T. 13 S., R. 89 W.,
 Sec. 7, SE $\frac{1}{4}$;
- Sec. 8, lot 7, that portion lying southerly
 of Anthracite Creek, lots 11 thru 14, and
 W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 9, lot 9 and NW $\frac{1}{4}$ SW $\frac{1}{4}$, those
 portions lying southerly of Anthracite
 Creek,
- Secs. 13, 14, and 15;
- Sec. 16, lots 1 thru 6 and S $\frac{1}{2}$;
- Sec. 17, that portion lying easterly of the
 Anthracite Creek sub-watershed
 boundary and that portion lying
 northwesterly of the Bear Creek-North
 Fork sub-watershed boundary;
- Sec. 18, that portion lying northeasterly of
 the Bear Creek-North Fork Gunnison
 River sub-watershed boundary;
- Secs. 20 and 21, those portions lying
 northeasterly of the Anthracite Creek
 sub-watershed boundary;
- Secs. 22 and 23;
- Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and
 SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
 N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, excepting H.E.S. No. 81;
- Sec. 26, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, excepting H.E.S. No. 81;
- Sec. 27;
- Sec. 28, that portion lying northerly of the
 Anthracite Creek sub-watershed
 boundary and that portion lying easterly
 of the Outlet Coal Creek sub-watershed
 boundary;
- Sec. 33, that portion lying easterly of the
 Outlet Coal Creek sub-watershed
 boundary;
- Sec. 34;
- Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$,
 and SE $\frac{1}{4}$;
- Sec. 36, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$.
- T. 14 S., R. 89 W.,
 Sec. 1, that portion lying northerly of the
 West Elk Wilderness Area boundary;
- Sec. 2;
- Sec. 3, that portion lying northerly of the
 West Elk Wilderness Area boundary;
- Sec. 4, lots 5, 6, and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$, those
 portions lying easterly of the Outlet Coal
 Creek sub-watershed and northwesterly
 of the West Elk Wilderness boundary;
- Sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$, that portion lying
 northerly of the West Elk Wilderness
 Area boundary;
- Sec. 10, lots 1, 2, and 3, those portions
 lying easterly of the West Elk Wilderness
 Area boundary;
- Sec. 11, lots 1 thru 4 and NE $\frac{1}{4}$, those
 portions lying northwesterly of the West
 Elk Wilderness Area boundary;
- Sec. 12, that portion lying northerly of the
 West Elk Wilderness Area boundary;
- Sec. 14, lot 3, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$,
 those portions lying westerly of the West
 Elk Wilderness Area boundary;
- Sec. 15, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$,
 those portions lying easterly of the West
 Elk Wilderness Area boundary;
- Sec. 22, that portion lying easterly of the
 West Elk Wilderness Area boundary;
- Sec. 23, excepting the West Elk Wilderness
 Area;
- Sec. 24, that portion lying southwestly of
 the West Elk Wilderness Area boundary;
- Sec. 25, excepting H.E.S. No. 266 and the
 West Elk Wilderness Area;
- Sec. 26, that portion lying northerly of the
 West Elk Wilderness Area boundary;
- Sec. 36, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$, excepting
 H.E.S. No. 266.
- T. 8 S., R. 90 W.,
 Secs. 1 and 2, unsurveyed;
- Secs. 3 and 10, unsurveyed, those portions
 lying easterly of the Fourmile Creek sub-
 watershed boundary;
- Secs. 11, 12, 13, and 14, unsurveyed;
- Secs. 15, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Secs. 21, unsurveyed, that portion lying
 easterly of the Gunnison/Mesa County
 boundary;
- Sec. 22, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Secs. 23 thru 27, unsurveyed;
- Secs. 28 and 29, unsurveyed, those
 portions lying southeasterly of the
 Gunnison/Mesa County boundary;
- Sec. 32, unsurveyed, that portion lying
 easterly of the Gunnison/Mesa County
 boundary;
- Secs. 33 thru 36, unsurveyed.
- T. 9 S., R. 90 W.,
 Sec. 1, unsurveyed;
- Secs. 2 thru 5 and sec. 10, unsurveyed,
 those portions lying northerly of the
 Gunnison/Mesa County boundary;
- Sec. 11, unsurveyed, those portions lying
 northerly and easterly of the Gunnison/
 Mesa County boundary;
- Secs. 12 and 13, unsurveyed, those
 portions lying easterly of the Gunnison/
 Mesa County boundary;
- Sec. 22, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Sec. 23, unsurveyed, that portion lying
 southerly of the Gunnison/Mesa County
 boundary;
- Sec. 24, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Secs. 25 and 26, unsurveyed;
- Secs. 27, 28, and 31, unsurveyed, those
 portions lying southeasterly of the
 Gunnison/Mesa County boundary;
- Sec. 32, unsurveyed, that portion lying
 southerly of the Gunnison/Mesa County
 boundary;
- Sec. 33, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Secs. 34, 35, and 36.
- T. 10 S., R. 90 W.,
 Secs. 1, 2, and 3;
- Secs. 4 and 5, unsurveyed;
- Sec. 6, unsurveyed, that portion lying
 southeasterly of the Gunnison/Mesa
 County boundary;
- Secs. 7, 8, and 9, unsurveyed;
- Secs. 10 thru 15;
- Secs. 16 thru 21, unsurveyed;
- Secs. 22 thru 25 and 36.
- T. 11 S., R. 90 W.,
 Sec. 1, lots 1, 2, 7, 8, 9, 14, and 15 and
 W $\frac{1}{2}$ SE $\frac{1}{4}$;
- T. 14 S., R. 90 W.,
 Sec. 5, W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 6, lots 3, 4, and 5, and SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 excepting H.E.S. No. 204;
- Sec. 8, W $\frac{1}{2}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$, excepting H.E.S.
 Nos. 86, 87 and 104;
- Sec. 9, S $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 16, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 17, excepting H.E.S. Nos. 86 and 87;
- Sec. 18, excepting H.E.S. Nos. 85 and 87;
- Secs. 19 and 20;
- Sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
- Sec. 22, S $\frac{1}{2}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 27, that portion lying northerly and
 westerly of the West Elk Wilderness Area
 boundary;
- Sec. 28;
- Sec. 29, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 30, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 15 S., R. 90 W.,
 Secs. 5 and 6, unsurveyed, those portions lying westerly of the West Elk Wilderness Area boundary;
 Sec. 7, unsurveyed;
 Secs. 8, unsurveyed, that portion lying westerly of the West Elk Wilderness Area boundary;
 Sec. 16, unsurveyed, that portion lying southerly of the West Elk Wilderness Area boundary;
 Sec. 17, unsurveyed, that portion lying westerly of the West Elk Wilderness Area boundary;
 Secs. 18 and 19, unsurveyed;
 Sec. 20, unsurveyed, that portion lying southwesterly of the West Elk Wilderness Area boundary, excepting H.E.S. No. 49;
 Sec. 21, unsurveyed, that portion lying southerly of the West Elk Wilderness Area boundary;
 Secs. 22 and 27, unsurveyed, those portions lying westerly of the West Elk Wilderness Area boundary;
 Secs. 28 and 29, unsurveyed, excepting H.E.S. No. 49;
 Sec. 30, unsurveyed, excepting H.E.S. No. 173;
 Secs. 31, 32, and 33, unsurveyed;
 Sec. 34, unsurveyed, that portion lying westerly of the West Elk Wilderness Area boundary.
 T. 10 S., R. 91 W.,
 Sec. 1, unsurveyed, those portions lying southerly of the Gunnison/Mesa County boundary and those portions lying easterly of the of Gunnison/Delta County boundary;
 Secs. 12, 13, and 24, unsurveyed, those portions lying easterly of the Gunnison/Delta County boundary;
 T. 14 S., R. 91 W.,
 Secs. 13 and 24, those portions lying easterly of the Gunnison/Delta County boundary.
 T. 15 S., R. 91 W.,
 Secs. 1, 12, and 13, those portions lying easterly of the Gunnison/Delta County boundary;
 Sec. 24, lots 1, 4, 5, and 13, those portions lying easterly of the Gunnison/Delta County boundary;
 Sec. 25, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying easterly of the Gunnison/Delta County boundary;
 Sec. 36, that portion lying easterly of the Gunnison/Delta County boundary.

The areas described aggregate 200,518.28 acres, more or less.

Public Lands

Sixth Principal Meridian, Colorado

T. 13 S., R. 86 W.,
 Sec. 20, lots 1 thru 4 and SW $\frac{1}{4}$.
 T. 7 S., R. 88 W.,
 Sec. 20, lot 3, that part lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Roaring Fork River.
 T. 8 S., R. 88 W.,
 Sec. 7;
 Sec. 8, lots 3 thru 5, lots 8 thru 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 9, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 15, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 16, S $\frac{1}{2}$;
 Sec. 17, lots 2 thru 5 and lots 8 and 9, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Secs. 18 and 19;
 Sec. 20, lots 2 thru 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 21, lots 1 and 2 and NW $\frac{1}{4}$;
 Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 29 thru 32;
 Sec. 33, W $\frac{1}{2}$ and SE $\frac{1}{4}$.
 T. 6 S., R. 89 W.,
 Sec. 28, SW $\frac{1}{4}$ SE $\frac{1}{4}$, that part lying southerly of the Fourmile Creek subwatershed boundary;
 Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 34, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 7 S., R. 89 W.,
 Sec. 3, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4, that part lying southerly and easterly of the Fourmile Creek subwatershed boundary;
 Sec. 5, E $\frac{1}{2}$ SE $\frac{1}{4}$, that part lying southeasterly of the Fourmile Creek subwatershed boundary;
 Sec. 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 12, lot 22 and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 13, NW $\frac{1}{4}$;
 Sec. 15, lots 16 and 17 and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 16, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, lot 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 36, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$.
 T. 8 S., R. 89 W.,
 Sec. 1, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 2, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Secs. 12, 13, and 24;
 Sec. 25, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$
 Sec. 36.
 T. 13 S., R. 89 W.,
 Sec. 9, lot 10, that part lying southerly and easterly of the northwesterly ordinary high-water mark, an ambulatory line, of the Anthracite Creek;
 Sec. 10, lots 11 thru 14.
 T. 7 S., R. 90 W.,
 Sec. 24, lot 3 and NW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying south of the Fourmile Creek subwatershed boundary;
 Sec. 25, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ SE $\frac{1}{4}$, that part lying southeasterly of the Fourmile Creek subwatershed boundary;
 Sec. 34, SE $\frac{1}{4}$, that part lying south and east of the Fourmile Creek subwatershed boundary;
 Sec. 35, E $\frac{1}{2}$, that part lying south and east of the Fourmile Creek subwatershed boundary;
 Sec. 36, lot 4, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 13 S., R. 90 W.,
 Sec. 31, lots 5 thru 7 and lots 10 and 12.
 T. 14 S., R. 90 W.,
 Sec. 6, lots 1, 2, 6, and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$, except HES 104;

Sec. 7, except HES 87 and 104.
 T. 13 S., R. 91 W.,
 Sec. 25, lots 1, 9, and 16, those portions lying east of the Delta/Gunnison County line;
 Sec. 36, lots 1, 8, and 9, those portions lying east of the Delta/Gunnison County line.
 T. 14 S., R. 91 W.,
 Sec. 1, E $\frac{1}{2}$ SE $\frac{1}{4}$, that portion lying east of the Delta/Gunnison County line;
 Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying east of the Delta/Gunnison County line.

The areas described aggregate 15,464.99 acres, more or less.

Non-Federal Surface Lands, With Federal Subsurface Interest

New Mexico Principal Meridian, Colorado

T. 50 N., R. 6 W.,
 Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$, that part lying east of the Montrose/Gunnison County boundary.
 T. 51 N., R. 5.5 W.,
 Sec. 26, lots 5 thru 8;
 Sec. 35, lots 1 thru 8.
 T. 51 N., R. 6 W.,
 Sec. 11, lot 1, that part lying east of the Delta/Gunnison County boundary;
 Sec. 12;
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying east of the Delta/Gunnison County boundary;
 Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, that part lying east of the Delta/Gunnison County boundary, and E $\frac{1}{2}$ SE $\frac{1}{4}$, that part lying east of the Delta and Montrose/Gunnison County boundary;
 Sec. 24, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
 Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying east of the Montrose/Gunnison County boundary;
 Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying east of the Montrose/Gunnison County boundary;
 Sec. 36.

Sixth Principal Meridian, Colorado

T. 8 S., R. 88 W.,
 Sec. 8, lot 12;
 Sec. 17, lots 1, 6, 7, and 10, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 21, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, NE $\frac{1}{4}$.
 T. 6 S., R. 89 W.,
 Sec. 34, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 T. 7 S., R. 89 W.,
 Sec. 1, lots 26, 27, and 34, that part lying southwesterly of the northeasterly high-water mark, an ambulatory line, of the Roaring Fork River;
 Sec. 2, lots 6, 7, and 17, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 3, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 13, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 14, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 15, lots 4 and 8 (other min.);

- Sec. 23, lots 6, 7, 11, and 14 (other min.);
 Sec. 24, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 25, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and
 W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 26 lot 14 and NE $\frac{1}{4}$ SE $\frac{1}{4}$ (coal only);
 Sec. 33, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and
 NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 35, lots 1 and 2 (coal only);
 Sec. 36, NW $\frac{1}{4}$ NW $\frac{1}{4}$ (coal only).
- T. 8 S., R. 89 W.,
 Sec. 28, NE $\frac{1}{4}$ SW $\frac{1}{4}$ (coal only).
- T. 10 S., R. 89 W.,
 Sec. 10, S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$, except a parcel of
 land as described in special warranty
 deed recorded under document No.
 405835 on June 30, 1997, Pitkin County,
 Colorado;
 Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, and
 N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 11 S., R. 89 W.,
 Sec. 9, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ (coal
 only);
 Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$ (coal only).
- T. 13 S., R. 89 W.,
 Sec. 2, lot 36, that part lying southerly and
 easterly of the northwesterly ordinary
 high-water mark, an ambulatory line, of
 the Anthracite Creek;
 Sec. 11, lot 1, lot 2, that part lying
 southerly and easterly of the
 northwesterly ordinary high-water mark,
 an ambulatory line, of the Anthracite
 Creek, lots 5 thru 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 12.
- T. 7 S., R. 90 W.,
 Sec. 24, lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$,
 those portions lying south and east of the
 Fourmile Creek subwatershed boundary;
 Sec. 25, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and
 W $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying
 southeasterly of the Fourmile Creek
 subwatershed boundary;
 Sec. 34, SE $\frac{1}{4}$ NE $\frac{1}{4}$, that part lying easterly
 of the Fourmile Creek subwatershed
 boundary;
 Sec. 35, W $\frac{1}{2}$, that part lying southerly of
 the Fourmile Creek subwatershed
 boundary;
 Sec. 36, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 13 S., R. 91 W.,
 Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, those
 portions lying east of the Delta/Gunnison
 County boundary;
 Sec. 25, lot 8, that part lying east of the
 Delta/Gunnison County boundary.
- The areas described aggregate
 8,810.46 acres, more or less.
- Non-Federal Lands With No Surface or Sub-Surface Interest**
- New Mexico Principal Meridian, Colorado*
- T. 50 N., R. 6 W.,
 Sec. 2, lot 1 and SE $\frac{1}{4}$ NE $\frac{1}{4}$, those portions
 lying east of the Montrose/Gunnison
 County boundary.
- Sixth Principal Meridian, Colorado*
- T. 13 S., R. 86 W.,
 M.S. Nos. 3831, 3832, 4243, 4469, 4472,
 4767, 4768, 5600, 7129, 8496 and 12805,
 those portions lying within sec. 30.
- T. 14 S., R. 86 W.,
 Sec. 28, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 29, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 13 S., R. 87 W.,
 M.S. Nos. 2694, 2721, and 2867, those
 portions lying southerly of the Raggeds
 Wilderness Area;
 M.S. Nos. 745, 1109, 1110, 1112, 1156,
 1286, 2693, M.S. Nos. 2695 thru 2703,
 M.S. Nos. 2709, 2724, 2731, 2753, 2754,
 2786, 2801, 2813, 2814, 2829, 2863,
 2935, 3082, 3299, 3386, 3390, 3440,
 3466, 3467, 3470 A&B, 3471 A&B, 3503,
 3504, 3511, 3716, 3728, 3729, 3737,
 3768, 3804, 3831, 3831, 4005, 4124,
 4149, 4236, 4257, 4258, 4421, M.S. Nos.
 4446 thru 4449, and M.S. Nos. 4955,
 5146, 5147, 5322, 5342, 5343, 5511,
 5520, 5870, 6382, 7123, 7856, 8067,
 14344, 14392, 15668, 17240, 17714,
 17918, 17919, 20023, 20024, and 20926;
 Irwin Townsite;
 S.T.A. Nos. 0440 thru 0442.
- T. 14 S., R. 87 W.,
 Sec. 9, S $\frac{1}{2}$;
 Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 15, NW $\frac{1}{4}$;
 Secs. 16 thru 18;
 Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 M.S. Nos. 745, 1209, 1384, M.S. Nos. 2695
 thru 2700, and M.S. Nos. 2989, 3137,
 3542, 3736 A, 3737, 3768, 3801, 3802,
 4257, 4401, 4257, 4955, 15096, and
 19527;
 Irwin Townsite.
- T. 7 S., R. 88 W.,
 Secs. 18, and 19, those portions lying
 westerly of the easterly ordinary high-
 water mark, an ambulatory boundary, of
 the Roaring Fork River;
 Sec. 20, lots 2, 8, 9, 10, 13, 14, and 15,
 those portions lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Roaring
 Fork River;
 Sec. 28, lots 11 thru 14, those portions
 lying westerly of the easterly ordinary
 high-water mark, an ambulatory
 boundary, of the Crystal River, and lot
 25, that part lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River, and the easterly ordinary high-
 water mark, an ambulatory boundary, of
 the Roaring Fork River;
 Sec. 29, that part lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Roaring
 Fork River;
 Secs. 30 thru 32;
 Sec. 33, that part lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River.
- T. 8 S., R. 88 W.,
 Secs. 3 and 4, those portions lying westerly
 of the easterly ordinary high-water mark,
 an ambulatory boundary, of the Crystal
 River;
 Secs. 5 and 6;
 Sec. 8, lots 1, 2, 6, and 7;
- Sec. 9, N $\frac{1}{2}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 10, that part lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River;
 Sec. 15, lots 1 thru 10, lots 12 thru 15, and
 W $\frac{1}{2}$ NW $\frac{1}{4}$, those portions lying westerly
 of the easterly ordinary high-water mark,
 an ambulatory boundary, of the Crystal
 River;
 Sec. 16, N $\frac{1}{2}$;
 Sec. 21, NE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, that part lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River, except the W $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 27, lots 2 thru 8 and lots 11 thru 15,
 those portions lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River;
 Sec. 28, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 34, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$, those
 portions lying westerly of the easterly
 ordinary high-water mark, an ambulatory
 boundary, of the Crystal River.
- T. 9 S., R. 88 W.,
 Sec. 3, lot 4 and SW $\frac{1}{4}$ SW $\frac{1}{4}$, those portions
 lying westerly of the easterly ordinary
 high-water mark, an ambulatory
 boundary, of the Crystal River;
 Sec. 4, lot 1 and E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, E $\frac{1}{2}$ SE $\frac{1}{4}$, that part lying westerly of
 the easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River;
 Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$, that part lying
 westerly of the easterly ordinary high-
 water mark, an ambulatory boundary, of
 the Crystal River;
 Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$, those
 portions lying westerly of the easterly
 ordinary high-water mark, an ambulatory
 boundary, of the Crystal River;
 Sec. 21, NE $\frac{1}{4}$ NW $\frac{1}{4}$, that part lying
 westerly of the easterly ordinary high-
 water mark, an ambulatory boundary, of
 the Crystal River, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and a
 parcel of land as described in book 713,
 page 309, recorded on May 27, 1993,
 Pitkin County, Colorado;
 Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$, those portions
 lying westerly of the easterly ordinary
 high-water mark, an ambulatory
 boundary, of the Crystal River;
 Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, that part lying westerly
 of the easterly ordinary high-water mark,
 an ambulatory boundary, of the Crystal
 River;
 Sec. 33, lots 11 and 14, those portions lying
 westerly of the easterly ordinary high-
 water mark, an ambulatory boundary, of
 the Crystal River;
 M.S. Nos. 5443 A&B;
 H.E.S. No. 370.
- T. 10 S., R. 88 W.,
 Sec. 4, lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$,
 those portions lying westerly of the
 easterly ordinary high-water mark, an
 ambulatory boundary, of the Crystal
 River;
 Sec. 9, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, those
 portions lying westerly of the easterly
 ordinary high-water mark, an ambulatory
 boundary, of the Crystal River;

- Sec. 17, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory boundary, of the Crystal River;
- Sec. 18, SE $\frac{1}{4}$;
- Sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
- Sec. 20, that portion lying westerly of the easterly ordinary high-water mark, an ambulatory boundary, of the Crystal River;
- Sec. 29, NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory boundary, of the Crystal River; M.S. No. 5443 A.
- T. 11 S., R. 88 W.,
- Sec. 6, lots 2, 7 and 10, those portions not reconveyed to the United States as described in special warranty deed in book 788, page 29, recorded July 24, 1995, Pitkin county, Colorado, and lot 9, all those portions lying westerly of the easterly ordinary high-water mark, an ambulatory boundary, of the Crystal River;
- Sec. 7, lot 1 and NE $\frac{1}{4}$ NW $\frac{1}{4}$, those portions lying westerly of the easterly ordinary high-water mark, an ambulatory boundary, of the Crystal River and north of the Pitkin/Gunnison County boundary.
- T. 12 S., R. 88 W.,
- Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
- T. 6 S., R. 89 W.,
- Sec. 27, SW $\frac{1}{4}$ SW $\frac{1}{4}$, that part lying southwesterly of Fourmile Creek subwatershed boundary;
- Sec. 28, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying easterly and southerly of Fourmile Creek subwatershed boundary;
- Sec. 33, NE $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$, that part lying easterly of Fourmile Creek subwatershed boundary;
- Sec. 34, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying southerly and westerly of Fourmile Creek subwatershed boundary;
- Sec. 35, that part lying southerly of the northerly ordinary high-water mark, an ambulatory line, of the Roaring Fork River;
- Sec. 36, that part lying southerly of the northerly ordinary high-water mark, an ambulatory line, of the Roaring Fork River.
- T. 7 S., R. 89 W.,
- Sec. 1, that part lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Roaring Fork River, except lots 26, 27 and 34;
- Sec. 2, lots 1 thru 5, lots 8 thru 16, and lots 18 thru 22;
- Sec. 3, lots 2 thru 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 8, that part lying southerly and easterly of the Fourmile Creek subwatershed boundary;
- Sec. 9, lots 1 thru 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 10;
- Sec. 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 12, that part lying westerly of the easterly ordinary high-water mark, an ambulatory line, of the Roaring Fork River, except lot 22 and W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 13, lots 1 thru 16 and E $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 14, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
- Sec. 15, lots 1 thru 3, lots 5 thru 7, lots 9 thru 15, lots 18 thru 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 16, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 21, S $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 22;
- Sec. 23, lots 1 thru 5, lots 8 thru 10, lots 12 and 13, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 24, lots 1 and 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
- Sec. 25, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 26, lots 1 thru 13, lots 15 thru 18, NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 27;
- Sec. 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 31, lots 2, 6, and 7, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 33, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 34;
- Sec. 35, lots 3 thru 6, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 36, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$.
- T. 8 S., R. 89 W.,
- Sec. 1, S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 2, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
- Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 4, lot 1 and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
- Sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 10, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
- Secs. 11 and 14;
- Sec. 15, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 16, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
- Sec. 17, N $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
- Sec. 22, E $\frac{1}{2}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 23;
- Sec. 25, W $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;
- Sec. 27, E $\frac{1}{2}$;
- Sec. 28, NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 29, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 30, S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 34, E $\frac{1}{2}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
- Sec. 35, W $\frac{1}{2}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$.
- T. 9 S., R. 89 W.,
- Sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 2, W $\frac{1}{2}$;
- Sec. 3, E $\frac{1}{2}$;
- Sec. 10, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 11, W $\frac{1}{2}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
- Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$;
- Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 34, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 35, NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 10 S., R. 89 W.,
- Sec. 2, lots 3 and 4 and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 3, lots 1 and 2;
- Sec. 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 7 S., R. 90 W.,
- Sec. 36, Lot 3.
- T. 13 S., R. 90 W.,
- Sec. 31, lot 9.
- The areas described aggregate approximately 35,472.94 acres.
- The areas described, including both Federal and non-Federal lands, aggregate approximately 260,266.67 acres.
- The Secretary of the Interior has approved the petition to file the withdrawal application. The Secretary's approval constitutes her proposal to withdraw the subject lands. The USDA Forest Service has consented to proposing the withdrawal of lands under its administrative jurisdiction. (43 CFR 2310.1-3(e)).
- The use of a right-of-way, interagency agreement, or cooperative agreement, or surface management under 43 CFR part 3800, subpart 3809 regulations would not adequately constrain non-discretionary uses and would not provide adequate protection of cultural, recreational, and biological resources, nor the financial investments in public campgrounds and other improvements on these lands.
- There are no suitable alternative sites, as the described lands contain the resource values that need protection.
- Water rights will not be needed to fulfill the purpose of the proposed withdrawal.
- For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Colorado State Director at the address listed above (see **ADDRESSES**).
- Comments, including names and street addresses of respondents, will be available for public review at the BLM Colorado State Office during regular business hours, 7:45 a.m. to 4:15 p.m. Monday through Friday, except Federal holidays. 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. All submissions from organizations or businesses, and from individuals identifying themselves as

representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice of a public meeting will be announced in at least one newspaper of general circulation in the area of the proposed withdrawal at least 30 days before the scheduled date of the meeting. A public meeting is scheduled for December 14, 2022.

For a period until October 17, 2024, subject to valid existing rights, the lands and mineral interests in this notice will be segregated from all forms of entry, appropriation, and disposal under the public land laws; location and entry under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights, unless the proposal is canceled or the withdrawal is approved prior to that date..

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature may be allowed with the approval of the authorized officers of the USDA Forest Service or the BLM during the segregation period.

This withdrawal proposal will be processed in accordance with the regulations set forth in 43 CFR part 2300.

(Authority: 43 CFR 2310.3-1(a))

Douglas J. Vilsack,

BLM Colorado State Director.

[FR Doc. 2022-22448 Filed 10-14-22; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0034712; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State Historic Preservation Office, Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Michigan State Historic Preservation Office (Michigan SHPO) has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these

human remains should submit a written request to the Michigan SHPO. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Michigan SHPO at the address in this notice by November 16, 2022.

FOR FURTHER INFORMATION CONTACT:

Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N Washington Square, Lansing, MI 48913, telephone (517) 243-9513, email hambacherm@michigan.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Michigan State Historic Preservation Office, Lansing, MI. The human remains were removed from Monroe County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Michigan SHPO professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota

Chippewa Tribe, Minnesota (Mille Lacs Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and the Wyandotte Nation. In addition, the Absentee Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Seneca Nation of Indians (*previously* listed as Seneca Nation of New York); Seneca-Cayuga Nation (*previously* listed as Seneca-Cayuga Tribe of Oklahoma); Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (*previously* listed as Tonawanda Band of Seneca Indians of New York); and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate. Hereafter all Indian Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Human Remains

Sometime prior to 1985, human remains representing, at minimum, one individual were removed from Sterling State Park Beach (alternately, Sterling State Park 1) site (20MR56) in Monroe County, MI. The human remains were surface collected from a beach on the shore of Lake Erie, and were described

as water-rolled and sand-polished. The human remains are from an adult of indeterminate sex. Artifacts dating from multiple time periods also were surface collected from the beach so it cannot be determined if these objects are associated with the human remains. Therefore, the human remains could not be dated. No known individual was identified. No associated funerary objects are present.

Determinations Made by the Michigan State Historic Preservation Office

Officials of the Michigan State Historic Preservation Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on accession documentation and archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White

Earth Band); Nottawaseppi Huron Band of the Potawatomi (*previously* listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N. Washington Square, Lansing, MI 48913, telephone (517) 243-9513, email hambacherm@michigan.gov, by November 16, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Michigan State Historic Preservation Office is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 5, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022-22514 Filed 10-14-22; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0034713; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State Historic Preservation Office, Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Michigan State Historic Preservation Office (Michigan SHPO) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Michigan SHPO. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Michigan SHPO at the address in this notice by November 16, 2022.

FOR FURTHER INFORMATION CONTACT:

Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N. Washington Square, Lansing, MI 48913, telephone (517) 243-9513, email hambacherm@michigan.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Michigan State Historic Preservation Office, Lansing, MI. The human remains and associated funerary objects were removed from Bay and Saginaw Counties, MI.

This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the Michigan SHPO professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little Shell Tribe of Chippewa Indians of Montana; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan. In addition, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate. Hereafter, all Indian Tribes in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Human Remains

On an unknown date, human remains representing, at minimum, one individual were removed from the Kerr

#3 site (20BY6) in Bay County, MI. The human remains and associated funerary objects were surface collected from a beach north of the Kawkawlin River. They were noted as fragmentary, weathered, and sun-bleached. The human remains collected from the site are one adult, indeterminate sex, and date to the Early Late Woodland Period (A.D. 500–1100) based on ceramic sherds collected on the same beach as the human remains. No known individual was identified. The two associated funerary objects are two lots of ceramic sherds.

In 1968, human remains representing, at minimum, three individuals were removed from the Bugai site (20SA215) in Saginaw County, MI. Construction workers encountered human remains while working along Interstate-75 in Bridgeport Township on land owned by the State of Michigan. They contacted the Michigan State Police to investigate the site. On July 31, 1968, State Highway Department employees excavated three burials and multiple objects. The burials were surrounded by areas containing red ochre. The human remains first were taken to the State Police crime lab for further examination. After the burials were determined to be archeological, a detective assigned to the case contacted a local amateur archeologist to take possession of the human remains and objects. On August 14, 1968, he donated the collections to the University of Michigan Museum of Anthropological Archaeology (UMMAA). The human remains collected from the site include two adults, both 18–24 years old and possibly female; and one adult, 45+ years old, male. One lot of DNA extractions, taken from human remains in this site collection between 1996 and 2006, will also be included in this transfer. The human remains date to the Early Late Woodland Period (A.D. 500–1100). No known individuals were identified. The 22 associated funerary objects are one lot of stone celt and possible stone celt fragment; one lot of retouched lithic flake; one lot of retouched lithic flake; one lot of lithic flakes; one lot of Jack's Reef projectile point fragment; one lot of earthenware body sherds; one lot of earthenware sherds; one lot of stone celt fragment; one lot of unworked turtle shell fragments and unworked animal long bone fragment; one lot of perforated turtle plastron; one lot of sandstone abraders; one lot of lithic biface preforms and lithic flake; one lot of possible lithic scraper and lithic flake; one lot of antler billets; one lot of utilized antler tine fragment; one lot of

modified antler fragment; one lot of antler fragment; one lot of carved antler fragment; one lot of stone blank or preform; one lot soil sample; one lot of burned wood; and one lot of fire-cracked rock.

Determinations Made by the Michigan State Historic Preservation Office

Officials of the Michigan State Historic Preservation Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, accession documentation, and archeological context.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 24 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.

- Treaties, Acts of Congress, or Executive orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N. Washington Square, Lansing, MI 48913, telephone (517) 243–9513, email hambacherm@michigan.gov, by

November 16, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Consulted and Invited Tribes may proceed.

The Michigan State Historic Preservation Office is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 5, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022-22515 Filed 10-14-22; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0034715;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State Historic Preservation Office, Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Michigan State Historic Preservation Office (Michigan SHPO) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Michigan SHPO. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Michigan SHPO at the address in this notice by November 16, 2022.

FOR FURTHER INFORMATION CONTACT:

Michael Hambacher, Staff
Archaeologist, State Historic

Preservation Office, Michigan Economic Development Corporation, 300 N Washington Square, Lansing, MI 48913, telephone (517) 243-9513, email hambacher@michigan.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Michigan State Historic Preservation Office, Lansing, MI. The human remains and associated funerary objects were removed from Genesee, Oakland, and Washtenaw Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by Michigan SHPO professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan and the Wyandotte Nation. The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community,

Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate. Hereafter, all Indian Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Human Remains

In the summer of 1960, human remains and associated funerary objects representing, at minimum, one individual were removed from the Warner School site (20GS6) in Genesee County, MI. A researcher from the University of Michigan Museum of Anthropological Archaeology (UMMAA) excavated the multi-component site which is located in Flint Township on a high terrace overlooking the Flint River. One burial was identified with the individual interred as a partly articulated in a bundle burial. The human remains date to the Late Woodland Period (A.D. 500-1400) based on two ceramic sherds collected near the burial pit.

The human remains include one adult, 45+ years old, female with osteoarthritis in her vertebrae and a healed fracture of the right clavicle. No known individual was identified. The two associated funerary objects are one lot of ceramic sherds; and one lot of chert flakes, fire cracked rock, pebbles, and cobbles.

On May 22, 1935, human remains representing, at minimum, one individual were removed from the Leeson site (20OK01) in Oakland County, MI. A construction crew working on a Civilian Conservation Corps project encountered human remains while removing earth from the crown of a hill on the shore of Cass Lake. Faculty from the UMMAA were contacted to conduct a salvage excavation at the site. The burial was determined to be an isolated secondary bundle burial. The human remains were in extremely fragile condition and red

sand had been packed inside the cranium. (Two additional fragmentary bundle burials with red ochre were noted at the site, but they were not transferred to the UMMAA.) The human remains broadly date to pre-contact (9150 B.C. to A.D.1640) based on mortuary treatment.

The human remains are one adult, 40–55 years old, indeterminate sex. No known individual was identified. No associated funerary objects are present.

On May 11, 1933, human remains and associated funerary objects representing, at minimum, four individuals were removed from the GL–539 (or M–17) site (20WA5) in Washtenaw County, MI. Workers unearthed the burials while digging a sewer trench near Michigan State Highway M–17. They contacted faculty from the UMMAA to excavate the site. UMMAA records indicate the burials were located in a defined pit. Human remains from an infant buried at the site were located under a flat boulder within the burial pit. The human remains date to the Late Woodland Period (A.D. 500–1400) based on diagnostic artifacts associated with the site.

The human remains include one infant 0–6 months old; one adolescent, 14–17 years old; one adult, possibly female; and one adult, 35–50 years old, male. No known individuals were identified. The four associated funerary objects are one lot of raccoon maxillary bone fragments; one lot of charcoal; one lot of fossil shells; and one lot of ceramic sherds.

Determinations Made by the Michigan State Historic Preservation Office

Officials of the Michigan State Historic Preservation Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, accession documentation, and archeological context.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the six objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); and the Saginaw Chippewa Indian Tribe of Michigan.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N Washington Square, Lansing, MI 48913, telephone (517) 243–9513, email hambacherm@michigan.gov, by November 16, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Consulted and Invited Tribes may proceed.

The Michigan State Historic Preservation Office is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 5, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22517 Filed 10–14–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034714;
PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State Historic Preservation Office, Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Michigan State Historic Preservation Office (Michigan SHPO) has completed an inventory of human remains and an associated funerary object, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and the associated funerary object and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and this associated funerary object should submit a written request to the Michigan SHPO. If no additional requestors come forward, transfer of control of the human remains and the associated funerary object to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and this associated funerary object should submit a written request with information in support of the request to the Michigan SHPO at the address in this notice by November 16, 2022.

FOR FURTHER INFORMATION CONTACT:

Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N Washington Square, Lansing, MI 48913, telephone (517) 243–9513, email hambacherm@michigan.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and an associated funerary object under the control of the Michigan State Historic Preservation Office, Lansing, MI. The human remains and the associated funerary object were removed from Wexford County, MI.

This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and the associated funerary object. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and the associated funerary object was made by the Michigan SHPO professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little Shell Tribe of Chippewa Indians of Montana; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan. In addition, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Ottawa Tribe of Oklahoma; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate. Hereafter all the Indian Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Human Remains

In October of 1957, human remains and an associated object representing, at minimum, three individuals were removed from the Sun and Snow Mounds site (20WX7) in Wexford County, MI. Records of the University of Michigan Museum of Anthropological Archaeology (UMMAA) note that the

Director of the Cadillac-Wexford Public Library donated the human remains and the associated funerary object to the Museum on December 23, 1957. The human remains reportedly came from two separate burials, but how the site was found and how the human remains and associated funerary object were collected are unclear. The human remains include one child, 4–6 years old; one adolescent, 16–19 years old, possibly male; and one adult, indeterminate sex. The human remains date to the Woodland Period (850 B.C.–A.D. 1400) based on the diagnostic chert blade. No known individuals were identified. The one associated funerary object is one chert blade.

Determinations Made by the Michigan State Historic Preservation Office

Officials of the Michigan State Historic Preservation Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, accession documentation, and archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and the associated funerary object and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and the associated funerary object were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and the associated funerary object may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to

request transfer of control of these human remains and this associated funerary object should submit a written request with information in support of the request to Michael Hambacher, Staff Archaeologist, State Historic Preservation Office, Michigan Economic Development Corporation, 300 N. Washington Square, Lansing, MI 48913, telephone (517) 243–9513, email hambacherm@michigan.gov, by November 16, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and the associated funerary object to The Consulted and Invited Tribes may proceed.

The Michigan State Historic Preservation Office is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 5, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22516 Filed 10–14–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1299, 1300, and 1302 (Review)]

Circular Welded Carbon-Quality Steel Pipe From Oman, Pakistan, and the United Arab Emirates; Cancellation of Hearing for Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: Applicable October 11, 2022.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman ((202) 205–2610), 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 (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On June 14, 2022, the Commission established a schedule for the conduct of the full five-

year reviews (87 FR 36881, June 21, 2022), and on September 19, 2022, gave notice of updated information related to the conduct of the hearing for these reviews (87 FR 58137, September 23, 2022). On October 4, 2022, counsel for Bull Moose Tube Company, Maruichi American Corporation, and Wheatland Tube Company, and counsel for Nucor Tubular Products Inc., filed requests to appear at the hearing. No other parties submitted a request to appear at the hearing. On October 7, 2022, counsel for these firms filed a request that the Commission cancel the scheduled hearing for these reviews and withdrew their requests to appear at the hearing. Counsel indicated a willingness to submit written responses to any Commission questions in lieu of an actual hearing. Consequently, the public hearing in connection with these reviews, scheduled to begin at 9:30 a.m. on Thursday, October 13, 2022, is cancelled. Parties to these reviews should respond to any written questions posed by the Commission in their posthearing briefs, which are due to be filed on October 25, 2022.

For further information concerning these reviews see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 12, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022-22522 Filed 10-14-22; 8:45 am]

BILLING CODE 7020-02-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22-085)]

National Space-Based Positioning, Navigation, and Timing Advisory Board; 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 National Space-Based Positioning, Navigation

and Timing (PNT) Advisory Board. This will be the 27th meeting of the PNT Advisory Board.

DATES: Wednesday, November 16, 2022, from 9:30 a.m.–5:30 p.m., Pacific Time; and Thursday, November 17, 2022, from 9 a.m.–12 p.m., Pacific Time.

ADDRESSES: Sonesta Redondo Beach, 300 North Harbor Drive, Redondo Beach, CA 90277.

FOR FURTHER INFORMATION CONTACT: Mr. James Joseph Miller, Designated Federal Officer, PNT Advisory Board, Space Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 262-0929 or jj.miller@nasa.gov.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. In-person attendees will be requested to sign a register prior to entrance to the proceedings. Webcast details to watch the meeting remotely will be available on the PNT Advisory Board website at: www.gps.gov/governance/advisory/.

The agenda for the meeting will include the following:

- Updates from PNT Advisory Board Subcommittees:
 - Communications and External Relations (CER) Subcommittee
 - Education and Science Innovation (ESI) Subcommittee
 - Emerging Capabilities, Applications and Sectors (ECAS) Subcommittee
 - International Engagement (IE) Subcommittee
 - Protect, Toughen and Augment (PTA) Subcommittee
 - Strategy, Policy and Governance (SPG) Subcommittee
- Update on U.S. Space-Based Positioning, Navigation and Timing (PNT) Policy and Global Positioning System (GPS) III program development
- Discuss potential improvements to current GPS signal capabilities (authentication, integrity, augmentation, etc.) and GPS user equipment (resistance to jamming, security, resilience, etc.)
- Review of regulatory constraints in the development of multi-GNSS capabilities for improved PNT
- Complementing GPS with other PNT sources
- Deliberations on any findings and recommendations
- Other PNT Advisory Board business and upcoming work plan schedule

For further information, visit the PNT Advisory Board website at: <https://www.gps.gov/governance/advisory/>.

It is imperative that the meeting be held on this date to meet the scheduling availability of key participants.

Carol Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022-22513 Filed 10-14-22; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22-084)]

Earth Science Advisory Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Earth Science Advisory Committee (ESAC). This Committee functions in an advisory capacity to the Director, Earth Science Division, in the NASA Science Mission Directorate. The meeting will be held for the purpose of soliciting, from the science community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, October 24, 2022, 12:30 p.m.–1:30 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT:

KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-2355 or karshelia.kinard@nasa.gov.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public telephonically. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA US toll free number 1-888-381-5773, passcode: 9664949, to participate in this meeting by telephone.

The agenda for the meeting includes the following topic:

—Earth Science Program Annual Performance Review According to the Government Performance and Results Act Modernization Act.

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. 2022-22521 Filed 10-14-22; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., October 19, 2022.

PLACE: NCUA Event Center, Lobby, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314-3428.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Board Briefing, NCUA's 2023-2024 Budget.

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703-518-6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2022-22571 Filed 10-13-22; 11:15 am]

BILLING CODE 7535-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: Federal Council on the Arts and the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts International Indemnity Panel.

DATES: The meeting will be held on Thursday, November 17, 2022, from 12 p.m. until adjourned.

ADDRESSES: The meeting will be held by videoconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506, (202) 606-8322; evoyatzis@neh.gov.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after January 1, 2023. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: October 11, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022-22430 Filed 10-14-22; 8:45 am]

BILLING CODE 7536-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold twenty-five meetings, in some cases by videoconference, of the Humanities Panel, a federal advisory committee, during November 2022. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; evoyatzis@neh.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: November 1, 2022

This video meeting will discuss applications on the topics of Art, History, and Culture, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

2. Date: November 1, 2022

This video meeting will discuss applications for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

3. Date: November 2, 2022

This video meeting will discuss applications for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

4. Date: November 2, 2022

This video meeting will discuss applications on the topics of Music and Performing Arts, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

5. Date: November 2, 2022

This meeting will discuss applications on the topics of History, International Relations, and Law, for the Kluge Fellowships grant program, submitted to the Library of Congress.

6. Date: November 3, 2022

This meeting will discuss applications on the topics of Arts, Literature, and Media Studies, for the Kluge Fellowships grant program, submitted to the Library of Congress.

7. Date: November 3, 2022

This video meeting will discuss applications for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

8. Date: November 3, 2022

This video meeting will discuss applications for the Public Humanities Projects: Humanities Discussions Grants program, submitted to the Division of Public Programs.

9. Date: November 4, 2022

This video meeting will discuss applications for the Humanities Connections Planning Grants program,

submitted to the Division of Education Programs.

10. Date: November 4, 2022

This video meeting will discuss applications on the topic of U.S. History (20th Century), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

11. Date: November 7, 2022

This video meeting will discuss applications for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

12. Date: November 8, 2022

This video meeting will discuss applications on the topic of Indigenous Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

13. Date: November 8, 2022

This video meeting will discuss applications on the topics of Arts and Culture, for the Media Projects: Production Grants program, submitted to the Division of Public Programs.

14. Date: November 9, 2022

This video meeting will discuss applications on the topic of Indigenous Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

15. Date: November 9, 2022

This video meeting will discuss applications for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

16. Date: November 10, 2022

This video meeting will discuss applications on the topic of Ethnography, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

17. Date: November 10, 2022

This video meeting will discuss applications on the topic of World Studies (Modern), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

18. Date: November 14, 2022

This video meeting will discuss applications on the topic of New World Archaeology, for the Archaeological and Ethnographic Field Research grant

program, submitted to the Division of Research Programs.

19. Date: November 14, 2022

This video meeting—the first of two on this date—will discuss applications for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

20. Date: November 14, 2022

This video meeting—the second of two on this date—will discuss applications for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

21. Date: November 15, 2022

This video meeting will discuss applications on the topic of Old-World Archaeology, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

22. Date: November 15, 2022

This video meeting will discuss applications for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

23. Date: November 21, 2022

This video meeting will discuss applications on the topic of American Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

24. Date: November 22, 2022

This video meeting will discuss applications on the topics of History of Science and Environment, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

25. Date: November 29, 2022

This video meeting will discuss applications on the topic of Religious Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: October 12, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022-22525 Filed 10-14-22; 8:45 am]

BILLING CODE 7536-01-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 November 16, 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 670), 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: 2023-016

1. *Applicant:* Steve Wellmeier, Managing Director, Poseidon Expeditions USA LLC, 245 Waterman Street, Suite 502, Providence, RI 02906, swellmeier@poseidonexpeditions.com

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 40 campers and 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 20m 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.

Location: Port Lockroy, Damoy Point/Dorian Bay, Paradise Bay, Neko Harbor, Danco Island and Cuverville and the vicinity of the Errera Channel, Neumeyer Channel, Petermann Island, South of the Lemaire Channel, South Shetland Islands, Antarctic Peninsula area.

Dates of Permitted Activities: October 22, 2022–March 30, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022-22451 Filed 10-14-22; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 17, 24, 31, November 7, 14, 21, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Wendy.Moore@nrc.gov or Tyesha.Bush@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of October 17, 2022

There are no meetings scheduled for the week of October 17, 2022.

Week of October 24, 2022—Tentative

There are no meetings scheduled for the week of October 24, 2022.

Week of October 31, 2022—Tentative

There are no meetings scheduled for the week of October 31, 2022.

Week of November 7, 2022—Tentative

Tuesday, November 8, 2022

9:00 a.m. Briefing on Regulatory Approaches for Fusion Energy Devices (Public Meeting) (Contact: Samantha Lav: 301-415-3487)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Thursday, November 10, 2022

10:00 a.m. Briefing on NRC International Activities (Public Meeting) (Contact: Jen Holzman, 301-287-9090)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of November 14, 2022—Tentative

There are no meetings scheduled for the week of November 14, 2022.

Week of November 21, 2022—Tentative

There are no meetings scheduled for the week of November 21, 2022.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: October 13, 2022.

For the Nuclear Regulatory Commission.

Monika G. Coffin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2022-22594 Filed 10-13-22; 11:15 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0052]

Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide for trial use; response to comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is addressing comments received after issuing for public comment on the trial use of the new regulatory guide (RG) 1.247, "Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities." The NRC will not make any changes to the RG as a result of these comments.

DATES: The public comment period for RG 1.247 ended on May 23, 2022.

ADDRESSES: Please refer to Docket ID NRC-2022-0052 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0052. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
 - *NRC's Agencywide Documents Access and Management System*

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR*: You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

RG 1.247 for trial use and the regulatory analysis may be found in ADAMS under Accession Nos. ML21235A008 and ML21235A010, respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT:

Michelle Gonzalez, telephone: 301-415-5661, email: Michelle.Gonzalez@nrc.gov, Anders Gilbertson, telephone: 301-415-1541, email: Anders.Gilbertson@nrc.gov, or Harriet Karagiannis, telephone: 301-415-2493, email: Harriet.Karagiannis@nrc.gov. These individuals are staff in the Office of Nuclear Regulatory Research at the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC has issued for trial use this new RG titled, "Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities," and it is designated as trial use RG 1.247. It describes one acceptable approach for determining whether a design-specific or plant-specific probabilistic risk assessment (PRA) used to support an application is sufficient to provide confidence in the results, such that the PRA can be used in regulatory decision-making for non-light water reactors (NLWRs) for implementing the requirements in part 50 and 52 of title 10 of the *Code of Federal Regulations* (10 CFR). In addition, this trial use RG

is intended to be consistent with the NRC's PRA Policy Statement and reflects and endorses, with staff exceptions, national consensus PRA standards provided by standards development organizations and guidance provided by nuclear industry organizations. As a trial use RG, this issuance allows early use prior to general implementation, and the guidance may be revised based on experience obtained by the NRC from the implementation of the trial use RG.

The staff is planning to conduct a public meeting by the end of calendar year 2022 to obtain stakeholder feedback on the development of a draft guide, which will be issued at the conclusion of the trial use period, and subsequent final publication of RG 1.247. The NRC will also provide an additional opportunity for formal public comment on the planned draft RG, with feedback considered prior to final RG publication.

II. Public Comments

This trial use RG was not published for public comment as a draft RG. Trial use RG 1.247 was issued for a 60-day, post-promulgation public comment in the **Federal Register** on March 24, 2022 (87 FR 16770). Pursuant to 10 CFR 2.804(e), the NRC must publish in the **Federal Register** an evaluation of any significant comments and describe any revisions made as a result of the comments and their evaluation.

The public comment period ended on May 23, 2022, and comments were received from two organizations (Nuclear Energy Institute (NEI) and X-energy). NEI and X-energy submitted separate comments on the staff endorsement of items HLR-HR-E and HR-E4 from the American Society of Mechanical Engineers (ASME) and American Nuclear Society (ANS) NLWR PRA standard. The staff considers these comments significant to the extent they warrant a response to clarify the record. While the staff is not responding in this notice to the other comments submitted in response to the opportunity to comment the NRC published at 87 FR 16770, the staff will consider those comments in preparing a draft of RG 1.247 for comment or in considering the experience obtained through trial use of RG 1.247.

For items HLR-HR-E and HR-E4, the staff takes exceptions to the ASME and ANS NLWR PRA standard regarding the treatment of errors of commission (EOCs) in a PRA. The exceptions provide for consideration of EOCs that result in adverse safety impacts for Compatibility Category I, (CC-I). CC-I defines the minimum capability needed

for a PRA element. In contrast, Compatibility Category II (CC-II) defines the minimum capability needed to meet current good practice standards for each PRA element. The comments indicate that these exceptions are not consistent with the current PRA state of practice, which does not call for broad consideration of EOCs for PRAs for LWRs as per the NRC endorsement of HR-E4 in the trial use RG. Thus, the comment contends that broadly considering EOCs goes above and beyond the requirement for the current operating fleet. Although no changes were made to the trial use RG based on these comments, the staff provides a brief discussion on these significant comments.

Specifically, the comment recommends that this exception to HR-E4 and the HLR-HR-E be removed from the trial use RG or only be applicable for CC-II of HR-E4, the latter of which would represent good practice as opposed to a minimum capability. Another comment notes that the trial use RG 1.247 includes additional language on the scope of such considerations; however, the comment states that this added language does not maintain consistency with the LWR PRA standard. The comment supports retaining consistency with the LWR PRA standard in the trial use RG 1.247, which would call for removal of this added exception regarding consideration of EOCs in the NLWR PRA standard.

The staff is keeping the exceptions related to EOCs in this trial use RG, which is based on the following consideration. The development efforts for the ASME/ANS NLWR PRA standard relied substantially on the development efforts for the next edition of the ASME/ANS Level 1/large early release frequency (LERF) LWR PRA standard and, in many cases, the NLWR PRA standard adopted the same or similar requirements as the next edition of the Level 1/LERF LWR PRA standard. However, the Level 1/LERF LWR PRA standard state of practice relies on significant LWR operating experience that facilitates a consensus to generally exclude EOCs from LWR PRAs, but no similar body of operating experience underlies the NLWR PRA standard.

Because there is limited operating experience regarding EOCs for NLWRs and the scope of the ASME/ANS NLWR PRA standard is broader than the scope of the ASME/ANS Level 1/LERF LWR PRA standard, EOCs may play a more important role in NLWR PRA than for LWR PRA and, therefore, NLWR PRA developers will need to demonstrate that EOCs are not an issue before

eliminating them from consideration. However, the staff also notes that such identification of EOCs is generally expected to apply to a PRA developed for the operational phase of a plant's lifecycle. This is based on the premise that there is expected to be a general lack of available, relevant information that would allow meaningful identification of EOCs in pre-operational stages of a plant's lifecycle. Related staff guidance on the treatment of such EOCs during pre-operational phases of a plant's lifecycle is currently under development.

A comment states that EOCs are already captured in FHR-A1 at CC-II for fires where operating experience supports consideration of spurious signals. Therefore, the comment notes that the RG 1.247 position on HR-E4 requiring EOCs at CC-I is not internally consistent with the trial use RG position on FHR-A1 requiring EOCs only at CC-II. The comment also states that, for non-fire hazards, spurious signals should occur with low frequency and would require significant operator error due to the redundancy of information available to the operator.

The staff notes that, while the consideration of spurious signals as a potential cause of an EOC is important and spurious signals may occur due to fire damage, such spurious signals are not the only reason an EOC may occur. NUREG-1880, "ATHEANA User's Guide," (ADAMS Accession No. ML072130359) recommends searching for potential EOCs and the contexts that could cause them. However, while the staff maintains that other sources of EOCs should be considered for identification in CC-I of FHR-A1, the staff did not intend for new, undesired operator actions that could result from spurious indications from fire-induced failure of a single instrument to be identified to meet CC-I of FHR-A1. The staff would therefore not call for such identification as part of meeting the trial use RG. The staff notes that while the comment characterizes the staff positions as "requirements," no regulatory guide establishes requirements. Rather, the exceptions and clarifications in a regulatory guide are guidance to an applicant stating elements of an acceptable method for complying with NRC regulations.

Dated: October 12, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2022-22536 Filed 10-14-22; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023-13 and CP2023-12]

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:* October 19, 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
- II. Docketed Proceeding(s)

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):* MC2023-13 and CP2023-12; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 65 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 11, 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:* October 19, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2022-22489 Filed 10-14-22; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket No. R2023-1; Order No. 6296]

Market Dominant Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service notice of inflation-based rate adjustments affecting market dominant domestic and international products and services, along with proposed classification changes. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 7, 2022.

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).

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
- II. Overview of the Postal Service's Filing
- III. Initial Administrative Actions
- IV. Ordering Paragraphs

I. Introduction

On October 7, 2022, the Postal Service filed a notice of price adjustments affecting Market Dominant domestic and international products and services, along with proposed classification changes to the Mail Classification Schedule (MCS).¹ The intended effective date for the planned price adjustments is January 22, 2023. Notice at 1. The Notice, which was filed pursuant to 39 CFR part 3030, triggers a notice-and-comment proceeding. 39 CFR 3030.125.

II. Overview of the Postal Service's Filing

The Postal Service's filing consists of the Notice, which the Postal Service represents addresses data and information required under 39 CFR 3030.122 and 39 CFR 3030.123; three attachments (Attachments A–C) to the Notice; and six public library references and one non-public library reference.

Attachment A presents the planned price and related product description changes to the MCS. Notice, Attachment A. Attachments B and C address workshare discounts and the price cap calculation, respectively. *Id.* Attachments B and C.

The first five public library references provide supporting documentation for the five classes of mail, and the sixth public library reference shows the banked rate adjustment authority for each class of mail over the last five years.² The Postal Service also filed a library reference pertaining to the two international mail products within First-Class Mail (Outbound Single-Piece First-Class Mail International and Inbound Letter Post) under seal and

applied for non-public treatment of those materials.³

The Postal Service's planned percentage changes by class are, on average, as follows:

Market dominant class	Planned price adjustment (%)
First-Class Mail	4.200
USPS Marketing Mail	4.203
Periodicals	4.200
Package Services	4.197
Special Services	4.198

Notice at 5. Price adjustments for products within classes vary from the average. *See, e.g., id.* at 7, 11 (Table 6 showing range for First-Class Mail products and Table 8 showing range for USPS Marketing Mail products).

The Postal Service identifies the effect of its proposed classification changes on the MCS in Attachment A. *Id.* at 36; *id.* Attachment A. The Postal Service also seeks approval for the following six promotions for the indicated periods:

- Tactile, Sensory and Interactive Engagement Promotion (February 1–July 31, 2023);
- Emerging and Advanced Technology Promotion (May 1–November 30, 2023);
- Retargeting Promotion (September 1–November 30, 2023);
- Personalized Color Transpromo Promotion (February 1–July 31, 2023);
- Reply Mail IMbA Promotion (July 1–December 31, 2023); and
- Informed Delivery Promotion (August 1–December 31, 2023).

Id. at 31–33.

III. Initial Administrative Actions

Pursuant to 39 CFR 3030.124(a), the Commission establishes Docket No. R2023–1 to consider the planned price adjustments for Market Dominant postal products and services, as well as the related classification changes, identified in the Notice. The Commission invites comments from interested persons on whether the Postal Service's planned price adjustments are consistent with applicable statutory and regulatory requirements. 39 CFR 3030.125. The applicable statutory and regulatory requirements the Commission considers in its review are the requirements of 39 CFR part 3030, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629. 39 CFR 3030.126(b). Comments are due no later than November 7, 2022. 39 CFR 3030.124(f).

The public portions of the Postal Service's filing are available for review

on the Commission's website (<http://www.prc.gov>). Comments and other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Joseph K. Press to represent the interests of the general public (Public Representative) in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2023–1 to consider the planned price adjustments for Market Dominant postal products and services, as well as the related classification changes, identified in the Postal Service's October 7, 2022 Notice.

2. Comments on the planned price adjustments and related classification changes are due no later than November 7, 2022.

3. Pursuant to 39 U.S.C. 505, Joseph K. Press is appointed to serve as an officer of the Commission to represent the interests of the general public (Public Representative) in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Erica A. Barker,
Secretary.

[FR Doc. 2022–22433 Filed 10–14–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–178; MC2023–8 and CP2023–8; MC2023–9 and CP2023–9; MC2023–10 and CP2023–10; MC2023–11 and CP2023–11]

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:* October 18, 2022.

ADDRESSES: Submit comments electronically via the Commission's

¹ United States Postal Service Notice of Market-Dominant Price Change, October 7, 2022 (Notice).

² USPS Notice of Filing Public Library References, October 7, 2022, at 1.

³ USPS Notice of Filing USPS–LR–R2023–1–NP1, October 7, 2022, at 1, Attachment 1.

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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- II. Docketed Proceeding(s)

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)*: CP2020-178; *Filing Title*: Notice of the United States Postal Service of Filing Modification Two to Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date*: October 7, 2022; *Filing Authority*: 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: October 18, 2022.

2. *Docket No(s)*: MC2023-8 and CP2023-8; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 62 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: October 7, 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*: October 18, 2022.

3. *Docket No(s)*: MC2023-9 and CP2023-9; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 63 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: October 7, 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*: October 18, 2022.

4. *Docket No(s)*: MC2023-10 and CP2023-10; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 64 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: October 7, 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*: October 18, 2022.

5. *Docket No(s)*: MC2023-11 and CP2023-11; *Filing Title*: USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 7 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: October 7, 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*: October 18, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2022-22441 Filed 10-14-22; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* October 17, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268-7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 3, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 6 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2023-1 and CP2023-1.

Ruth Stevenson,

Chief Counsel, Ethics and Legal Compliance.

[FR Doc. 2022-22440 Filed 10-14-22; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96018; File No. SR-CboeEDGX-2022-045]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

October 11, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the

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).

“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 5, 2022, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes 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/options/regulation/rule_filings/edgx/) [sic], 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 applicable to its equities trading platform (“EDGX Equity”) to modify the criteria of Growth Tier 4.³

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More

specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,⁴ no single registered equities exchange has more than 19% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a “Maker-Taker” model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange’s Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Modification to Growth Volume Tier 4

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. For example, the Exchange offers four Growth Tiers that each provide an enhanced rebate for Members’ qualifying orders yielding fee codes B,⁵

V,⁶ Y,⁷ 3⁸ or 4,⁹ where a Member reaches certain add volume-based criteria, including “growing” its volume over a certain baseline month. Currently, Growth Tier 4 provides an enhanced rebate of \$0.0034 per share to MPIDs that (1) add a Step-Up ADAV¹⁰ from October 2021 equal to or greater than 0.10% of the TCV¹¹ or MPIDs that add a Step-Up ADAV from October 2021 equal to or greater than 16 million shares; and (2) MPIDs that add an ADV¹² equal to or greater than 0.30% of TCV or MPIDs that add an ADV equal to or greater than 35 million shares. The Exchange now proposes to amend the criteria of Growth Tier 4. Particularly, the Exchange proposes to provide that under prong 1 of Growth Tier 4, MPIDs must add a Step-Up ADAV from October 2021 equal to or greater than 0.12% of the TCV (instead of 0.10% of the TCV) or add a Step-Up ADAV from October 2021 equal to or greater than 16 million shares. The Exchange is not proposing to change the criteria under prong 2 of Growth Tier 4.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the objectives of section 6 of the Securities and Exchange Act of 1933 (the “Act”),¹³ in general, and furthers the objectives of section 6(b)(4),¹⁴ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of section 6(b)(5)¹⁵ requirements that the rules of an exchange be designed to prevent

⁶ Orders yielding Fee Code “V” are orders adding liquidity to EDGX (Tape A).

⁷ Orders yielding Fee Code “Y” are orders adding liquidity to EDGX (Tape C).

⁸ Orders yielding Fee Code “3” are orders adding liquidity to EXGX in the pre and post market (Tapes A or C).

⁹ Orders yielding Fee Code “4” are orders adding liquidity to EDGX in the pre and post market (Tape B).

¹⁰ “Step-Up ADAV” means ADAV in the relevant baseline month subtracted from current ADAV. “ADAV” means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

¹¹ “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

¹² “ADV” means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed fee changes on October 3, 2022 (SR-CboeEDGX-2022-042). On October 5, 2022, the Exchange withdrew that filing and submitted this filing.

⁴ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (September 23, 2022), available at https://www.cboe.com/us/equities/market_statistics/.

⁵ Orders yielding Fee Code “B” are orders adding liquidity to EDGX (Tape B).

fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

The Exchange believes that its proposed change to Growth Tier 4 is reasonable, equitable and not unfairly discriminatory. The Exchange's proposal to amend Growth Tier 4 is reasonable because the tier will continue to be available to all MPIDs and will continue to provide MPIDs an opportunity to receive an enhanced rebate. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,¹⁶ including the Exchange,¹⁷ and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels or liquidity provision and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange. The Exchange also believes that the existing rebate under Growth Tier 4 continues to be commensurate with the existing and proposed criteria. That is, the rebate reasonably reflects the difficulty in achieving the corresponding criteria as amended.

The Exchange believes that the change to Growth Tier 4 will benefit all market participants by incentivizing

continuous liquidity and, thus, deeper more liquid markets as well as increased execution opportunities. Particularly, the proposal is designed to incentivize liquidity, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

The Exchange also believes that the proposed amendment to Growth Tier 4 represents an equitable allocation of rebates and is not unfairly discriminatory because all MPIDs are eligible for the tier and would have the opportunity to meet the tier's criteria and would receive the proposed rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any MPIDs qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tier will impact MPID activity, the Exchange anticipates that at least one MPID will be able to compete for and reach the proposed criteria in Growth Tier 4. The Exchange also notes all MPIDs are eligible to satisfy the revised criteria of Growth Tier 4 and further believes the proposed change will provide a reasonable means to encourage future overall growth in Members' order flow to the Exchange by offering an enhanced rebate on qualifying orders. Moreover, the proposed criteria will not adversely impact any MPID or Member's ability to qualify for other reduced fee or enhanced rebate tiers. Should any MPID not meet the proposed criteria under Growth Tier 4, the MPID will merely not receive the corresponding enhanced rebate.

As noted above, the Exchange operates in a highly competitive market. The Exchange in only one of 16 equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar rates and tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

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. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change to Growth Tier 4 will apply to all Members equally in that all Members are eligible for the tier, have a reasonable opportunity to meet the tier's criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. The Exchange does not believe the proposed changes burden competition, but rather, enhances competition as it is intended to increase the competitiveness of EDGX by amending an existing pricing incentive in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

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, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market.

¹⁶ See BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

¹⁷ See EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

Based on publicly available information, no single equities exchange has more than 19% of the market share.¹⁸ Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. 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.”¹⁹ 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’ . . .”²⁰

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 Act²¹ and paragraph (f) of Rule 19b-4²² 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-CboeEDGX-2022-045 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-CboeEDGX-2022-045. 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. 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-CboeEDGX-2022-045, and should be submitted on or before November 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022-22446 Filed 10-14-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34726; File No. 812-15362]

Main Street Capital Corporation, et al.

October 11, 2022.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order (“Order”) under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a previous order granted by the Commission that permits certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: MAIN STREET CAPITAL CORPORATION, MSC INCOME FUND, INC., MSC ADVISER I, LLC, MAIN STREET CA LENDING, LLC, MAIN STREET EQUITY INTERESTS, INC., MS INTERNATIONAL HOLDINGS, INC., MAIN STREET CAPITAL III, LP, MAIN STREET MEZZANINE FUND LP, HMS FUNDING I LLC, MSC CALIFORNIA HOLDINGS LP, MSC EQUITY HOLDING, LLC, MSC EQUITY HOLDING II, INC., MSIF FUNDING, LLC AND MS PRIVATE LOAN FUND I, LP.

FILING DATES: The application was filed on June 29, 2022, and amended on August 17, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may

²³ 17 CFR 200.30-3(a)(12).

¹⁸ See *supra* note 3.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

request a hearing on any application by emailing the SEC's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on, November 4, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretaries-Office@sec.gov.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Jason B. Beauvais, Main Street Capital Corporation, at JBeauvais@mainstreetcapital.com; Steven B. Boehm, Esq. and Anne G. Oberndorf, Esq., Eversheds Sutherland (US) LLP, at anneoberndorf@eversheds-sutherland.us.

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, or Terri G. Jordan, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated August 17, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2022-22419 Filed 10-14-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96023; File No. SR-NYSE-2022-14]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Modify Certain Pricing Limitations for Securities Listed on the Exchange Pursuant to a Primary Direct Floor Listing

October 11, 2022.

On April 7, 2022, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to allow companies to modify certain pricing limitations for securities listed on the Exchange pursuant to a direct listing with a primary offering in which the company will sell shares itself in the opening auction on the first day of trading on the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 19, 2022.³ On May 26, 2022, pursuant to section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to either approve or disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On July 18, 2022, the Commission instituted proceedings under section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷

Section 19(b)(2) of the Act⁸ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 94708 (April 13, 2022), 87 FR 23300 (April 19, 2022) ("Notice"). Comments received on the proposal are available on the Commission's website at: <https://www.sec.gov/comments/sr-nyse-2022-14/srnyse202214.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 94991 (May 26, 2022), 87 FR 33518 (June 2, 2022). The Commission designated July 18, 2022, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 95312 (July 18, 2022), 87 FR 43914 (July 22, 2022).

⁸ 15 U.S.C. 78s(b)(2).

Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on April 19, 2022.⁹ The 180th day after publication of the Notice is October 16, 2022. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change along with the comments on the proposal. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,¹⁰ designates December 15, 2022, as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR-NYSE-2022-14).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2022-22449 Filed 10-14-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, October 20, 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>.

⁹ See Notice.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(57).

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: October 13, 2022.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2022-22603 Filed 10-13-22; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96014; File No. SR-*IEX-2022-06*]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Rule 11.190(g) To Provide an Alternative Calculation for Pegged Order Types for Determining Whether a Quote Instability Condition Exists

October 11, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 27, 2022, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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

Pursuant to the provisions of section 19(b)(1) under the Act,³ and Rule 19b-4 thereunder,⁴ IEX is filing with the Commission a proposed rule change to amend Rule 11.190(g) to provide an alternative calculation for pegged order types for determining whether a quote instability condition exists.

The text of the proposed rule change is available at the Exchange’s website at www.iextrading.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 11.190(g) to provide an alternative quote calculation for pegged order types for determining whether a quote instability condition exists.

Background

Currently, as specified in Rule 11.190(g), the Exchange utilizes quoting activity of eight away exchanges’ Protected Quotations⁵ and a proprietary mathematical calculation to assess the probability of an imminent change to the current Protected NBB⁶ to a lower

price or imminent change to the current Protected NBO⁷ to a higher price for a particular security. When the quoting activity meets predetermined criteria, the System⁸ treats the quote as not stable (“quote instability” or a “crumbling quote”) and the crumbling quote indicator (“CQI”) is “on” at that price level for two milliseconds. During all other times, the quote is considered stable (“quote stability”), and the CQI is considered to be “off”. The System independently assesses the stability of the Protected NBB and Protected NBO for each security.

When the CQI is on, Discretionary Peg (“D-Peg”)⁹ orders, primary peg (“P-Peg”)¹⁰ orders, and Corporate Discretionary Peg (“C-Peg”)¹¹ orders do not exercise price discretion to meet the limit price of an active (*i.e.*, taking) order. Specifically, D-Peg, P-Peg, and C-Peg orders peg to a price that is the less aggressive of one (1) minimum price variant (“MPV”)¹² less aggressive than the primary quote (*i.e.*, one MPV below (above) the NBB¹³ (NBO¹⁴) for buy (sell) orders) or the order’s limit price, if any.¹⁵ When the CQI is on at the NBB (in the case of a buy order) or NBO (in the case of a sell order), P-Peg orders are restricted by the System from exercising price discretion to trade at the quote instability determination price level (the “CQI Price”), and D-Peg and C-Peg orders are restricted by the System from exercising price discretion to trade at the CQI Price or at more aggressive prices than the CQI Price.

The manner in which D-Peg orders operate is described in Rule 11.190(b)(10). Specifically, a D-Peg order is a non-displayed, pegged order whose price, upon entry into the System, is automatically adjusted by the System to be equal to the less aggressive of the Midpoint Price¹⁶ or the order’s limit price, if any. When unexecuted shares of such an order are posted to the Order Book,¹⁷ the price of the order is automatically adjusted by the System to be equal to and ranked at the less aggressive of one (1) MPV less

⁷ See Rule 1.160(cc).

⁸ See Rule 1.160(nn).

⁹ See Rule 11.190(b)(10).

¹⁰ See Rule 11.190(b)(8).

¹¹ See Rule 11.190(b)(16). Note that C-Peg orders can only be buy orders, so any discussion of D-Peg sell orders does not apply to C-Peg orders.

¹² See Rule 11.210.

¹³ See Rule 1.160(u).

¹⁴ See Rule 1.160(u).

¹⁵ C-Peg orders are also constrained by the consolidated last sale price of the security, and therefore cannot trade, book, or exercise discretion at a price that is more aggressive than the consolidated last sale price. See Rule 11.190(b)(16).

¹⁶ See Rule 1.160(t).

¹⁷ See Rule 1.160(p).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

⁵ Each exchange’s Protected Quotation is its best displayed bid or offer. See Rule 1.160(bb). Current Rule 11.190(g) uses the following eight exchanges’ Protected Quotations: New York Stock Exchange LLC (“XNYS”), the Nasdaq Stock Market LLC (“XNGS”), NYSE Arca, Inc. (“ARCX”), Nasdaq BX, Inc. (“XBOS”), Cboe BYX Exchange, Inc. (“BATY”), Cboe Bats BZX Exchange, Inc. (“BATS”), Cboe EDGA Exchange, Inc. (“EDGA”), and Cboe EDGX Exchange, Inc. (“EDGX”).

⁶ See Rule 1.160(cc).

aggressive than the primary quote or the order's limit price and is automatically adjusted by the System in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any. In order to meet the limit price of active orders on the Order Book, a D-Peg order will exercise the least amount of price discretion necessary from the D-Peg order's resting price to its discretionary price (defined as the less aggressive of the Midpoint Price or the D-Peg order's limit price, if any), except during periods of quote instability as defined in Rule 11.190(g).

The manner in which P-Peg orders operate is described in Rule 11.190(b)(8). Specifically, a P-Peg order is a non-displayed, pegged order whose price, upon entry and when posting to the Order Book, is automatically adjusted by the System to be equal to and ranked at the less aggressive of one (1) MPV less aggressive than the primary quote (*i.e.*, the NBB for buy orders and the NBO for sell orders) or the order's limit price, if any. When unexecuted shares of such an order are posted to the Order Book, the order is automatically adjusted by the System in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any. In order to meet the limit price of active orders on the Order Book, a P-Peg order will exercise price discretion to its discretionary price (defined as the primary quote), except during periods of quote instability as defined in Rule 11.190(g).

The manner in which C-Peg orders operate is described in Rule 11.190(b)(16). Specifically, a C-Peg order is a non-displayed, pegged buy order whose price, upon entry into the System, is automatically adjusted by the System to be equal to the less aggressive of the Midpoint Price, the consolidated last sale price, or the order's limit price, if any. When unexecuted shares of such an order are posted to the Order Book, the price of the order is automatically adjusted by the System to be equal to and ranked at the less aggressive of one (1) MPV less aggressive than the primary quote or the order's limit price and is automatically adjusted by the System in response to changes in the NBB and the consolidated last sale price up to the order's limit price, if any. In order to meet the limit price of active orders on the Order Book, a C-Peg order will exercise the least amount of price discretion necessary from the C-Peg order's resting price to its discretionary price (defined as the less aggressive of the Midpoint Price, the consolidated last sale price, or the C-Peg order's limit price, if any), except during periods of

quote instability as defined in Rule 11.190(g).

IEX has consistently sought to innovate by offering order types that counter the costs of "adverse selection" that participants supplying liquidity incur when their orders are executed at worse prices as a result of certain speed-based trading strategies. Restricting resting D-Peg, P-Peg, and C-Peg orders from exercising price discretion during periods of quote instability, as described in Rule 11.190, is designed to protect such orders from unfavorable executions at prices that the Exchange's probabilistic model predicts are about to become "stale."

As proposed, Users¹⁸ of D-Peg, P-Peg and C-Peg orders will be able to designate whether the order's price will be adjusted using the existing quote instability calculation or a new alternative quote instability calculation. The alternative calculation is designed to incrementally increase the coverage of the quote instability calculation in predicting whether a particular quote is unstable by adjusting the logic underlying the quote instability calculation and introducing enhanced functionality designed to increase the number of crumbling quotes identified, while maintaining the quote instability calculation's accuracy in predicting the direction and timing of the next price change in the NBB or NBO, as applicable.

Current Crumbling Quote Calculation

In determining whether a crumbling quote exists, the Exchange utilizes real time relative quoting activity of eight exchanges' Protected Quotations¹⁹ and a proprietary mathematical calculation (the "quote instability calculation") to assess the probability of an imminent change to the current Protected NBB to a lower price or Protected NBO to a higher price for a particular security ("quote instability factor"). When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange's defined threshold ("quote instability threshold"), the System treats the quote as not stable ("quote instability" or a "crumbling quote"), which turns the CQI on. During all other times, the quote is considered stable ("quote stability") and the CQI is off. The System independently assesses the stability of the Protected NBB and Protected NBO for each security.

Quote instability (*i.e.*, a crumbling quote) is an assessment that the Exchange System makes on a real-time

basis, based on a pre-determined, objective set of conditions specified in Rule 11.190(g)(1) during the Regular Market Session.²⁰ Specifically, the presence of a crumbling quote is determined by the System when the quote instability factor result from the quote stability calculation is greater than the defined quote instability threshold. As set forth in Rule 11.190(g)(1)(i), this calculation applies ten fixed coefficients to nine quote stability variables. The quote stability variables are measures of the status of Protected Quotations of the eight exchanges, including the number of such Protected Quotations on the near and far side of the market and the relationship and recent changes thereto. The quote instability calculation inputs these variables into a formula comprised of the ten fixed coefficients to determine the quote instability factor and whether it is greater than the defined quote instability threshold. The quote stability variables, fixed coefficients and formula were developed by the Exchange based on extensive research, analysis and validation to identify when there is a heightened probability of an imminent quote change to the NBB or NBO. The Exchange has made incremental changes to optimize and enhance the effectiveness of the quote instability calculation in determining whether a crumbling quote exists three times since Exchange launch.²¹

When the CQI is on, it remains in effect at that price level (the "CQI Price") for two milliseconds, unless a new determination is made before the CQI turns off. Only one determination may be in effect at any given time for a particular security (*i.e.*, the System will only treat one side of the Protected NBBO as unstable in a particular security at any given time and the CQI can only be on at one price level).²² A new determination may be made after at least 200 microseconds have elapsed since the preceding determination, or a price change on either side of the best displayed bid or offer of the eight exchanges used for the current quote instability calculation occurs, whichever is first. If a new

²⁰ See IEX Rule 1.160(gg). Quote instability assessments are only made by the Exchange System during the Regular Market Session because the order types that utilize the assessment (*i.e.*, D-Peg, P-Peg and C-Peg orders) are only eligible to trade during the Regular Market Session.

²¹ See Securities Exchange Act Release 34-78510 (August 9, 2016), 81 FR 54166 (August 15, 2016) (SR-IEX-2016-11); Securities Exchange Act Release No. 80202 (March 10, 2017), 82 FR 14058 (March 16, 2017) (SR-IEX-2017-06); and Securities Exchange Act Release No. 83048 (April 13, 2018), 83 FR 17467 (April 19, 2018) (SR-IEX-2018-07).

²² See Rule 11.190(g)(1).

¹⁸ See IEX Rule 1.160(qq).

¹⁹ See *supra* note 2. [sic]

determination is made, the original determination is no longer in effect. A new determination can be on either side of the best displayed bid or offer of the eight exchanges used for the current quote instability calculation and at the same or different price level as the original determination.

Rule 11.190(g)(1)(A)(iii) provides that the Exchange reserves the right to modify the quote instability coefficients or quote instability threshold at any time, subject to a filing of a proposed rule change with the SEC. In this rule filing, the Exchange is proposing to make such changes by adding an alternative quote instability calculation approach.

Proposed Alternative Quote Instability Calculation

IEX periodically reviews the performance of the quote instability calculation in predicting imminent quote changes, and potential alternative approaches. Based on that review, IEX identified an alternative approach that is designed to achieve two related objectives. First, we sought to increase the “coverage” of the CQI, meaning the percentage of all “adverse” NBBO changes per symbol (lower for bids, higher for offers) that were predicted by the CQI (meaning the CQI was “on” at the time of the adverse NBBO change). Second, we sought to preserve the “accuracy rate” of the CQI, meaning the percentage of time that the CQI accurately predicted the direction of the next price change. IEX reviewed market data from March 2022 to consider these factors.²³ The analysis indicated that the current CQI calculation predicted 43% of such adverse NBBO changes on a volume weighted basis, while the alternative CQI calculation would have predicted 62% of such adverse NBBO changes. As to the accuracy rate, the analysis indicated that the CQI had an accuracy rate of 78%, and the alternative CQI calculation would have had an accuracy rate of 79%.

Based on informal feedback from Members, IEX understands that different firms may prefer different levels of coverage, *i.e.*, how frequently a pegged order refrains from exercising price discretion to meet the price of an

incoming order in response to crumbling quote predictions. Accordingly, IEX proposes to add the alternative quote instability calculation approach for determining whether a crumbling quote exists as an option for Users of pegged orders.

As described in more detail below, the alternative approach would: expand the sources and types of market data used, utilize a more plain English rules-based approach, modify the minimum time period between quote instability determinations, and include a real-time accuracy assessment of each rule with the effect of deactivating a rule that is not meeting specified metrics. In addition, pegged orders would be restricted from exercising price discretion when the CQI is on, regardless of whether the current NBB or NBO (as applicable) is the same as the CQI Price.

The following describes the proposed alternative approach:

Expanded Sources and Types of Market Data

The Exchange is proposing to use the Protected Quotations of the current eight exchanges²⁴ in the quote instability calculation, and to add the Protected Quotations of three additional exchanges: MIAX PEARL, LLC (“EPRL”), MEMX LLC (“MEMX”), and Nasdaq PHLX LLC (“XPHL”) (collectively the “Signal Exchanges”). Additionally, as detailed below, the Exchange is proposing to use quotation size data²⁵ from the Signal Exchanges, as well as quotation price data, which is also used in the current approach. In connection with the Exchange’s analysis of market data,²⁶ the Exchange considered several different permutations of which exchanges to include in the model. The analysis identified that using Protected Quotations from the 11 Signal Exchanges in the aggregate, as well as adding quotation size data, enhanced the predictive power of the alternative approach for determining a crumbling quote.

Use of a Rules-Based System

As proposed, the alternative model utilizes a quote instability calculation in which nine separate rules—each with

specific conditions based on either the price, size, or price and size of the Signal Exchanges’ Protected Quotations—can trigger a quote instability determination for either the NBB or the NBO of a particular security.²⁷ The current quote instability calculation utilizes a logistic regression model with multiple coefficients and variables that must exceed a pre-defined threshold in order for the System to treat the quote as unstable. Based upon the analysis noted above, the Exchange believes that the proposed alternative rules-based model (which incorporates and expands on the existing approach) will incrementally increase the coverage of the Exchange’s probabilistic model for determining whether a crumbling quote will occur at the same level of precision. In other words, the alternative model is expected to increase the number of quote instability determinations while maintaining the same degree of accuracy in predicting the timing and direction of price changes in the NBB and NBO. The proposed quote instability rules include four categories of Protected Quotation changes (each comprised of one or more rules) that IEX has determined are predictive of whether the NBB or NBO is about to move to a less aggressive price, as follows:

- Disappearing bids (or offers)—This category includes four rules that focus on whether one or more of the Signal Exchanges is no longer disseminating a bid or offer at the Signal Best Bid²⁸ or Signal Best Offer²⁹ as applicable;³⁰
- Recent changes in quote size—This category includes two rules that focus

²⁷ The nine rules are designed to work together in determining whether a quote instability determination is triggered, so if a User selects the alternative model all nine rules would be applicable. Users cannot elect that only some of the rules would apply.

²⁸ “Signal Best Bid” means the highest Protected Bid of the Signal Exchanges. See proposed IEX Rule 11.190(g)(2)(B)(i).

²⁹ “Signal Best Offer” means the lowest Protected Offer of the Signal Exchanges. See proposed IEX Rule 11.190(g)(2)(B)(v).

³⁰ The proposed disappearing bid/offers rules are closely related to the current approach to the quote instability calculation, in that both approaches share the Delta quote instability variable, which is heavily weighted in the current quote instability calculation. In the current calculation, Delta is additively incorporated into the logistic formula (after scaling by its relevant coefficient) whereas in the proposed disappearing bid/offer rules, specific Delta values are explicitly required for the relevant rule to be True. See IEX Rule 11.190(g)(1)(A)(i)(b)(9) and proposed IEX Rule 11.190(g)(2)(B)(x) and (xi), each of which reflect a count of the number of three specified exchanges that have moved away from the best near side Protected NBBO of the Signal exchanges, as specified. IEX expects that the overall behavior of the proposed disappearing bid/offer rules will be similar to the behavior of the current approach.

²³ Data regarding the proposed alternative approach is based on comprehensive back testing. Specifically, IEX adjusts TAQ (*i.e.*, NYSE Trade and Quote) data by fixed latency offsets per-venue to simulate market data seen by the IEX system. This simulated data is used to compute CQI models and evaluate their performance. Using this process to simulate the current CQI model confirms that performance estimates are similar to the actual IEX production system, and applying this process to the proposed model produces the back testing performance estimates described herein.

²⁴ Current Rule 11.190(g) uses the following eight exchanges’ Protected Quotations: XNYS; XNGS; ARCX; XBOS; BATY; BATS; EDGA; and EDGX.

²⁵ All references to quotation size are measured in round lot multiples.

²⁶ IEX conducted an analysis to develop a model for predicting crumbling quotes by reviewing market data from randomly selected days in 2018, 2019, and 2020. This model was validated by testing across randomly selected days from the same time period, as well as 2021.

on whether there is an imbalance in the size of bids and offers at the Signal Best Bid or Signal Best Offer;

- Locked or crossed market—This category includes one rule that focuses on situations where the Signal Best Bid and Signal Best Offer are locked or crossed; and
- Quotation Changes—This category includes two rules that focus on changes to the Signal Best Bid or Signal Best Offer.

On a security-by-security basis, if the specified conditions of any of the quote instability rules are met, then the rule is deemed to be True for that security. As described in more detail below, each rule must be active before it can trigger a quote instability determination. When one or more quote instability rules is deemed to be True and any of such rules are active, the System will treat the quote as unstable. The following describes the proposed rules:

- Rule DB₁ (DO₁) is True if two or more exchanges among BATS, EDGX, and XNGS have fallen off the Signal Best Bid (Offer) (*i.e.*, the exchange was at the Signal Best Bid (Offer) but is no longer at the Signal Best Bid (Offer)) within the past millisecond or within the time period since the start of the current Signal Best Bid (Offer) if shorter.³¹
- Rule DB₂ (DO₂) is True if two or more exchanges among BATS, EDGX, and XNGS have fallen off the Signal Best Bid (Offer) (*i.e.*, the exchange was at the Signal Best Bid (Offer) but is no longer at the Signal Best Bid (Offer)) within the past millisecond or within the time period since the start of the current Signal Best Bid (Offer) if shorter AND the total notional value of protected displayed interest at the Signal Best Bid (Offer) is less than \$60,000.
- Rule DB₃ (DO₃) is True if two or more exchanges among BATS, EDGX, and XNGS have fallen off the Signal Best Bid (Offer) (*i.e.*, the exchange was at the Signal Best Bid (Offer) but is no longer at the Signal Best Bid (Offer)) within the past millisecond or within the time period since the start of the current Signal Best Bid (Offer) if shorter AND there is only one Signal Exchange at the Signal Best Bid (Offer).
- Rule DB₄ (DO₄) is True if two or more exchanges among BATS, EDGX,

and XNGS have fallen off the Signal Best Bid (Offer) (*i.e.*, the exchange was at the Signal Best Bid (Offer) but is no longer at the Signal Best Bid (Offer)) within the past millisecond or within the time period since the start of the current Signal Best Bid (Offer) if shorter AND the total notional value of protected displayed interest at the Signal Best Bid (Offer) is less than \$60,000 AND there is only one Signal Exchange at the Signal Best Bid (Offer).

- Rule SB₁ (SO₁) is True if there is one Signal Exchange at the Signal Best Bid (Offer) AND the Bid (Offer) Pressure³² is greater than or equal to Offer (Bid) Pressure AND the aggregate total shares displayed at the Signal Best Offer (Bid) is greater than the aggregate total shares displayed at the Signal Best Bid (Offer) AND Bid (Offer) Pressure is greater than two.
- Rule SB₂ (SO₂) is True if there is one Signal Exchange at the Signal Best Bid (Offer) AND Bid (Offer) Pressure is greater than or equal to Offer (Bid) Pressure AND the aggregate total shares displayed at the Signal Best Offer (Bid) is greater than the aggregate total shares displayed at the Signal Best Bid (Offer) AND Bid (Offer) Pressure is greater than one AND the spread is less than the average of the spread over the past twenty Updates³³ to either the Protected Bid or Offer of any Signal Exchange.
- Rule LB₁ (LO₁) is True if either of the following conditions are met: (A) the Signal Best Bid is greater than or equal to the Signal Best Offer AND the Signal Best Offer (Bid) is less than (greater than) the Signal Best Offer (Bid) as of the last Update; OR the Signal Best Bid is greater than or equal to the Signal Best Offer AND the aggregate total shares displayed at the Signal Best Offer (Bid) is greater than the aggregate total shares displayed at the Signal Best Offer (Bid) as of the last Update AND the aggregate total shares displayed at the Signal Best Offer (Bid) is greater than the aggregate total shares displayed at the Signal Best Bid (Offer).
- Rule FB₁ (FO₁) is True if the Signal Best Bid (Offer) is greater (less) than the Signal Best Bid (Offer) as of the last Update.
- Rule FB₂ (FO₂) is True if the Signal Best Bid (Offer) is less (greater) than the Signal Best Bid (Offer) as of the last Update.

Time and Direction Constraints on the CQI

The Exchange proposes three distinct changes for the alternative model to the time and direction constraints on the CQI in the current model. These changes are designed to provide a more dynamic methodology for quote instability determinations, thereby incrementally increasing the coverage of the formula in predicting a crumbling quote by expanding the scope of the model to additional situations where the Exchange's probabilistic model predicts that the NBB or NBO is in the process of moving to a less aggressive price and is about to become stale.

First, the quote instability calculation could turn on concurrently on both sides of the market (*i.e.*, the NBB and NBO) and always remains on for the full two millisecond period each time it turns on. In the current model, the quote instability calculation independently assesses the stability of the Protected NBB and Protected NBO for each security, but it can only turn on for one side of the market for each security at a time. Thus, if the quote instability calculation determines that the Protected NBB is unstable, the CQI turns on for the NBB. If thereafter the quote instability calculation determines that the Protected NBO for that same security is also unstable while the CQI is still on for the NBB, the System will turn off the CQI for NBB and turn it on for the NBO. As proposed, the CQI could be on concurrently on the buy and sell side of the market and will be able to remain on for the full two millisecond period after turning on because a subsequent determination on the opposite side of the market will not turn off a prior determination. While both sides of the market do not frequently crumble concurrently, IEX nonetheless believes that when they do, providing corresponding protection to orders on both sides of the market is appropriate.

Second, pursuant to the alternative model, when the CQI turns on it would not be constrained to a specific price level. Currently the CQI is on at a specific CQI Price, the particular price in effect at the time it turned on, and if the NBB or NBO (as applicable) changes during the time it is on, the CQI does not constrain D-Peg, P-Peg, and C-Peg orders from exercising discretion since the CQI Price is no longer set by reference to the current NBB or NBO (as applicable).³⁴ As proposed, pursuant to the alternative approach, the CQI will continue to turn on at a specific price,

³¹ Note that rule DB₂ (DO₂/DB₄/DO₄) being True logically implies that rule DB₁ (DO₁/DB₃/DO₃) is True. These rules are not redundant however, since a rule must be both True AND Active to generate a quote instability determination. It is possible for Rule DB₂ (DO₂/DB₄/DO₄) to be Active while Rule DB₁ (DO₁/DB₃/DO₃) is not Active, so these logical subset rules can add a distinct contribution to output behavior.

³² See proposed IEX Rules 11.190(g)(2)(B)(xii) and (xiii).

³³ "Update" means any change to either the price or size of any Signal Exchange's Protected Bid or Offer, or a change to the quote condition (*e.g.*, when the quote becomes slow or non-firm, or the security is halted).

³⁴ See IEX Rules 11.190(b)(8)(K)(i) and (ii), (b)(10)(K)(i) and (ii), (b)(16)(K).

but it will restrict D-Peg, P-Peg, and C-Peg orders from exercising discretion past their resting price when the CQI is on for the same side of the market as such orders regardless of whether the price at which it turned on is currently equal to the NBB or NBO (as applicable). The Exchange also proposes conforming changes to Rules 11.190(b)(8)(K)(i) and (ii), (b)(10)(K)(i) and (ii), and (b)(16)(K) to reflect this change to D-Peg, P-Peg, and C-Peg orders' behavior if the User selects the alternative quote instability calculation. Based on IEX's analysis of market data, as described above, the Exchange has determined that continuing to restrict D-Peg, P-Peg, and C-Peg orders from exercising discretion when the CQI is on, even if the CQI Price has changed, will protect such orders from potential adverse selection at the new price level.

Third, pursuant to the alternative model, IEX proposes to change the amount of time the System waits after the CQI turns on before it can make a new quote instability determination on the same side of the market from 200 microseconds to 250 microseconds (irrespective of any change in the Signal Best Bid or Offer). Because pegged orders will be constrained from exercising price discretion when the CQI is on, regardless of whether the current NBB or NBO (as applicable) is the same as the CQI price, CQI triggers in extremely rapid succession are unnecessary to continuously restrict discretion across successive NBBO changes. Moreover, increasing the 200 microsecond "cooldown" period to 250 microseconds before the System can make another quote instability determination is designed to reduce the technical processing burden on the System.

Activation Values/Activation Thresholds

As proposed, in applying the alternative approach, consistent with using a rules-based model instead of a logistic regression model for the quote instability calculation, the Exchange would maintain an activation value ("Activation Value") for each quote instability rule. Each rule's Activation Value is computed (on a security-by-security basis for the Bid and Offer side) in real time as a function of the number of times the quote moves to a less aggressive price within the two milliseconds (or the start time of the current Signal Best Bid or Signal Best Offer, as applicable, if shorter) following the time the rule was True and the total number of times the rule was True. Whenever the Activation Value for a given rule exceeds a fixed

predetermined activation threshold specific to that rule ("Activation Threshold"), the rule is active (*i.e.*, it is eligible to trigger a quote instability determination when True).

The Activation Value and Activation Threshold computations are intended to optimize the overall accuracy of the quote instability determinations by providing a mechanism to turn off a particular rule when market conditions are such that it is relatively less accurate in predicting a crumbling quote. IEX believes that utilizing Activation Thresholds is a useful innovation because it enables the use of rules that can be highly predictive in certain market conditions but not in others. The Activation Thresholds are tailored for each rule based on the rule's expected general accuracy in predicting a crumbling quote, based on IEX's market data analysis, so that a rule that has a higher potential to be less accurate has a higher activation threshold burden to meet. The Activation Thresholds are designed to increase the coverage for the alternative quote instability calculation by enabling more frequent triggers than the current approach but with accuracy controls safeguards.

As proposed, the Activation Threshold for the DB, DO, SB and SO rules is 0.30; the Activation Threshold for Rules LB and LO is 0, and the Activation Threshold for the FB and FO rules is 0.50.³⁵ The Exchange would utilize an initial activation value of 0.50 for all rules at the start of the Regular Market Session, which is then modified during the course of the Regular Market Session to reflect each rule's predictive performance. Specifically, each time a rule is True³⁶ its existing Activation Value is multiplied by a Decay Factor of 0.94. In addition, each time the Signal Best Bid or Signal Best Offer moves to less aggressive price within two milliseconds of a rule being True at that price level, 0.06 will be added to that rule's existing Activation Threshold (*i.e.*, $(1 - \text{decay factor}) + \text{previous Activation Value}$ as specified in IEX Rule 11.190(g)(2)(D)(ii).

When a rule is active, the System continues to evaluate if its Activation Value exceeds its Activation Threshold. If the rule's Activation Value subsequently does not exceed its

³⁵ Note that the FB/FO rules will not have activation values *strictly* above their activation thresholds of 0.5 upon the first time they are satisfied (they are initialized daily at 0.5 and multiplied by the decay factor of 0.94 when they are satisfied), therefore the first time each day that either or both of these rules is True will not trigger a quote instability determination.

³⁶ Excluding instances where the rule was already True at the same unchanged price level in the prior two milliseconds.

Activation Threshold, the rule will not trigger the System to treat the relevant quote as unstable even if the rule is True. The System continues to track the Activation Value for rules that are inactive, and if the Activation Value subsequently exceeds the rule's Activation Threshold, the System will reactivate the rule.

Based on IEX's market data analysis, the Exchange believes that the use of Activation Thresholds, as proposed, would provide a dynamic performance evaluation methodology that will optimize the frequency and accuracy of the quote instability calculation, by enabling IEX to utilize a broader array of rules that may be predictive of a crumbling quote in certain market conditions but not others. Moreover, as proposed all aspects of the activation calculations are fully transparent in IEX rules thus enabling Members, market participants and others to perform the same calculations to determine whether a particular security is subject to a quote instability determination.

Specific Rule Changes

IEX proposes to make the following changes to Rule 11.190(g) to specify that there are two alternative proprietary mathematical calculations (Option 1 and Option 2) to assess the probability of an imminent change to the current Protected NBB to a lower price or a Protected NBO to a higher price for a particular security:

- Add new language to the introductory section of Rule 11.190(g) after the phrase "Quote Stability" at the beginning of the Rule specifying that the Exchange utilizes two User Selected alternative proprietary mathematical calculations to assess the probability of an imminent change to the current Protected NBB to a lower price or a Protected NBO to a higher price for a particular security.
- Add language immediately following the new language described in the preceding bullet and prior to the existing text stating that "[f]or Option 1, as set forth in subparagraph (1) of Rule 11.190(g)."
- Add a new paragraph after the current first paragraph providing introductory language describing Option 2 and specifying that Option 2 is set forth in subparagraph (2) of Rule 11.190(g).
- Add "Option 1" prior to "Crumbling Quote" in the heading to subparagraph (1) of Rule 11.190(g).
- Relocate and revise subparagraph (1)(A)(iii) of Rule 11.190(g) with new subparagraph (3) of Rule 11.190(g) which makes clarifying changes to the terminology in current subsection

(1)(A)(iii) of Rule 11.190(g), which specifies that the Exchange reserves the right to modify the quote instability coefficients or quote instability threshold at any time, subject to a filing of a proposed rule change with the SEC. IEX proposes to revise the rule provision to reference “the proprietary mathematical calculations used to assess the probability of an imminent change to the current Protected NBB to a lower price or a Protected NBO to a higher price for a particular security” rather than existing references to “the quote instability coefficients or quote instability threshold.” Current language that provides that such changes are “subject to a filing of a proposed rule change with the SEC” would be retained. In addition, IEX proposes to renumber this subsection to be subsection (3) of Rule 11.190(g).

- Add new subparagraph (2) (including subparagraphs) of Rule 11.190(g) to describe the alternative quote instability model and refer to such model as “Option 2 Crumbling Quote”.

The Exchange also proposes to make conforming changes to Rules 11.190(b)(8)(K)(i) and (ii) (“P-Peg”), (b)(10)(K)(i) and (ii) (“D-Peg”), and (b)(16)(K) (“C-Peg”) to reflect differences in whether the System will restrict applicable orders from exercising price discretion when the CQI is on. Specifically, if the User selected the existing quote instability model (Option 1), D-Peg, P-Peg, and C-Peg orders will be restricted from exercising discretion while the CQI is on for the same side of the market if the current NBB/NBO (as applicable) is the same as the NBB/NBO that the quote instability determination was based on. If the User selected the alternative quote instability model (Option 2), D-Peg, P-Peg, and C-Peg orders will be restricted from exercising discretion while the CQI is on for the same side of the market, even if the current NBB/NBO (as applicable) is different than the NBB/NBO upon which the quote instability determination was based. In addition, the Exchange proposes to make a conforming change to Rule 11.190(b)(7) to reflect that only Option 1 will be applicable to Discretionary Limit orders.

Implementation

The Exchange will announce the implementation date of the proposed rule change by Trading Alert at least ten business days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with section 6(b)³⁷ of the Act in general, and furthers the objectives of section 6(b)(5) of the Act,³⁸ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, and as discussed in the Purpose section, the proposal is designed to provide an alternative quote instability approach for pegged orders that is designed to make more frequent predictions while maintaining a similar true positive ratio as the existing approach. Based on informal feedback from Members, IEX understands that different firms prefer different levels of coverage with respect to the CQI and its impact on pegged orders exercising price discretion to meet the price of an incoming order. The alternative quote instability approach is responsive to that feedback and would provide additional coverage to Users of D-Peg, P-Peg and C-Peg orders, *i.e.*, as discussed in the Purpose section, it would result in more frequent predictions and thereby increase the circumstances in which the order would not exercise discretion.

The Exchange believes it is consistent with the protection of investors and the public interest to provide an alternative quote instability calculation model that is designed to protect pegged orders from potential unfavorable executions during periods of quote instability when the Exchange’s probabilistic model identifies that the market appears to be moving adversely to them. IEX believes that the alternative approach, in the aggregate and with respect to the specific changes proposed, is rigorously sound, supported by market data analysis, and consistent with the Act as described below.

The Exchange believes that it is consistent with the Act to expand the sources and types of market data used by the quote instability calculation. As described in the Purpose section, based on market data analysis and testing, the Exchange believes that using the market data of three additional exchanges, and using quotation size data (in addition to quotation price data) of all eleven Signal Exchanges, will result in robust predictive power and accuracy of the quote instability calculation.

The Exchange also believes that it is consistent with the Act to utilize a

rules-based model to determine whether a crumbling quote will occur. As discussed in the Purpose section, based on market data analysis, the Exchange believes that the nine proposed quote instability rules—each with specific conditions based on either the price, size, or price and size of the Signal Exchange’s Protected Quotations—will result in robust predictive power and accuracy of the Exchange’s alternative probabilistic model for determining whether a crumbling quote will occur by expanding the scope of the model to additional situations where the Exchange’s probabilistic model predicts that the NBB or NBO is about to become stale. IEX believes that this proposed change will potentially enhance the protection available to market participants using pegged order types that elect to use the alternative model. Moreover, IEX believes that the alternative quote instability calculation, as a plain English rules-based system, will be more readily understood by market participants, thereby increasing the transparency of IEX’s rules and removing impediments to a free and open market.

The Exchange further believes that it is consistent with the Act to restrict D-Peg, P-Peg, and C-Peg orders from exercising price discretion when the alternative quote instability calculation model is on for the same side of the market as the order regardless of the triggering price. As discussed in the Purpose section, based on market data analysis, the Exchange believes that continuing to restrict D-Peg, P-Peg, and C-Peg orders from exercising discretion when the CQI is on even if the CQI Price has changed will protect such orders from potential adverse selection at new price levels resulting from consecutive closely timed price moves as the market “settles” at a new price level.

Additionally, the Exchange believes that it is consistent with the Act to change the time and direction constraints on the alternative quote instability calculation model. As discussed in the Purpose section, these differences—keeping the CQI on for a full two millisecond period every time it turns on and allowing the CQI to turn on concurrently on both sides of the market (*i.e.*, the NBB and NBO)—are designed to incrementally increase the coverage of the alternative quote instability calculation model in predicting a crumbling quote by increasing the duration of time in which the CQI is on. Based on market data analysis, the Exchange believes these changes to the CQI’s time and direction constraints will increase the coverage of quote instability determinations.

³⁷ 15 U.S.C. 78f.

³⁸ 15 U.S.C. 78f(b)(5).

The Exchange additionally believes that it is consistent with the protection of investors and the public interest to extend by 50 microseconds the “cooldown” period before the System can make another quote instability determination (extending it from 200 microseconds to 250 microseconds). As discussed in the Purpose section, based on market data analysis, because pegged orders will be constrained from exercising price discretion when the CQI is on regardless of whether the current NBB or NBO (as applicable) is the same as the CQI price, CQI triggers in extremely rapid succession are unnecessary to continuously restrict discretion across successive NBBO changes. Moreover, increasing the “cooldown” period before the System can make another quote instability determination is designed to reduce the technical processing burden on the System thereby supporting the resiliency of the Exchange and removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange also believes that using activation thresholds instead of a quote stability threshold is consistent with the Act because the activation thresholds are designed to enable broader coverage while controlling for overall accuracy of the quote instability determinations by providing a mechanism to turn off a particular rule when market conditions are such that it is relatively less accurate in predicting a crumbling quote. Based upon market data analysis, IEX believes that utilizing activation thresholds is a useful innovation because it enables the use of rules that can be highly predictive in certain market conditions but not in others. The activation thresholds are tailored for each rule based on the rule’s general accuracy in predicting a crumbling quote so that a rule that has a higher potential to be less accurate has a higher activation threshold burden to meet.

The Exchange believes that it is consistent with the protection of investors and the public interest to offer an alternative User selected quote instability calculation model for pegged orders. As discussed in the Purpose section and above, IEX understands that different market participants seek differing levels of coverage with respect to the CQI and its impact on when a pegged order exercises price discretion to meet the price of an incoming order. The proposed rule change is designed to provide a market-based approach to such differing objectives in a manner that is transparent to market participants. Moreover, IEX’s market data analysis evidences that both quote

instability calculations will be “on” for a small portion of the trading day while providing robust protection to pegged orders.

The Exchange believes that the proposed rule change may result in more and larger sized pegged orders being entered on IEX as a result of the ability to select the quote instability calculation alternative which, as discussed above, is designed to provide greater coverage with respect to the CQI and its impact on pegged orders exercising price discretion to meet the price of an incoming order. To the extent more orders are entered, the increased liquidity would benefit all IEX members and their customers.

Regardless of whether a User selects to use the current or proposed alternative quote instability calculation, when multiple pegged orders exercise discretion at the same time, their relative priority is retained.³⁹ Thus, the Exchange notes that the proposed rule change does not raise any new or novel issues in this regard.

Furthermore, the Exchange notes that all Members are eligible to use D-Peg, P-Peg, and C-Peg orders, and therefore all Members are eligible to benefit from these order types’ protections against adverse selection, and will also benefit if use of the alternative quote instability calculation bring more liquidity to the Exchange. Thus, the Exchange believes that application of the rule change is equitable and not unfairly discriminatory.

Further, the Exchange believes that the proposed changes (as described in the Purpose section) to relocate and revise subparagraph (1)(A)(iii) of Rule 11.190(g) with new subparagraph (3) of Rule 11.190(g) and to make clarifying changes to the terminology in current subsection (1)(A)(iii) of Rule 11.190(g), which specifies that the Exchange reserves the right to modify the quote instability coefficients or quote instability threshold at any time, subject to a filing of a proposed rule change with the SEC are consistent with the Act. The proposed changes merely update terms and descriptive language to describe both alternative quote instability calculations, and without changing the operative language that any future changes would continue to be subject to a filing of a proposed rule change with the SEC.

The Exchange also believes that the proposed conforming rule changes, as described in the Purpose section are consistent with the Act because the changes would promote clarity in IEX’s rules.

³⁹ See IEX Rule 11.190(b)(8), (10) and (16).

Finally, the Exchange notes that, as proposed, both quote instability calculations will continue to be fixed formulas specified transparently in IEX’s rules. The Exchange is not proposing to add any new functionality, but merely to provide an alternative quote instability calculation for pegged orders based on market data analysis designed to increase its accuracy in predicting a crumbling quote, and as contemplated by the rule.

B. Self-Regulatory Organization’s Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, as discussed in the Statutory Basis section, the proposal is designed to enhance IEX’s competitiveness by incentivizing the entry of increased liquidity.

With regard to intra-market competition, the proposed changes to the quote instability calculation will apply equally to all Members on a fair, impartial and nondiscriminatory basis without imposing any new burdens on the Members. The Commission has already considered the Exchange’s D-Peg order type in connection with its grant of IEX’s application for registration as a national securities exchange under sections 6 and 19 of the Act⁴⁰ and approved the Exchange’s P-Peg⁴¹ order type. The Commission has also allowed the Exchange’s C-Peg⁴² order type to become effective. As discussed in the Purpose and Statutory Basis sections, the proposed rule change is designed to merely provide an optional alternative quote instability calculation; therefore, no new burdens are being proposed.

With regard to inter-market competition, other exchanges are free to adopt similar quote instability calculations. In this regard, the Exchange notes that that NYSE American LLC has adopted a rule copying an earlier iteration of the Exchange’s Discretionary Peg Order type and quote instability calculation.⁴³

⁴⁰ See Securities Exchange Act Release 78101 (June 17, 2016), 81 FR 41142 (June 23, 2016) (File No. 10–222).

⁴¹ See Securities Exchange Act Release No. 80223 (March 13, 2017), 82 FR 14240 (March 17, 2017) (SR–IEX–2016–18).

⁴² See Securities Exchange Act Release No. 87019 (September 19, 2019), 84 FR 50485 (September 25, 2019) (SR–IEX–2019–10).

⁴³ See NYSE American LLC Rule 7.31E(h)(3)(D).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 consents, the Commission shall: (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-IEX-2022-06 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-IEX-2022-06. 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 offices 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-IEX-2022-06, and should be submitted on or before November 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2022-22447 Filed 10-14-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96021; File No. SR-NYSEAMER-2022-42]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Sections 140 and 141 of the NYSE American Company Guide To Waive Initial Listing Fees and Annual Listing Fees for the Remainder of the Year the Listing Occurs for an Issuer Listing Upon Closing of Its Acquisition of an Exchange-Listed Special Purpose Acquisition Company

October 11, 2022.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 30, 2022, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, 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.

⁴⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend sections 140 and 141 of the NYSE American Company Guide ("Company Guide") to waive initial listing fees and the prorated annual fee for the first partial year of listing for any issuer that is not itself listed on a national securities exchange immediately prior to its initial listing on the Exchange but is listing a class of equity securities upon closing of its acquisition of a special purpose acquisition company which had a class of equity securities listed on the Exchange or another national securities exchange prior to the closing of such acquisition. The proposed change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend sections 140 and 141 of the Company Guide to waive initial listing fees and the prorated annual fee for the first partial year of listing for any issuer that is not itself listed on a national securities exchange immediately prior to its initial listing on the Exchange but is listing a class of equity securities upon closing of its acquisition of a special purpose acquisition company ("SPAC") which had a class of equity securities listed on the Exchange or another national securities exchange prior to the closing of such acquisition.

When a SPAC consummates its business combination, the SPAC is typically the legal acquirer in the transaction and, provided it meets the initial listing standards applied in connection with a business combination

by a listed SPAC, it can remain listed on the Exchange. Section 142(g) of the Company Guide provides that a company listed pursuant to section 119 (“Listing of Companies Whose Business Plan is to Complete One or More Acquisitions”) which remains listed on NYSE American upon consummation of its business combination will not be subject to any fees in relation to the issuance of any additional shares in connection with (1) the consummation of the business combination or (2) a transaction which is occurring at the same time as the business combination with a closing contractually contingent on the consummation of the business combination. The NYSE American-listed SPAC has already been billed its annual fees for that calendar year and will not incur any prorated annual fees for the issuance of additional shares.⁴ Similar to the treatment for fee purposes of a SPAC that is listed on the Exchange and chooses to remain listed after its business combination, a SPAC that is listed on another national securities exchange and that chooses to transfer to NYSE American at the time of its business combination is not subject to any initial listing fees or annual fees for the first part year of listing on NYSE American. This is because section 140 of the Company Guide provides that any company listing any class of equity securities upon transfer from another market will not be subject to any initial listing fees in connection with such listing. Similarly, section 141 of the Company Guide provides that issuers transferring the listing of their primary class of common shares from another national securities exchange are not required to pay annual fees with respect to that primary class of common shares or any other class of securities transferred in conjunction therewith for the remainder of the calendar year in which the transfer occurs.

By contrast to the above-described fee waivers, if a company that is not listed on the Exchange or another national securities exchange merges with a NYSE American-listed SPAC or a SPAC listed on another national securities exchange and the non-listed company is the acquirer in the transaction, the non-listed company is treated as a new listing and must pay initial listing fees and prorated annual fees in relation to all shares issued and outstanding at the time of initial listing.

To address this disparity between a NYSE American-listed SPAC or a SPAC listed on another national securities exchange that is the acquirer in a

business combination and a business combination involving a non-listed issuer where such issuer is the acquirer, the Exchange proposes to amend section 140 of the Company Guide. Specifically, as amended, section 140 would waive initial listing fees in cases where a company that is not itself listed on a national securities exchange immediately prior to its initial listing on the Exchange is listing a class of equity securities upon closing of its acquisition of a SPAC which had a class of equity securities listed on the Exchange or another national securities exchange prior to the closing of such acquisition. Similarly, the Exchange proposes to amend section 141 of the Company Guide to waive with respect to any such company the requirement to pay annual fees with respect to that primary class of common shares or any other class of securities listed in conjunction therewith for the remainder of the calendar year in which the listing occurs. The Exchange believes the similar treatment of a NYSE American-listed SPAC or a SPAC listed on another national securities exchange that is the acquirer in a business combination and a business combination involving a non-listed issuer where such issuer is the acquirer is reasonable because the ultimate listed company is the same. The Exchange believes that the differential treatment accorded to business combinations where the NYSE American listed SPAC or SPAC listed on another national securities exchange is legally acquired by an unlisted company is anomalous. The decision whether to structure a business combination with the SPAC as the legal acquirer rather than the other party does not result in the listing of a substantively different entity. Accordingly, the Exchange believes there is no basis for charging fees purely on the basis of the structure of the business combination chosen by the parties.

The Exchange notes that, in the case of a listing of a non-listed company upon acquisition of a SPAC that was listed on another national securities exchange, the SPAC would have paid initial listing fees and annual fees for that calendar year to the other national securities exchange. The Exchange believes the proposed waivers would therefore enable NYSE American to better compete for the listing of non-listed companies acquiring SPACs listed on other national securities exchanges than it can currently, as the listing of the combined company would not result in any fees under the rules of either of the other national securities exchanges that

list equity securities,⁵ thereby creating a disincentive to listing on NYSE American. The Exchange believes that by addressing these competitive concerns, the proposal is not unfairly discriminatory.

The Exchange believes that the proposed rule change would not affect the Exchange’s commitment of resources to its regulatory oversight of the listing process or its regulatory programs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,⁶ in general, and furthers the objectives of section 6(b)(4)⁷ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,⁸ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Change Is Reasonable

The Exchange operates in a highly competitive marketplace for the listing of equity securities. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets.

The Exchange believes that the ever-shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

Given this competitive environment, the Exchange believes that the proposed

⁵ See NYSE Listed Company Manual Section 902.02 and Nasdaq Marketplace Rule 5910(a)(7)(v).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78f(b)(1).

⁴ Such shares are reflected in the full-year annual fee bill for the year after the business combination.

fee waivers are reasonable because the cost of paying initial listing fees and the first part year of annual fees to the NYSE American acts as a disincentive to listing on the Exchange.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes that the proposed fee waivers are equitable because they avoid an anomalous fee outcome arising from the manner in which a SPAC business combination has been structured.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory, because the proposed waivers are solely intended to avoid the impact on a limited group of issuers of an anomalous fee outcome arising from the manner in which a SPAC business combination has been structured. Section 142 of the Company Guide includes a specific waiver of all listing fees for the issuance of shares by a NYSE American-listed SPAC which remains listed upon consummation of its business combination in relation to the issuance of any additional shares in connection with (1) the consummation of the business combination or (2) a transaction which is occurring at the same time as the business combination with a closing contractually contingent on the consummation of the business combination. The NYSE American-listed SPAC has already been billed its annual fees for that calendar year and will not incur any prorated fees for the issuance of additional shares.⁹ By contrast, if a company that is not listed on the Exchange or another national securities exchange merges with a NYSE American-listed SPAC and the non-listed company is the acquirer in the transaction, the non-listed company is treated as a new listing and must pay initial listing fees and prorated annual fees in relation to all shares issued and outstanding at the time of initial listing.

A SPAC is a shell company with no business operations. Consequently, the parties to a business combination between a SPAC and an operating company have significant flexibility in how they choose to structure the business combination, including in determining which entity will be the legal acquirer. The Exchange is proposing to amend its fee structure to reflect the incidental nature of the resulting SPAC business combination and to avoid treating companies

undergoing similar business combinations disparately. By contrast to a SPAC business combination, there are typically more significant limitations on the ability of the parties to a merger between two operating companies to make decisions about which entity will be the acquirer, including, for example, the desire to maintain the acquirer's SEC registration and concerns about how to present the combined entity to the market. As such, it is much more likely that the listing fee implications of how the transaction is structured would be a major consideration for the parties to a SPAC business combination than would be the case in a merger between two operating companies. As the implications of the proposed fee waivers for decisions relating to the transaction structures utilized by unlisted companies listing in connection with the acquisition of a SPAC are typically greater than for other companies listing in conjunction with merger transactions, the proposed waivers are not unfairly discriminatory.

The Exchange notes that, in the case of a listing of a non-listed company upon acquisition of a SPAC that was listed on another national securities exchange, the SPAC would have paid initial listing fees and annual fees for that calendar year to the other national securities exchange. The Exchange believes the proposed waivers would therefore enable NYSE American to better compete for the listing of non-listed companies acquiring SPACs listed on other national securities exchanges than it can currently, as the listing of the combined company would not result in any fees under the rules of either of the other national securities exchanges that list equity securities,¹⁰ thereby creating a disincentive to listing on NYSE American. The Exchange believes that by addressing these competitive concerns, the proposal is not unfairly discriminatory.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The proposed waiver will be available to all similarly situated issuers on the same basis. The proposed waiver will address an anomalous discrepancy in fee treatment between business combinations of SPACs listed on the Exchange and companies that are not listed on a national securities exchange based solely on which entity is the legal survivor in the transaction. The Exchange does not believe that the proposed waivers will have any meaningful effect on the competition among issuers listed on the Exchange.

Intermarket Competition

The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable. Because competitors are free to modify their own fees in response, and because issuers may change their listing venue, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange notes that, in the case of a listing of a non-listed company upon acquisition of a SPAC that was listed on another national securities exchange, the SPAC would have paid initial listing fees and annual fees for that calendar year to the other national securities exchange. The Exchange believes the proposed waivers would therefore enable NYSE American to better compete for the listing of non-listed companies acquiring SPACs listed on other national securities exchanges than it can currently, as the listing of the combined company would not result in any fees under the rules of either of the other national securities exchanges that list equity securities, thereby creating a disincentive to listing on NYSE American.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)¹¹ of the Act and subparagraph (f)(2) of Rule 19b-4¹²

⁹ Such shares are reflected in the full-year annual fee bill for the year after the business combination.

¹⁰ See note 5 *supra*.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2022-42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSEAMER-2022-42. 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-NYSEAMER-2022-42, and should be submitted on or before November 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2022-22444 Filed 10-14-22; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before December 16, 2022.

ADDRESSES: Send all comments to Louis Cupp, New Markets Policy Analyst, Office of Investment and Innovation, Small Business Administration, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Louis Cupp, New Markets Policy Analyst, 202-619-0511 louis.cupp@sba.gov Curtis B. Rich, Agency Clearance Officer, 202-205-7030 curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: The information collected on SBA Form 480, "Size Status Declaration" is a certification of small business size status. This information collection is used to determine whether SBIC

financial assistance is provided only to small business concerns as defined in the Small Business Investment Act and SBA size regulations. Without this certification, businesses that exceed SBA's size standards could benefit from program resources meant for small businesses.

OMB Control Number: 3245-0009.

Title: "Size Status Declaration".

Description of Respondents: Small business Investment Companies.

Form Number: 480.

Annual Responses: 1,705.

Annual Burden: 233.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2022-22461 Filed 10-14-22; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice: 11885]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "The Bells of Bethlehem" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition "The Bells of Bethlehem" at the Museum of the Bible in Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: 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,

¹³ 15 U.S.C. 78s(b)(2)(B).

¹⁴ 17 CFR 200.30-3(a)(12).

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. 2022–22464 Filed 10–14–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11886]

Defense Trade Advisory Group; Notice of Open Meeting

The Defense Trade Advisory Group (DTAG) will meet in open session from 1:00 p.m. until 5:00 p.m. on Wednesday, November 9, 2022. To maximize accessibility and attendance while recognizing ongoing concerns related to Coronavirus Disease 2019 (COVID–19), the meeting will be held virtually. The virtual forum will open at 12:00 p.m. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The DTAG was established as an advisory committee under the authority of 22 U.S.C. Sections 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. app.

The purpose of the meeting will be to discuss current defense trade issues and topics for further study. The Directorate of Defense Trade Controls (DDTC) asked the DTAG to complete the following taskings, which will be discussed and presented: (1) identify current industry practices for reporting information required under the Arms Export Control Act (AECA) section 36(b)(1) to the Departments of State and/or Defense, and provide recommendations to ensure these Departments would receive this same information if DDTC were to move to an annual part 130 reporting requirement, (2) review the interaction between section 120.43(a) and (b)(1), and section 121.1 “developmental” entries and recommend clarifications, if necessary, to better illustrate the two phases and when a transition from one stage to the other occurs, and (3) identify factors that parent companies take into consideration to ensure joint ventures comply with various International Traffic in Arms Regulations (ITAR) requirements, and that DTAG also provide the industry perspective on any related challenges.

The meeting will be held virtually via WebEx. There will be one WebEx invitation for each attendee, and only the invited attendee should use the invitation. Please let us know if you need any of the following accommodations: live captions, digital/text versions of webinar materials, or other (please specify).

Members of the public may attend this virtual session and may submit questions by email following the formal DTAG presentation. Members of the public may also submit a brief statement (less than three pages) to the committee in writing for inclusion in the public minutes of the meeting. Each member of the public that wishes to attend this session must provide: Name and contact information, including an email address and phone number, and any request for reasonable accommodation to the DTAG Designated Federal Officer (DFO), Deputy Assistant Secretary Michael Miller, via email at DTAG@state.gov by COB Monday, November 7, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Booker-Francis, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112; telephone (771) 204–0519 or email DTAG@state.gov.

(Authority: 22 U.S.C. 2651a and 41 CFR 102–3.150.)

Michael F. Miller,

Designated Federal Officer, Defense Trade Advisory Group, U.S. Department of State.

[FR Doc. 2022–22466 Filed 10–14–22; 8:45 am]

BILLING CODE 4710–25–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2022–0014]

Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments.

SUMMARY: USTR is conducting a four-year review of the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified, in the section 301 investigation of China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. As part of the review, USTR is seeking public comments on the

effectiveness of the actions in achieving the objectives of the investigation, other actions that could be taken, and the effects of such actions on the United States economy, including consumers.

DATES:

November 15, 2022 at 12:01 a.m. EST: The public docket on the web portal at <https://comments.USTR.gov> will open for interested persons to submit comments.

January 17, 2023 at 11:59 p.m. EST: To be assured of consideration, submit written comments on the public docket by this date.

ADDRESSES: You must submit all comments through the online portal: <https://comments.USTR.gov>.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Associate General Counsels Philip Butler or Megan Grimball at (202) 395–5725.

SUPPLEMENTARY INFORMATION:

A. Background

On August 24, 2017, the U.S. Trade Representative initiated an investigation into certain acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation under section 301 of the Trade Act of 1974, as amended (Trade Act). *See* 82 FR 40213. In a notice published on April 6, 2018, the U.S. Trade Representative determined that acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce, and are thus actionable under section 301(b) of the Trade Act. *See* 83 FR 14906 (the April 6 notice). In particular:

1. China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies.
2. China’s regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients.
3. China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.
4. China conducts and supports unauthorized intrusions into, and theft

from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

Following a notice and comment process on the proposed action to be taken in the investigation, the U.S. Trade Representative took two actions under section 301 of the Trade Act: the July 6, 2018 action, covering an approximate annual trade value of \$34 billion (List 1) and the August 23, 2018 action, covering an approximate annual trade value of \$16 billion (List 2). See 83 FR 28710 (July 6, 2018 action) and 83 FR 40823 (August 23, 2018 action). These actions were subsequently modified by imposing additional duties on supplemental lists of products, known as Lists 3 and 4, as well as by the temporary removal of duties on certain products through product exclusions.

On May 5, 2022, USTR announced that under section 307(c)(2) of the Trade Act (19 U.S.C. 2417(c)(2)), the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified, were subject to possible termination on their respective four-year anniversary dates (*i.e.*, July 6, 2022 and August 23, 2022, respectively) and of the opportunity for representatives of domestic industries which benefit from the trade actions to request continuation of the actions during the last sixty days of such four-year periods. See 87 FR 26797 (May 5 notice).

On September 8, 2022, USTR announced that the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified, would remain in effect because at least one representative of a domestic industry which benefits from each action, as modified, submitted to the U.S. Trade Representative a request for continuation of the action, as modified. See 87 FR 55073 (September 8, 2022). The notice also announced that, in accordance with section 307(c)(3) of the Trade Act (19 U.S.C. 2417(c)(3)), the U.S. Trade Representative would conduct a review of the July 6, 2018 and August 23, 2018 actions, as modified, and that USTR would publish a separate notice or separate notices describing the review process. See 87 FR 55073.

B. Four-Year Review of the Actions Taken Under Section 301, as Modified

Following receipt of an appropriate request to continue an action taken under section 301, section 307(c) requires the U.S. Trade Representative to conduct a review of: (A) the effectiveness in achieving the objectives of section 301 of (i) such action, and (ii) other actions that could be taken

(including actions against other products or services), and (B) the effects of such actions on the United States economy, including consumers. See 19 U.S.C. 2417(c)(3)(A) and (B).

To aid in this review, USTR is opening a docket on November 15, 2022 for interested persons to submit comments with respect to any aspect of the above considerations, including comments on:

- The effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.
- The effectiveness of the actions in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.
- Other actions or modifications that would be more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.
- The effects of the actions on the U.S. economy, including U.S. consumers.
- The effects of the actions on domestic manufacturing, including in terms of capital investments, domestic capacity and production levels, industry concentrations, and profits.
- The effects of the actions on U.S. technology, including in terms of U.S. technological leadership and U.S. technological development.
- The effects of the actions on U.S. workers, including with respect to employment and wages.
- The effects of the actions on U.S. small businesses.
- The effects of the actions on U.S. supply chain resilience.
- The effects of the actions on the goals of U.S. critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings.
- Whether the actions have resulted in higher additional duties on inputs used for additional manufacturing in the United States than the additional duties on particular downstream product(s) or finished good(s) incorporating those inputs.

In order to facilitate preparation of comments prior to the November 15 opening of the web portal, USTR intends to post a copy of questions for the docket by November 1, 2022. The questions will be posted at <https://comments.USTR.gov>.

In the course of the review, USTR will evaluate whether to provide additional opportunities for public comment through additional written comments or through public hearings. Any further

opportunities for public comment will be addressed in subsequent notices.

C. Submissions Instructions

To be assured of consideration in this stage of the four-year review, interested parties should submit comments following the November 15, 2022 opening of the public docket on the portal, and by no later than January 17, 2023. This includes interested parties that previously provided responses in the prior stage of the review regarding continuation.

By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

USTR's portal will allow for the submission of Business Confidential Information (BCI). Information regarding the procedures for submitting BCI will be specified on the portal.

USTR will post submissions in the docket for public inspection, except business confidential information. You can view submissions on USTR's web portal at <https://comments.USTR.gov> through docket number USTR-2022-0014.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2022-22469 Filed 10-14-22; 8:45 am]

BILLING CODE 3390-F3-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects. **DATES:** By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A

claim seeking judicial review of TxDOT and Federal agency actions on the highway projects will be barred unless the claim is filed on or before the deadline. For the projects listed below, the deadline is March 16, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT:

Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416-2358; email: Patrick.Lee@txdot.gov. TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting the local TxDOT office at the address or telephone number provided for each project below.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air*: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife*: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife

Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources*: Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. FM 973 from 0.069 miles north of FM 969 to 0.10 miles north of Thyone Drive, Travis County. The project will improve FM 973 from a two-lane roadway to a four-lane roadway with a continuous left-turn lane, paved shoulders, and a northbound sidewalk. The project is approximately 3.9 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on June 16, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in

the TxDOT project file are available by contacting the TxDOT Austin District Office at 7901 North I–35, Austin, TX 78753; telephone: (512) 832–7000.

2. Panther Creek Parkway from SH 289 (Preston Road) to Dallas North Tollway in Collin County, Texas. The proposed project would include the extension of a six-lane new location roadway for Panther Creek Parkway (CR 1043) from approximately 1,100-feet east of the Dallas North Tollway (DNT) to approximately 1,000-feet east of Preston Road (SH 289), in the City of Frisco. The facility would consist of three travel lanes (three 12-foot wide) in each direction with dedicated left and right turn lanes to accommodate the new intersections within a typical ROW of 120 to 140 feet. The proposed project is approximately two miles in length. The purpose of the proposed project is to improve mobility and safety in the project area. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 6, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E. Highway 80, Mesquite, TX 75150; telephone: (214) 320–6200.

3. IH 45 Central Walker County Project, Segment 2B from SH 30 to 0.7 miles south of FM 1696 in Walker County, Texas. The proposed project would replace existing mainlane pavement with new pavement and widen from four to six travel lanes. The proposed facility would continue to be a controlled access divided highway. The mainlane widening would be accomplished by adding additional lanes to the inside of the existing mainlanes. Both inside and outside shoulders would be increased to 12 feet in width. Opposing traffic would be separated with a center concrete traffic barrier instead of a grass median. The project would also reconstruct ramps to current standards. Drainage structures will be widened to accommodate the wider paved surface and existing bridges will be replaced. Frontage roads would also be converted to one-way travel. The SH75/IH 45/FM 1791 interchange would also be reconfigured into a dual roundabout to allow for more efficient traffic flow; this would require the replacement of two interstate bridges. The length of the proposed project is approximately 4.7 miles. The purpose of the proposed project is to bring the interstate facility up to current standards for design and safety and to increase capacity in order to meet future

traffic volumes. IH 45 serves as a hurricane and disaster evacuation route for the metro Houston and Galveston areas. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 11, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Bryan District Office at 2591 North Earl Rudder FWY, Bryan, TX 77803; telephone: (979) 778-9764.

4. IH 30 from Linkcrest Drive to I-820, Tarrant County, Texas. The approximately 3.4-mile project in the cities of Fort Worth and White Settlement would focus on improving safety and mobility from Linkcrest Drive to IH 820. The proposed improvements would include widening IH 30 from a four-lane freeway (two mainlanes each direction) to a six-lane freeway (three mainlanes each direction); improvements to the IH 30 and Spur 580 interchange to reduce congestion and enhance safety; and construction of continuous two-lane, one-way frontage roads throughout the project limits. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 18, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Fort Worth District Office at 2501 SW Loop 820, Fort Worth TX, 76133; telephone: (817) 370-6744.

5. SH 6 Central BCS (Bryan-College Station) project from US 190/SH21 to SH 40/William D. Fitch Parkway. The proposed project would include widening the existing roadway from four to six lanes; interchange improvements/replacement; ramp adjustments; U-turns; collector-distributor roads and auxiliary lanes; bridge upgrades and replacements as necessary; continuous bicycle/pedestrian facilities; and upgrades to drainage, illumination, signals, and intelligent transportation system (ITS) facilities. The purpose of the proposed project is to bring the facility up to current standards for design and safety, to relieve congestion, and improve mobility. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 26, 2022, and other documents in the TxDOT

project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Bryan District Office at 2591 North Earl Rudder FWY, Bryan, TX 77803; telephone: (979) 778-9764.

6. IH 20 Corridor from west of FM 1936 to east of JBS Parkway, Ector County, Texas. This project would improve IH 20 in the City of Odessa in Ector County, over a distance of approximately 10.4 miles. Improvements include adding one mainlane in each direction, reconfiguring interchanges and ramps, and converting frontage roads from two-way operation to one-way operation. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on July 28, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Odessa District Office at 3901 East Highway 80, Odessa, Texas 79761; telephone: (432) 498-4710.

7. US 281 Alice Improvement Project, on US 281 from Business 281R (north of Alice) to Business 281R (south of Alice), in Jim Wells County, Texas. The purpose of the project is to improve safety and mobility in the project area by widening the roadway to the inside over the existing median and converting the existing roadway to frontage roads. Overpasses and bridges would be constructed to span county roads and creeks, and ditches would be realigned and regraded for drainage. The proposed project length is approximately 9.5 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on August 12, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Corpus Christi District Office at 1701 South Padre Island Drive, Corpus Christi, TX 78416; telephone: (361) 808-2660.

8. SH 99 from FM 1093 to IH 10, Fort Bend and Harris Counties, Texas. This project will widen SH 99 from four to six lanes between FM 1093 and I-10 for a total distance of approximately 5.9 miles. The additional mainlane is proposed to be constructed within the existing median. The proposed improvements also include an adjustment of ramp locations and the

addition of right-turn lanes at various intersections. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on August 29, 2022, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Houston District Office at 7600 Washington Avenue, Houston, TX 77007; telephone: (713) 802-5000.

9. US 77 Sinton Improvement Project, from Business 77 (south of Sinton) to Business 77 (North of Sinton), in San Patricio County, Texas. The purpose of the project is to improve safety and mobility in the project area by upgrading the roadway to interstate standards as part of the future I-69 corridor. The proposed project length is approximately 5.8 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on July 8, 2022, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Corpus Christi District Office at 1701 South Padre Island Drive, Corpus Christi, TX 78416; telephone: (361) 808-2660.

10. US 79 from IH 35 to east of FM 1460, Williamson County, Texas. The project includes adding a third 12-foot travel lane in each direction, installing a raised median, intersection improvements, and improved pedestrian and bicycle accommodations. The project is 2.48 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on July 20, 2022, and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting the TxDOT Austin District Office at 7901 North I-35, Austin, TX 78753; telephone: (512) 832-7000.

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

*Director, Planning and Program Development,
Federal Highway Administration.*

[FR Doc. 2022-22529 Filed 10-14-22; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2012–0032]

Commercial Driver's License: Daimler; Application for Exemption; Daimler Truck North America LLC (Daimler)**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Daimler Truck North America LLC (Daimler) has requested an exemption for one commercial motor vehicle (CMV) driver from the requirement to hold a United States commercial driver's license (CDL). Daimler requests an exemption for Dr. Andreas Gorbach, Executive Vice President and Board of Management Member for Daimler. Dr. Gorbach holds a valid German CDL. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption. FMCSA requests public comment on the applicant's request for exemption.

DATES: Comments must be received on or before November 16, 2022.**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2012–0032 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2012–0032) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy heading below.

Docket: For access to the docket to read background documents or

comments, go to www.regulations.gov at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14–FDMS, which can be reviewed at <https://www.transportation.gov/privacy>, the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 385–2415 or by email at bernadette.walker@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2012–0032), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number (“FMCSA–2012–0032”) in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party

and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Daimler has applied for an exemption for Dr. Andreas Gorbach from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Dr. Gorbach is unable to obtain a CDL due to his lack of residency in the United States. The exemption would enable Dr. Andreas Gorbach to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements. Dr. Gorbach holds a valid German commercial license, and Daimler believes the requirements for that license ensure that the same level of safety will be met or exceeded. According to Daimler, Dr. Gorbach will be accompanied at all times by an experienced Daimler CDL holder who is familiar with the routes to be traveled in

case of any unforeseen circumstance. Daimler requests that the exemption cover the maximum allowable duration of five years.

A copy of Daimler's application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Daimler's application for an exemption from the requirement in 49 CFR 383. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022-22412 Filed 10-14-22; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2022-0002-N-15]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On July 5, 2022, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before November 16, 2022.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. John Purnell, Information Collection Clearance Officer, at email: John.Purnell@dot.gov or telephone: (202) 713-0246, or Ms. Hodan Wells, Information Collection Clearance Officer, at email: Hodan.Wells@dot.gov or telephone: (202) 868-9412.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501-3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On July 5, 2022, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which it is now seeking OMB approval. See 87 FR 39894. FRA received no comments related to the proposed collection of information.

Before OMB decides whether to approve the proposed collection of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)-(c); 5 CFR 1320.12(a); see also 60 FR 44978, 44983 (Aug. 29, 1995). OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the

use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: U.S. DOT Crossing Inventory.

OMB Control Number: 2130-0017.

Abstract: On January 6, 2015, FRA published in the **Federal Register** a final rule that requires railroads that operate one or more trains through highway-rail or pathway crossings to submit information to the U.S. DOT National Highway-Rail Crossing Inventory about the crossings through which they operate. These amendments, mandated by section 204 of the Rail Safety Improvement Act of 2008, require railroads to submit information about previously unreported and new highway-rail and pathway crossings to the U.S. DOT National Highway-Rail Crossing Inventory, and to periodically update existing crossing data.

Type of Request: Extension with change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses, States, and the District of Columbia.

Form(s): FRA F 6180.71.

Respondent Universe: 50 States, the District of Columbia, and 667 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 421,758.

Total Estimated Annual Burden: 8,663 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$667,051.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2022-22457 Filed 10-14-22; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0010, Notice 2]

Spartan Motors USA, Inc, Denial of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Denial of petition.

SUMMARY: Spartan Motors USA, Inc (Spartan), has determined that certain model year (MY) 2015–2019 Spartan Specialty MM and K2 motorhome chassis do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems*. Spartan filed a noncompliance report dated December 18, 2017, and subsequently petitioned NHTSA on January 15, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the denial of Spartan’s petition.

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), (202) 366–7236, Ahmad.Barnes@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview: Spartan has determined that certain MY 2015–2019 Spartan Specialty MM and K2 motorhome chassis do not fully comply with paragraph S5.1.2.1 of FMVSS No. 121, *Air Brake Systems* (49 CFR 571.121). Spartan filed a noncompliance report dated December 18, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Spartan subsequently petitioned NHTSA on January 15, 2018, 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*.

Notice of receipt of Spartan’s petition was published with a 30-day public comment period, on May 13, 2019, in the **Federal Register** (84 FR 20947). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2018–0010.”

II. Vehicles Involved: Approximately 414 MY 2015–2019 Spartan Specialty MM and K2 motorhome chassis manufactured between February 12, 2014, and December 11, 2017, are potentially involved.

III. Noncompliance: Spartan describes the noncompliance as a combined volume of air in the service and supply reservoirs in the air brake system is insufficient to meet the required minimum of twelve times the combined volume of air from all service brake chambers specified in paragraph S5.1.2.1 of FMVSS No. 121.

IV. Rule Requirements: Paragraph S5.1.2.1 of FMVSS No. 121, titled “*Air Brake Systems*,” states that the combined volume of all service reservoirs and supply reservoirs shall be at least 12 times the combined volume of all service brake chambers.

V. Summary Spartan’s of Petition: Spartan describes the subject noncompliance and states its belief that the noncompliance is inconsequential as it relates to motor vehicle safety because the air compressor in the subject vehicles has the capacity to replace the volume of air in the brake system in a relatively short space of time; brake applications for motorhomes appear to be less frequent than stop-and-go applications and the lower air capacity may not be noticeable to the driver nor impact braking performance; and completed subject vehicles are equipped with dual air gauges as well as a visual and audible warning system to alert the driver to a loss of air in the air brake system.

Spartan first calculates the air reservoir capacity necessary for its chassis to be compliant with FMVSS No. 121:

S5.1.2.1 of FMVSS 121, requires the combined volume of all service reservoirs and supply reservoirs to be at least 12 times the combined volume of all service brake chambers. The chassis affected by this condition are equipped with a T–24 brake chamber on the steer axle, T–30 brake chamber on the drive axle and T–16 brake chamber on the tag axle. In using the values in Table V of FMVSS 121, the cumulative air capacity of these brake chambers would be 404 [cubic inches]. Multiplying by 12, the needed air reservoir capacity would be 4848 [cubic inches].

Spartan also provides a table reflecting its calculations:

Brake chamber size	FMVSS No. 121 cu. in. ¹ (Table V)	Number of chambers total cu. in.	Total cu. in.
T–24	67	2	134
T–30	89	2	178
T–16	46	2	92
Total Chamber Cu. In. ....	.....	.....	404
Required Air Reservoir Capacity (using 12 × Multiplier) Cu. In .....	.....	.....	4,848
Spartan Actual Reservoir Capacity (Cu. In.) .....	.....	.....	4,674
Additional Capacity Needed (Cu. In.) .....	.....	.....	174

Paragraph S5.1.1 of FMVSS No. 121 specifies that a vehicle must be equipped with an air compressor of sufficient capacity to increase air pressure in the supply and service reservoirs from 85 psi to 100 psi when the engine is operating at the vehicle manufacturer’s maximum recommended revolutions per minute (r.p.m.) within a time, in seconds, determined by the quotient ((actual reservoir capacity × 25)/required reservoir capacity).

According to Spartan, under this paragraph, the subject vehicles would be required to have a compressor with enough capacity to go from 85 psi to 100 psi within 24 seconds ((4,674*25)/4,848). Using the same equation and the required air reservoir capacity of 4,848 cubic inches, the air pressure would need to increase from 85 psi to 100 psi within 25 seconds. However, Spartan contends that the subject vehicles can increase air pressure from 85 psi to 100

psi in less than 6 seconds, well within the requirement of 25 seconds. Further, Spartan states that the subject vehicles are configured so the compressor activates at a pressure set at, or greater than, the minimum requirement of 100 psi.

In Spartan’s view, the impact of the noncompliance—having 3.5 percent less air reservoir capacity than required—when combined with the configuration of the activation pressure and the

¹ Cu. In. = Cubic Inch.

capacity of the compressor, “would appear to have an adverse consequence of a slight increase in air compressor cycling,” but “this would be dependent on application of the service brakes.” To this point, Spartan further submits that motorhomes (vehicles on which the noncompliant chassis here would be installed) have a similar duty cycle to tractor-trailers, where they are driven at highway speeds with infrequent brake applications. Spartan also notes that motorhomes also are largely driven from owner residences to campground locations throughout the traveling season. Accordingly, Spartan contends that brake applications here would appear to be less frequent than those in stop-and-go applications. Spartan therefore concludes that the noncompliant air capacity with a one-second time difference to increase air pressure may not be noticeable to the driver, and would not impact the braking performance of the vehicle. Spartan also contends that completed motorhomes subject to its petition are equipped with two air gauges that monitor the air system pressure in both system 1 and system 2. In addition to the air gauges, there is both a warning light and an audible alarm to alert the driver in the event of a low-air condition.

Based on these assertions, Spartan requests that its petition to be exempted from notice and remedy obligations under the Safety Act.

VI. NHTSA’s Analysis: The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement* with *no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.²

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which the recall would otherwise protect.³ In general, NHTSA does not

consider the absence of complaints or injuries as evidence that the issue is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.⁴

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting of an inconsequentiality petition.⁵ Similarly, mere assertions that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.⁶

NHTSA has reviewed Spartan’s petition, and is denying the petition.

The purpose of FMVSS No. 121 is to ensure safe braking performance under normal and emergency conditions. Spartan states that it believes that the subject noncompliance is inconsequential to motor vehicle safety even though the air braking system falls short of the required capacity, in part contending that this deviation does not have an adverse effect on braking. Spartan contends that even with the insufficient system capacity, the onboard air compressor has the capacity

than occupant using similar compliant light source).

⁴ See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

⁵ See *Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance*, 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

⁶ See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

to raise the system pressure from 85 psi to 100 psi in a short interval that is well under the timeframe specified in FMVSS No. 121. Based on this compressor capacity and the pressure at which the compressor activates, Spartan contends that the deficient system capacity would not be noticed under the conditions in which motor homes are used, or impact braking performance. Spartan also states that completed subject vehicles are equipped with gauges and a visual and audible warning system to alert the driver in the event of a loss of air in the system.

The Agency does not find Spartan’s reasoning persuasive.

First, Spartan admits that there may be an adverse consequence of a slight increase in air compressor cycling as a result of the noncompliant air reservoir capacity. Spartan qualifies this by stating that whether there may be such an adverse consequence depends on the application of the service brakes. To this point, Spartan observes that brake applications in the subject vehicles “would appear to be less frequent than those stop and go applications,” rendering the time difference to increase air pressure potentially unnoticeable by the driver and not impactful on braking performance. Spartan provided no additional information or data here to support this notion, however. Even assuming that brake application in the subject vehicles as described by Spartan is generally true, Spartan also did not provide evidence that such applications would be true of every affected vehicle. In addition, as a general matter, Spartan provided no test data to support the assertions in its petition. Furthermore, Spartan fails to acknowledge that unsafe conditions could exist while the vehicles are driven under stop-and-go conditions which may increase the risk of crashes or injury.

Second, while Spartan observes that the completed subject vehicles are installed with air gauges to monitor air system pressure, as well as a warning light and audible alarm to alert drivers of a low air condition, Spartan does not explain how driver awareness of a low air condition would serve to mitigate the potential consequences of the noncompliance.

And third, that the system may meet or exceed FMVSS No. 121’s requirements for the time in which the compressor can recharge the system does not excuse the failure to meet system capacity requirements. While compressor output may be such that lesser system capacity may appear unnoticeable in normal braking and in the “typical” use scenario put forward by Spartan, FMVSS No. 121 seeks to

² Cf. *Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

³ See, e.g., *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk

ensure motor vehicle safety in atypical and emergency use conditions as well. In some catastrophic failures—such as compressor and system valve failure—the presence of an adequate air reserve as required by S5.1.2.1 would provide critical braking capacity for these large vehicles. A vehicular crash is a potential consequence of an inadequate air reserve in the event that critical braking is required, and a recall would otherwise protect against such an event.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA has decided that Spartan has not met its burden of persuasion that the subject FMVSS No. 121 noncompliance is inconsequential to motor vehicle safety. Accordingly, Spartan's petition is hereby denied. Spartan is obligated to provide notification of, and free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.)

Anne L. Collins,

Associate Administrator for Enforcement.

[FR Doc. 2022-22453 Filed 10-14-22; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0080]

Agency Information Collection Activities; Notice and Request for Comment; Child Passenger Safety Perceptions and Practices in Ridesharing and Autonomous Vehicles

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

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of

information for which NHTSA intends to seek OMB approval on Child Passenger Safety Perceptions and Practices in Ridesharing and Autonomous Vehicles.

DATES: Comments must be submitted on or before December 16, 2022.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA-2022-0080 through any of the following methods:

- *Electronic Submissions:* Go to the Federal e-Rulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366-9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Margaret Hendricks, Ph.D., Office of Behavioral Safety Research (NPD-320), (202) 366-2305, National Highway Traffic Safety Administration, W46-466, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it

must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Child Passenger Safety Perceptions and Practices in Ridesharing and Autonomous Vehicles.
OMB Control Number: New.
Form Numbers: 1687, 1688, 1689, 1690.

Type of Request: Approval of a new information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation is seeking approval for a one-time voluntary information collection from 24 caregivers of children 8 years old or younger and 12 licensed drivers of rideshare vehicles. The purpose of the collection is to describe child passenger safety (CPS) attitudes and behaviors from caregivers and rideshare drivers. A NHTSA contractor expects to provide screening questionnaires to 200 potential participants to determine their eligibility for the focus group study and to collect contact information for scheduling with a potential burden of 15 minutes per respondent or 50 hours. From the 200 potential participants, the contractor will contact and enroll up to 36 participants in the study. Six 90-

minute focus groups will be conducted, each with six participants. Including the five minutes for participants to complete informed consent, the burden per focus group participant is 95 minutes or 57 hours. The total expected burden for screening, scheduling, and participating in the focus groups is 107 hours. A trained moderator will conduct separate virtual focus groups for caregivers/parents of at least one child 8 years old or younger who frequently use rideshare vehicles to transport children (two groups) and those who infrequently transport children in rideshare vehicles (two groups) as well as for rideshare drivers who frequently have child passengers 8 years old or younger (one group) and those who infrequently have child passengers (one group). The contractor will collect participants' attitudes and self-reported behaviors from the focus groups. NHTSA's contractor received Institutional Review Board (IRB) approval to conduct the focus groups. NHTSA will use the information to produce a technical report containing descriptive and qualitative assessments of caregivers/parents' and rideshare drivers' attitudes and behaviors related to CPS in rideshare vehicles. NHTSA will make the technical report available to a variety of audiences interested in improving highway safety through the agency website and the National Transportation Library. This collection will inform the development of behavioral safety countermeasures, particularly in the areas of communications and training related to CPS in rideshare vehicles and potentially future vehicles with Automated Driving Systems.

Description of the Need for the Information and Proposed Use of the Information: NHTSA has estimated that using a car seat reduces the risk of fatal injury for infants (under 1 year old) by 71 percent for passenger cars and by 58 percent for light trucks such as pickups, SUVs, and minivans. For toddlers (1 to 4 years old), the corresponding reductions are 54 percent and 59 percent.¹ However, children are not always restrained appropriately. In 2020 there were 181 passenger vehicle occupant fatalities among children under 4 years old, and 31 percent were

unrestrained (based on known restraint use). In the 4-to-7 age group, there were 207 fatalities; 43 percent were unrestrained (based on known restraint use).²

The use of ridesharing services has increased dramatically over the past few years. In 2018, 36 percent of U.S. adults used ridesharing services, such as Uber and Lyft. This percentage is more than twice the share of the population who used ridesharing apps in 2015.³ As the use of ridesharing vehicles increases, concerns regarding how children are being transported in these vehicles are emerging.

Limited research has been conducted on CRS use in ridesharing vehicles. A study conducted by Prince, et al. showed lower rates of CRS use and higher rates of injuries in crashes involving taxis in New York City.⁴ In an online national survey of parents with children under eight, 59 percent reported that they transported their children differently when traveling in rideshare vehicles compared with private vehicles.⁵ Of those, 37 percent reported holding the child on their lap and 25 percent allowed the child to ride without a CRS. Several online and in-person surveys with parents and caregivers point to specific circumstances in which non-use of CRS is perceived as more acceptable, including riding in a rideshare or taxi; traveling while on vacation, carpooling, when traveling short distances; and finding there is no CRS available.^{6,7,8}

² National Center for Statistics and Analysis. (2022, July). *Occupant protection in passenger vehicles: 2020 data* (Traffic Safety Facts. Report No. DOT HS 813 326). National Highway Traffic Safety Administration. <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813326>.

³ Pew Research Center (2019, January 4). *More Americans are using ride-hailing apps*. <https://www.pewresearch.org/fact-tank/2019/01/04/more-americans-are-using-ride-hailing-apps/>.

⁴ Prince, P., Hines, L. M., Bauer, M. J., Liu, C., Luo, J., Garnett, M., & Pressley, J. C. (2019). Pediatric Restraint Use and Injury in New York City Taxis Compared with Other Passenger Vehicles. *Transportation Research Record*, 2673(7), 541–549. <https://doi.org/10.1177/0361198119843091>.

⁵ Owens, J. M., Womack, K. T., & Barowski, L. (2019, September). *Factors Surrounding Child Seat Usage in Rideshare Services* (Technical Report No. 01–005). Safety through Disruption (Safe-D) University Transportation Center. <https://rosap.ntl.bts.gov/view/dot/63050>.

⁶ Levi, S., Lee, H., Ren, W., Polson, A., & McCloskey, S. (2020, December). Awareness and availability of child passenger safety information resources (Report No. DOT HS 813 035). National Highway Traffic Safety Administration. <https://rosap.ntl.bts.gov/view/dot/54283>.

⁷ McDonald, C., Kennedy, E., Fleisher, L., & Zonfrillo, M. (2018). Situational Use of Child Restraint Systems and Carpooling Behaviors in Parents and Caregivers. *International Journal of Environmental Research and Public Health*, 15(8), 1788. <https://doi.org/10.3390/ijerph15081788>.

There also is a lack of research on best practice approaches for promoting child safety in rideshare vehicles, and regulatory inconsistencies (e.g., types of vehicles covered under restraint laws, severity of fines for violations of the law, age of child covered by child restraint laws, etc.) only contribute to the confusion on the part of caregivers and rideshare drivers. A better understanding of caregiver and rideshare driver behaviors and attitudes related to restraint use in rideshare services is needed to inform the development of public policy, regulations, enforcement measures, and educational campaigns.

Affected Public: Parents of children 8 years old or younger and adult licensed drivers of ridesharing vehicles.

Estimated Number of Respondents: 200 potential participants with 36 participating in focus groups.

Frequency: This study is a one-time information collection, and there will be no recurrence.

Estimated Total Annual Burden Hours: The total estimated burden with this collection is 107 hours. NHTSA estimates that up to 200 potential respondents will need to be screened for eligibility by completing a 10-minute screening questionnaire before finding 36 people to participate in the focus groups. The contractor will contact the eligible participants to determine whether they are still interested and if so, to schedule a focus group for an additional potential burden of five minutes. As such, screening and scheduling may take up to 15 minutes per potential participant. The goal is to schedule 36 participants for six focus groups (four caregiver groups and two driver groups).

Each focus group is estimated to last 90 minutes. Including informed consent, NHTSA estimates the burden as 95 minutes per participant. During the focus group, participants will discuss their experiences in traveling with children in rideshare vehicles, behavior with respect to using seat belts or CRSs when travelling in personal vehicles and rideshare vehicles, opinions regarding CPS in rideshare vehicles, etc. Assuming a 10-minute completion time for the recruitment screener questionnaire, 5 minutes for contacting and scheduling potential participants for the focus group sessions, 5 minutes for informed consent for participants, and 90 minutes

⁸ Niu, L., Gao, Y. M., Tian, Y., & Pan, S. M. (2019). Safety awareness and use of child safety seats among parents after the legislation in Shanghai. *Chinese journal of traumatology = Zhonghua chuang shang za zhi*, 22(2), 85–87. <https://doi.org/10.1016/j.cjtee.2018.08.005>.

¹ Kahane, C. J. (2015, January). *Lives saved by vehicle safety technologies and associated Federal Motor Vehicle Safety Standards, 1960 to 2012—Passenger cars and LTVs—With reviews of 26 FMVSS and the effectiveness of their associated safety technologies in reducing fatalities, injuries, and crashes* (Report No. DOT HS 812 069). National Highway Traffic Safety Administration. <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812069>.

for participating in the focus groups the calculation of the total estimated burden total hour burden 107 hours. The is shown in Table 1 below.

TABLE 1—ESTIMATED BURDEN HOURS BY FORM

Form No.	Form name and description	Respondents	Time per respondent (minutes)	Total time (hours)
1687	Screener and Follow-Scheduling	200	15	50
1688	Informed Consent (Caregivers)	24	5	2
1689	Informed Consent (Drivers)	12	5	1
1690	Focus Group Participation	36	90	54
Total .....	.....	.....	.....	107

Estimated Total Annual Burden Cost: NHTSA estimates that there are no costs to respondents beyond the time spent participating in the study.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department’s estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–22423 Filed 10–14–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation’s Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before November 16, 2022

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-

addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 06, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
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SPECIAL PERMITS DATA—Granted

14546–M	Linde Gas & Equipment Inc ..	180.209(a), 180.209(b), 180.209(b)(1)(iv).	To modify the special permit to authorize a 15-year periodic requalification interval for certain cylinders.
15146–M	Tech Spray L P	172.200, 172.400, 173.304(a).	To modify the permit to include additional hazardous materials.
16365–M	RDS Manufacturing, Inc	177.834(h), 178.700(c)(1)	To modify the special permit to authorize two additional packagings.
20482–M	Solid Power Operating, Inc ...	173.35(e)	To modify the special permit to authorize an additional hazardous material.
21259–N	Quantum Fuel Systems LLC	173.302(a)(1)	To authorize the manufacture, mark, sale, and use of a non-DOT specification fully wrapped fiber reinforced composite gas cylinder with a non-load sharing plastic liner. Except as specified, the cylinder is designed in accordance with the ISO 11515:2013 Standard for the transportation in commerce of the hazardous materials authorized herein.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21373-N	Sigma-Aldrich Co. LLC	172.203(a), 172.203(c), 172.704	To authorize the transportation in commerce of hazardous materials packaged in UN 4G and 4GV fiberboard boxes that have been partially closed by hazardous materials employees who are not trained in accordance with Subpart H of Part 172.
21383-N	Emergency Environmental Services, LLC.	173.185(f)	To authorize the transportation in commerce of damaged lithium batteries in non-spec packaging.
21385-N	Williams Advanced Engineering Limited.	172.101(j), 173.185(a)(1), 173.185(b)(6).	To authorize the transportation in commerce of prototype and low production lithium ion batteries exceeding 35 kg net weight aboard cargo-only aircraft for testing.
21429-N	US Bureau of Customs and Border Protection.	180.205	To authorize the transportation in commerce of certain cylinders that are past their test date for requalification.
21440-N	Victoria Police	175.75(b)	To authorize the transportation in commerce of a Division 6.1 hazardous material in the cabin of a passenger-carrying aircraft.

SPECIAL PERMITS DATA—Denied

21262-N	The Chemours Company FC LLC.	173.301(f)(2), 177.840(a)(1)	To authorize the transportation in commerce of certain Division 2.1 gases in cylinders without the pressure relief device (PRD) being in communication with the vapor space.
21378-N	Rawhide Leasing Company LLC.	.....	To authorize the requalification of 3A, 3AA, 3AX, 3AAx and 3T cylinders by proof pressure testing in accordance with CGA Pamphlet C-1 in lieu of hydrostatic or direct expansion testing.
21387-N	Cobham Mission Systems Orchard Park Inc.	173.302a	To authorize the manufacture, mark, sale, and use of full wrapped fiber reinforced aluminum 6061-T6 lined cylinder meeting the ISO Standard 11119-2 except as specified herein.
21402-N	Daniels SharpSmart, Inc	173.196(a)	To authorize the transportation in commerce of infectious substances affecting humans in alternative packaging.
21430-N	Desert Air Transport, Inc	172.101(j), 173.243, 173.27	To authorize the transportation in commerce of certain Class 3 fuels in non-DOT specification bulk packaging aboard cargo-only aircraft.

SPECIAL PERMITS DATA—Withdrawn

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[FR Doc. 2022-22483 Filed 10-14-22; 8:45 am]
 BILLING CODE 4909-60-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation’s Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety

has received the application described herein.

DATES: Comments must be received on or before November 16, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the “Nature of Application” portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 6, 2022.

Donald P. Burger,
Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21442-N	Cornerstone Architectural Products LLC.	172.200, 172.300, 172.400, 172.700(a), 173.185(b), 173.185(f).	To authorize the manufacture, mark, sale, and use of alternative packaging for the transportation of lithium batteries, including damaged, defective, and recalled lithium batteries, using alternative hazard communication. (modes 1, 2).
21443-N	Blue Canyon Technologies LLC.	173.301(a)	To authorize the transportation in commerce of non-DOT specification heat pipes containing anhydrous ammonia. (mode 1).
21447-N	Subctech GmbH	172.101(j), 173.185(a)(1), 173.185(e)(3).	To authorize the transportation in commerce of prototype lithium batteries exceeding 35 kg by cargo-only aircraft. (mode 4).
21448-N	ExxonMobil Chemical Company.	180.605(h)(3)	To authorize the transportation in commerce of portable tanks that have been pneumatically tested with nitrogen in lieu of hydrostatically tested with water. (modes 1, 3).
21455-N	Huntington Ingalls Incorporated.	172.102	To authorize the transportation in commerce of radiation detectors that have not had a leak tightness test performed in accordance with special provision 238. (mode 1).
21457-N	Astra Space Operations, Inc ...	173.302a(a)(1)	To authorize the transportation in commerce of non-DOT specification cylinders incorporated into a propellant management system within a satellite. (modes 1, 2, 3, 4).
21458-N	Astra Space Operations, Inc ...	173.302a(a)(1)	To authorize the transportation in commerce of non-DOT specification cylinders incorporated into a propellant management system within a satellite. (modes 1, 2, 3, 4).

[FR Doc. 2022-22482 Filed 10-14-22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification of Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety

has received the application described herein.

DATES: Comments must be received on or before November 1, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 6, 2022.

Donald P. Burger,
Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA			
14227-M	Aluminum Tank Industries, Inc.	177.834(h), 178.700(c)(1)	To modify the special permit to authorize an additional use of the packaging. (mode 1)
20418-M	Hanwha Cimarron LLC	173.302(a)	To modify the special permit to remove the 49 CFR Part 451 requirement in paragraph 7.d.(3). (modes 1, 2, 3)
20482-M	Solid Power Operating, Inc ...	173.35(e)	To modify the special permit to exempt the grantee from 4.1.1.7.1 of the IMDG Code. (mode 3)
20907-M	Versum Materials US, LLC ...	171.23(a)(1), 171.23(a)(3)	To modify the special permit to remove the limitation on the number of cylinders imported per month or to increase the number of cylinders imported per month to 250. (modes 1, 3)

[FR Doc. 2022–22481 Filed 10–14–22; 8:45 am]

BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2022–0096]

Enhancing the Safety of Vulnerable Road Users at Intersections; Request for Information; Extension of Comment Period

AGENCY: Department of Transportation (DOT).

ACTION: Notice; Request for information (RFI); extension of comment period.

SUMMARY: On September 16, 2022, the Office of the Assistant Secretary for Research and Technology (OST–R) of the Department of Transportation (DOT) published in the **Federal Register** a request for information seeking comments on improving the safety of pedestrians, bicyclists, and other vulnerable road users (VRUs) at roadway intersections. That request established a 30-day comment period closing on October 17, 2022. DOT is extending the public comment period until November 15, 2022.

DATES: The comment period for the notice published on September 16, 2022 (87 FR 57019) is extended. The due date for submitting comments is November 15, 2022.

ADDRESSES: Please submit any written comments to Docket Number DOT–OST–2022–0096 electronically through the Federal eRulemaking Portal at <https://regulations.gov>. Go to <https://regulations.gov> and select “Department of Transportation (DOT)” from the agency menu to submit or view public comments. Note that, except as provided below, all submissions received, including any personal information provided, will be posted without change and will be available to the public on <https://www.regulations.gov>. You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Timothy A. Klein, Director, Technology Policy and Outreach, Office of the Assistant Secretary for Research and Technology (202–366–0075) or by email at timothy.klein@dot.gov.

SUPPLEMENTARY INFORMATION: DOT published a request for information in the **Federal Register** on September 16, 2022 (87 FR 57019) seeking comments on improving the safety of pedestrians, bicyclists, and other vulnerable road

users (VRUs) at roadway intersections. The public comment period is extended to November 15, 2022. All other information in the notice from September 16, 2022 remains the same.

Issued in Washington, DC, on October 11, 2022.

Robert C. Hampshire,

Deputy Assistant Secretary for Research and Technology.

[FR Doc. 2022–22428 Filed 10–14–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Department of the Treasury.

ACTION: Notice of a Modified System of Records; correction.

SUMMARY: The Department of the Treasury published a document in the **Federal Register** of October 11, 2022, concerning a modified system of records for the Alcohol and Tobacco Tax and Trade Bureau. The document did not contain its related *Regulations.gov* docket number for the submission of comments.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, telephone 202–453–1039, ext. 135.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 11, 2022, in FR Doc 2022–21938, on page 61435, in the second column, in the **ADDRESSES** paragraph, correct the second sentence to read:

You may submit comments electronically via the *Regulations.gov* website at <https://www.regulations.gov>, using the comment form posted for this document within Docket No. TTB–2022–0010.

Dated: October 11, 2022.

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2022–22443 Filed 10–14–22; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before December 16, 2022 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Christopher Dove by emailing Christopher.Dove@treasury.gov, calling (202) 927–0374, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Troubled Asset Relief Program—Making Home Affordable Participants.

OMB Control Number: 1505–0216.

Type of Review: Extension without change of a currently approved collection.

Description: Authorized under the Emergency Economic Stabilization Act (EESA) of 2008 (Pub. L. 110–343), the Department of the Treasury has implemented several aspects of the Troubled Asset Relief Program (TARP). Among these components was a voluntary foreclosure prevention program—the Making Home Affordable (MHA) program, under which the Department used TARP capital to lower the mortgage payments of qualifying borrowers. The Treasury did this through agreements with mortgage servicers (Servicer Participation Agreements, or SPAs) to modify loans on their systems. Pursuant to the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), the MHA program terminated on December 31, 2016,

except with respect to certain loan modification applications made before such date. The MHA program has several subcomponents: HAMP (Home Affordable Modification Program), 2MP (Second Lien Modification Program), HAFA (Home Affordable Foreclosure Alternatives) and FHA (Federal Housing Administration)/RD (Rural Development) HAMP. Though the MHA program has terminated, there is some data reporting that will continue through December 2023 for incentive payment and compliance purposes.

Form Number: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 140.

Frequency of Response: On occasion.
Estimated Total Number of Annual Responses: 1,680.

Estimated Time per Response: 28.5 hours.

Estimated Total Annual Burden Hours: 47,880.

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.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022-22432 Filed 10-14-22; 8:45 am]

BILLING CODE 4810-AK-P



FEDERAL REGISTER

Vol. 87

Monday,

No. 199

October 17, 2022

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 226

Endangered and Threatened Species; Designation of Critical Habitat for the Nassau Grouper; Proposed Rule

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 223 and 226**

[Docket No. 221005–0211]

RIN 0648–BL53

Endangered and Threatened Species; Designation of Critical Habitat for the Nassau Grouper

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

ACTION: Proposed rule; request for comments.

SUMMARY: We, NMFS, propose to designate critical habitat for the threatened Nassau grouper pursuant to section 4 of the Endangered Species Act (ESA). Specific occupied areas proposed for designation as critical habitat contain approximately 2,353.19 sq. kilometers (908.57 sq. miles) of aquatic habitat located in waters off the coasts of southeastern Florida, Puerto Rico, Navassa, and the United States Virgin Islands (USVI). We have considered positive and negative economic, national security, and other relevant impacts of the proposed critical habitat.

We are soliciting comments from the public on all aspects of the proposal, including our identification and consideration of impacts of the proposed action.

DATES: Written comments and information must be received by December 16, 2022.

Public hearing meetings: If requested, we will hold at least one public hearing on this proposed rule.

ADDRESSES: You may submit data, information, and comments on this document identified by NOAA–NMFS–2022–0073, as well as the supporting documents, by the following methods:

- *Electronic Submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA–NMFS–2022–0073. Click on the “Comment” icon and complete the required fields. Enter or attach your comments.

- *Mail:* Submit written comments to Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method or received after the end of the specified period may not be considered. All comments received are

a part of the public record and generally will be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe portable electronic file (PDF) formats only. The petition and previous rulemaking documents related to the listing of the species can be obtained electronically on our website at: <https://www.fisheries.noaa.gov/species/nassau-grouper#conservation-management>. The Endangered Species Act Critical Habitat Report that was prepared to support the development of this proposed rule is available on www.regulations.gov (enter NOAA–NMFS–2022–0073) for public review and comment.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, Patrick.Opay@noaa.gov, 727–551–5789.

SUPPLEMENTARY INFORMATION:**Background**

Section 3(5)(A) of the ESA defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary of Commerce (Secretary) that such areas are essential for the conservation of the species. (16 U.S.C. 1532(5)(A)). Conservation is defined in section 3(3) of the ESA as the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary (16 U.S.C. 1532(3)). Section 3(5)(C) of the ESA provides that, except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.

Section 4(b)(2) of the ESA requires the Secretary to designate critical habitat for threatened and endangered species under the jurisdiction of the Secretary on the basis of the best scientific data available and after taking into

consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. This section also grants the Secretary discretion to exclude any area from critical habitat if the secretary determines the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat. However, the Secretary may not exclude areas if such exclusion will result in the extinction of the species (16 U.S.C. 1533(b)(2)).

Once critical habitat is designated, section 7(a)(2) of the ESA requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify that habitat (16 U.S.C. 1536(a)(2)). This requirement is in addition to the section 7(a)(2) requirement that Federal agencies ensure their actions are not likely to jeopardize the continued existence of ESA-listed species. Specifying the geographic area identified as critical habitat also facilitates implementation of section 7(a)(1) of the ESA by identifying areas where Federal agencies can focus their conservation programs and use their authorities to further the purposes of the ESA. See 16 U.S.C. 1536(a)(1). The ESA section 7 consultation requirements do not apply to citizens engaged in actions on private land that do not involve a Federal agency, for example, if a private landowner is undertaking an action that does not require a Federal permit or is not federally-funded.

This proposed rule summarizes relevant information regarding the biology and habitat use of Nassau grouper, the methods used to develop the proposed critical habitat designations, and the proposed critical habitat. The following supporting documents provide more detailed discussions of information and analyses that contributed to the conclusions presented in this proposed rule: Nassau Grouper Biological Report (Hill and Sadovy de Mitcheson, 2013), Endangered Species Act Critical Habitat Report (NMFS, 2022). These supporting documents are referenced throughout this proposed rule and are available for review (see **ADDRESSES**).

On July 5, 2022, the United States District Court for the Northern District of California issued an order vacating regulations, promulgated in 2019, that adopted changes to 50 CFR part 424 (84 FR 45020, August 27, 2019) (the 2019 rule). Among other things, the 2019 rule made changes to the definition of “physical or biological features” (50 CFR 424.02) and the criteria for designating specific areas outside the

geographical area occupied by the species as critical habitat (50 CFR 424.12(b)(2)). On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5th order. As a result, the 2019 rule is once again in effect, and we are applying the 2019 regulations here. For purposes of this determination, we considered whether the analysis or its conclusions would be any different under the pre-2019 regulations. We have determined that our analysis and conclusions presented here would not be any different.

As detailed in the sections that follow, the specific occupied areas proposed for designation as critical habitat for the Nassau grouper contain approximately 2,352.27 sq. kilometers (908.22 sq. miles) of marine habitat within the western North Atlantic Ocean, including two sites used for spawning.

Species Description

Nassau grouper, *Epinephelus striatus* (Bloch 1792), are long-lived, moderate sized fish (family Epinephelidae) with large eyes and a robust body. Their coloration is generally buff, with distinguishing markings of five dark brown vertical bars, a large black saddle blotch on the caudal peduncle (*i.e.*, the tapered region behind the dorsal and anal fins where the caudal fin attaches to the body), and a row of black spots below and behind each eye. Juveniles exhibit a color pattern similar to adults (*e.g.*, Silva Lee, 1977). Individuals reach sexual maturity between 4 and 8 years (Sadovy and Colin, 1995; Sadovy and Eklund, 1999). Nassau grouper undergo ontogenetic shifts in habitat utilization: larvae settle in nearshore habitats and then as juveniles move to nearshore patch reefs (Eggleston, 1995), and eventually recruit to deeper waters and reef habitats (Sadovy and Eklund, 1999). As adults, individuals are sedentary except for when they aggregate to spawn—the timing of which appears to be linked to both lunar cycles and water temperature (Kobara *et al.*, 2013). Maximum age has been estimated as 29 years, based on an ageing study using sagittal otoliths (Bush *et al.*, 2006). Maximum size is about 122 cm total length (TL) and maximum weight is about 25 kg (Heemstra and Randall, 1993).

Natural History and Habitat Use

The Nassau grouper, like most large marine reef fishes, demonstrates a bipartite life cycle with demersal adults and juveniles but pelagic eggs and larvae. It transitions through a series of ontogenetic shifts of both habitat and

diet from larval to adult stage. Adults are sedentary except for spawning periods. Reproduction is known only to occur during annual aggregations, in which large numbers of Nassau grouper, ranging from dozens to tens of thousands, collectively gather to spawn at predictable times and locations.

In the following sections, we describe the natural history of the Nassau grouper as it relates to habitat needs from the egg and larval stage to settlement into nearshore habitats followed by a progressive offshore movement with increasing size and maturation.

Egg and Larval Planktonic Stage

Fertilized eggs are pelagic, measure about 1 mm in diameter, and have a single oil droplet about 0.22 mm in diameter (Guitart-Manday and Juárez-Fernandez, 1966). Data from eggs produced in an aquarium (Guitart-Manday and Juárez-Fernandez, 1966) and artificially fertilized in the laboratory (Powell and Tucker, 1992; Colin, 1992) indicate spherical, buoyant eggs that hatch 23–40 hours following fertilization. Eggs of groupers that spawn at sea will require a salinity of about 30 parts per thousand (ppt) or higher for them to float, but slightly lower salinity can be tolerated even though the eggs sink (Tucker, 1999).

The pelagic larvae begin feeding on zooplankton approximately 2–4 days after hatching (Tucker and Woodward, 1994). Newly hatched larvae in the laboratory measured 1.8 mm notochord length and were slightly curved around the yolk sac (Powell and Tucker, 1992). Nassau grouper larvae are rarely reported from offshore waters (Leis, 1987) and little is known of their movements or distribution. The pelagic larval period has been reported to range from 37 to 45 days based on otolith analysis of newly settled juveniles in the Bahamas (Colin *et al.*, 1997) with a mean of 41.6 days calculated from net-caught samples (Colin, 1992; Colin *et al.*, 1997). Collections of pelagic larvae were made 0.8 to 16 km off Lee Stocking Island, Bahamas, at 2 to 50 m depths and from tidal channels leading onto the Exuma Bank (Greenwood, 1991). Larvae were widely dispersed or distributed in patches of various sizes (Greenwood, 1991). Larvae collected 10 days after back-calculated probable spawning date measure 6–10 mm standard length (SL) and attain a maximum size of 30 mm SL (Shenker *et al.*, 1993).

Larval Settlement

After spending about 40 days in the plankton, in the Bahamas, Nassau grouper larvae have been found to

recruit from the oceanic environment into demersal, bank habitats through tidal channels (Colin, 1992). This recruitment process can be brief and intense, and has been found to be associated with prevailing winds, currents, and lunar phase occurring in short pulses during highly limited periods each year (Shenker *et al.*, 1993). These late larvae-early juvenile Nassau grouper (18–30 mm TL) were collected with plankton nets as they moved inshore from pelagic environments to shallower nursery habitats (Shenker *et al.*, 1993). The link between spawning and settlement sites is not understood.

Most of what is known about the earliest cryptic life stages is known from research in the Bahamas where recently settled Nassau grouper were found to be on average 32 mm TL when they recruit into the nearshore habitat and settle out of the plankton (Eggleston, 1995). Newly settled or post-settlement fish found by Eggleston (1995) ranged in size from 25–35 mm TL and were patchily distributed at 2–3 m depth in substrates characterized by numerous sponges and stony corals with some holes and ledges residing exclusively within coral clumps (*e.g.*, *Porites* spp.) covered by masses of macroalgae (primarily the red alga *Laurencia* spp.). Stony corals provided attachment sites for red algae since direct holdfast attachment was probably inhibited by heavy layers of coarse calcareous sand. This algal and coral matrix also supported high densities and a diverse group of xanthid crabs, hippolytid shrimp, bivalve, gastropods and other small potential prey items. In the USVI, Beets and Hixon (1994) observed groupers on a series of nearshore artificial reefs constructed of cement blocks with small and large openings and found the smallest Nassau groupers (30.0–80.0 mm TL) were closely associated with the substrate, usually in small burrows under the concrete blocks. Growth during this period was about 10 mm/month (Eggleston, 1995).

Juveniles

After settlement, Nassau grouper grow through three juvenile stages, defined by size, as they progressively move from nearshore areas adjacent to the coastline to shallow hardbottom areas that include seagrass habitat. The size ranges for the three juveniles stages, which we discuss in more detail below, are approximations and are not always collected the same way between studies. Juvenile Nassau grouper reside within these nearshore hardbottom areas for about the next 1 to 2 years, where they are found associated with structure in areas intermediate between the

nearshore and offshore reefs in both seagrass (Eggleston, 1995; Camp *et al.*, 2013; Claydon and Kroetz, 2008; Claydon *et al.*, 2009, 2010; Green, 2017) and hardbottom areas (Bardach, 1958; Beets and Hixon, 1994; Eggleston, 1995; Camp *et al.*, 2013; Green, 2017). Juvenile Nassau grouper leave these refuges to forage and when they transition to new habitats (Eggleston, 1995; Eggleston *et al.*, 1998).

Newly Settled (Post-Settlement) Juveniles (~2.5–5 cm TL)

Most of what is known about the earliest demersal life stages of Nassau grouper comes from a series of studies conducted from 1987–1994 near Lee Stocking Island in the Exuma Cays, Bahamas as reported by Eggleston (1995). These surveys and experiments in mangrove-lined lagoons and tidal creeks (1–4 m deep), seagrass beds, and sand or patch reef habitats helped identify the Nassau grouper's early life ontogenetic (*i.e.*, developmental) habitat changes. Benthic habitat of newly settled Nassau grouper (mean = 31.7 mm TL, standard deviation (SD) = 2.9, n = 31) was described as exclusively within coral clumps (*e.g.*, *Porites* spp.) covered by masses of macroalgae (primarily the red alga *Laurencia* spp.). These macroalgal clumps were patchily distributed at 2 to 3 m depths in substrate characterized by numerous sponges and stony corals, with some holes and ledges. The stony corals (primarily *Porites* spp.) provided attachment sites for red algae since direct holdfast attachment was probably inhibited by heavy layers of coarse calcareous sand and minor amounts of silt and detritus. The open lattice of the algal-covered coral clumps provided cover and prey and facilitated the movement of individuals within the interstices of the clumps (Eggleston 1995). Post-settlement Nassau grouper were either solitary or aggregated within isolated coral clumps. Density of the post-settlement fish was greatest in areas with both algal cover and physical structure (Eggleston, 1995). A concurrent survey of the adjacent seagrass beds found abundance of nearly settled Nassau grouper was substantially higher in *Laurencia* spp. habitats than in neighboring seagrass (Eggleston, 1995).

Eggleston (1995) found the functional relationship between percent algal cover and post-settlement density was linear and positive compared to other habitat characteristics such as algal displacement volume, and the numbers of holes, ledges, and corals. Recently-settled Nassau grouper have also been collected from tilefish, *Malacanthus*

plumieri, rubble mounds, with as many as three fish together (Colin *et al.*, 1997). They have been reported as associated with discarded queen conch, *Strombus gigas*, shells and other debris within *Thalassia* beds (Claydon *et al.*, 2009, 2010) in the Turks and Caicos Islands, although the exact fish sizes observed are not clear. Post-settlement survival in macroalgal habitats is higher than in seagrass beds, showing a likely adaptive advantage for the demonstrated habitat selection (Dahlgren and Eggleston, 2000). Nassau grouper remain in the shallow nearshore habitat for about 3 to 5 months following settlement and grow at about 10 mm/month (Randall, 1983; Eggleston, 1995).

Early Juveniles (~4.5–15 cm TL)

Band transects performed near Lee Stocking Island, Bahamas, 4–5 months after the settlement period (June 1991–93) found that early juveniles (mean = 8.5 cm TL, SD = 11.7, n = 65) demonstrated a subtle change in microhabitat; 88 percent were solitary within or adjacent to algal-covered coral clumps (Eggleston, 1991). As the early juveniles grew, reef habitats, including solution holes and ledges, took on comparatively greater importance as habitats (Eggleston, 1991). Low habitat complexity was associated with increase predation rates and lower the survival of recruits (Dahlgren and Eggleston, 2000).

Early juveniles in the Bahamas have a disproportionately high association with the macroalgae *Laurencia* spp. and other microhabitats (*e.g.*, seagrass, corals) used according to availability (Dahlgren and Eggleston, 2001). Reports from Mona Island, Puerto Rico (Aguilar-Perera *et al.*, 2006) found early juveniles (60–120 mm TL) at the edge of a seagrass patch, under rocks surrounded by seagrass, in a tire, and in a dissolution hole in shallow bedrock.

A conspicuous change in habitat occurs about 4–5 months post-settlement when Nassau grouper move from nearshore macroalgae to adjacent patch reefs located within either seagrass or intermediate hardbottom areas. In the Bahamas, early juvenile Nassau grouper (12–15 cm TL) exhibited an ontogenetic movement from macroalgal clumps to patch reef habitats in the late summer and early fall after settlement in the winter as demonstrated by a significant decrease in the macroalgal habitat and concomitant increase in the seagrass meadows (Eggleston, 1995). Similarly in the Turks and Caicos, 87 percent of early juvenile Nassau grouper (identified as less than 12 cm TL, n = 181) were found in seagrass and 10 percent were found in rock or rubble

habitat (Claydon and Kroetz, 2008). Within the Turks and Caicos seagrass habitat, 44 percent of the early juveniles were found in discarded conch shells and 33 percent were found along blowout ledges (Claydon and Kroetz, 2008) and individuals were rarely seen in open areas, instead they were usually seen in close proximity to a structure or sheltering within structure (*i.e.*, discarded conch shell or blowout ledge). Density of Nassau grouper (>12 cm TL) was found to increase when discarded conch shells were placed in seagrass habitat (Claydon *et al.*, 2009) perhaps due to reduced mortality as the structure limited access of larger predators (Claydon *et al.*, 2010).

On shallow constructed block reefs in the USVI, newly settled and early juveniles (3–8 cm TL) occupied small separate burrows beneath the reef while larger juveniles occupied holes in the reefs (Beets and Hixon, 1994).

Juvenile fish are vulnerable to predation (large fish, eels, other groupers and sharks) and utilize refuges to protect themselves (Beets and Hixon, 1994; Eggleston 1995; Claydon and Kroetz, 2008) and to forage for crustaceans (Eggleston *et al.*, 1998; Claydon and Kroetz, 2008). Juveniles often associate with refuges proportional to their body size (Beets and Hixon, 1994) and seek new shelter as they grow (Eggleston, 1995). Suitable refuges may protect juveniles from predation, but juveniles leave their refuges to forage for food and during ontogenetic shifts in habitat (Eggleston, 1995).

Late Juveniles (~15–50 cm TL)

Camp *et al.* (2013) conducted a broad-scale survey in the shallow nearshore lagoons of Little Cayman and found Nassau grouper (12–26 cm TL) on hardbottom areas more frequently than other more available habitats (sand, seagrass and algae). Eighty-two percent of juvenile Nassau grouper (mean = 18.4 cm TL, SD = 3.4, n = 142) were found at depths from 1.0–2.3 m in hardbottom habitat that provided crevices, holes, ledges and other shelter, with 10–66 percent of the holes with grouper also containing one or more cleaning organisms (*i.e.*, banded coral shrimp, *Elacatinus* gobies, and bluehead wrasse, *Thalassoma bifasciatum*). A small percentage of Nassau grouper (3 percent) were found in other habitat sheltered in holes (*i.e.*, concrete blocks or conch shells). Overall, the vast majority of juvenile Nassau grouper were associated with some form of shelter that should help them avoid predators, suggesting that shelter

represents a primary determinant of microhabitat use (Camp *et al.*, 2013).

As late juveniles, Nassau grouper may occupy seagrass habitats for food and protection from predators (Claydon and Kroetz, 2008); they forage for crustaceans in seagrass beds (Eggleston *et al.*, 1998) and use structures such as macroalgae and hardbottom substrate as refuge (Eggleston, 1995; Camp *et al.*, 2013). In a survey of seagrass bays in the USVI, Green (2017) found juvenile Nassau grouper ($n = 46$, 6–30 cm TL) more abundant with taller canopy and less dense native seagrass compared to higher density and low canopy height; differences in abundance were attributed to the higher canopy providing better cover from predators (Beets and Hixon, 1994). Tall seagrass also increases hiding places for their prey (Eggleston, 1995) and the less dense seagrass habitats permitted better movement by Nassau grouper to forage (Green, 2017).

Juvenile Nassau grouper also rely on hardbottom structure for providing prey. Nassau grouper residing on patch reefs are capable of short bursts of speed that allow them to ambush crabs located up to 7 m away from a patch reef and return to a reef within 5 seconds (D. Eggleston Pers. Comm. as cited in Eggleston *et al.*, 1999). Structure in these areas can be natural or artificial and include crevices, holes, ledges, and other shelters. Suitable refuges provide cover for juvenile Nassau grouper with crevices proportionate to their body size (Beets and Hixon, 1994).

As juveniles grow, they move progressively to deeper banks and offshore reefs (Tucker *et al.*, 1993; Colin *et al.* 1997). In Bermuda, Bardach (1958) noted that few small Nassau grouper (less than 4 inches or 10 cm TL) were found on outer reefs and few mature fish were found on inshore reefs; weight of mature individuals trapped in the deep areas was about double that taken in the shallow areas. While there can be an overlap of adults and juveniles in hardbottom habitat areas, a general size segregation with depth occurs with smaller fish in shallow inshore waters (3 to 17 m) and larger individuals more common on deeper (18 to 55 m) offshore banks (Bardach *et al.*, 1958; Cervigón, 1966; Silva Lee, 1974; Radakov *et al.*, 1975; Thompson and Munro, 1978).

Adults

Both male and female Nassau grouper typically mature between 40 and 45 cm SL (44 and 50 cm TL), with most individuals attaining sexual maturity by about 50 cm SL (55 cm TL) and about 4–5 years of age (see Table 1 and additional details in Hill and Sadovy de

Mitchenson, 2013) with most fish spawning by age 7+ years (Bush *et al.*, 2006).

Adults are found near shallow, high-relief coral reefs and rocky bottoms to a depth of at least 90 m (Bannerot, 1984; Heemstra and Randall, 1993). Report from fishing activities in the Leeward Islands show that although Nassau grouper was fished to 130 m, the greatest trap catches were from 52–60 m (Brownell and Rainey, 1971). In Venezuela, Nassau grouper were cited as common to 40 m in the Archipelago Los Roques (Cervigón, 1966). Nassau groupers tagged with depth sensors in Belize exhibited marked changes in depth at specific times throughout the year: 15–34 m range from May through December, followed by movement to very deep areas averaging 72 m with a maximum of 255 m for a few months during spawning periods, then returning to depths of about 20 m in April (Starr *et al.*, 2007).

Adults lead solitary lives outside of spawning periods and tend to be secretive, often seeking shelter in reef crevices, ledges, and caves, rarely venturing far from cover (Bardach, 1958; Starck and Davis, 1966; Bohlke and Chaplin, 1968; Smith, 1961, 1971; Carter, 1988, 1989). Although they tend to be solitary, individuals will crowd peacefully in caves or fish traps with some proclivity to re-enter fish traps resulting in multiple recaptures (Randall, 1962; Sadovy and Eklund, 1999; Bolden, 2001). Nassau grouper have the ability to home (Bardach *et al.*, 1958; Bolden, 2000) and remain within a highly circumscribed area for extended periods (Randall, 1962 1963; Carter *et al.*, 1994; Bolden, 2001). In the Florida Keys, adult Nassau grouper ($n=12$) were found more often in high- and moderate-relief habitats compared to low-relief reefs (Sluka *et al.*, 1998). Habitat complexity has been found to influence home range of adult Nassau grouper with larger home ranges at less structurally-complex reefs (Bolden, 2001). Nassau grouper are diurnal or crepuscular in their movements (Collette and Talbot, 1972). Bolden (2001) investigated diel activity patterns via continuous acoustic telemetry and found Nassau groupers are more active diurnally and less active nocturnally with activity peaks at 1000 and 2000 hours.

Importance of Shelter

For many reef fishes, access to multiple quality habitats and microhabitats represents a critical factor determining settlement rates, post-settlement abundances, mortality rates, and growth rates because suitably sized

refuges provide protection from predators and access to appropriate food (Shulman, 1984; Hixon and Beets, 1989; Eggleston *et al.*, 1997, 1998; Grover *et al.*, 1998; Lindeman *et al.*, 2000; Dahlgren and Eggleston, 2000, 2001; Dahlgren and Marr, 2004; Eggleston *et al.*, 2004). Many adult reef fish and invertebrates use intermediate hardbottom areas as juveniles.

As Nassau grouper move from their nearshore settlement habitat, through intermediate hardbottom/seagrass habitats, to the offshore reefs they occupy as adults, shelter is an essential component that connects these habitats and provides cover. Availability of suitably sized shelters may be a key factor limiting successful settlement and survival for juvenile Nassau grouper and related species that settle and recruit to shallow, off-reef habitats (Hixon and Beets, 1989; Eggleston, 1995; Lindeman *et al.*, 2000; Dahlgren and Eggleston, 2001). In addition, shelters of different sizes may govern the timing and success of ontogenetic movements to adult habitats (Caddy, 1986; Moran and Reaka, 1988; Eggleston, 1995). Camp *et al.* (2013) found juvenile Nassau grouper use shelters of varying sizes and degrees of complexity. Suitably-sized refuge from predators is expected to be a key characteristic supporting the survival and growth of juvenile Nassau grouper and other species, with access to food resources likely representing another key, and sometimes opposing, characteristic (Shulman, 1984; Hixon and Beets, 1989; Eggleston *et al.*, 1997, 1998; Grover *et al.*, 1998; Dahlgren and Eggleston, 2001). The transition to these new habitats, however, heightens predation risk if habitats are far apart (Sogard, 1997; Tupper and Boutilier, 1997; Almany and Webster, 2006) and there is minimal cover between them (Dahlgren and Eggleston, 2000; Caddy, 2008). Nassau grouper rely on shelter to safely move between these interconnected habitats. Benthic juvenile fish rely on complex structure to protect themselves from predation and the simplification of habitats can lead to declines in recruitment (Caddy, 2008). Stock replenishment is threatened by degradation of the habitats of successive life stages. Nassau grouper must often risk predation by crossing seascapes where cover connectivity is limited. Loss of cover therefore increases mortality, reduces foraging success, and affects other life-history activities.

Diet

In the planktonic stage, the yolk and oil in the egg sac nourish the early yolk-sac larva as it develops prior to

hatching. The pelagic larvae begin feeding on zooplankton approximately 2–4 days after hatching when a small mouth develops (Tucker and Woodward, 1994). In the laboratory, grouper larvae eat small rotifers, copepods, and mixed zooplankton, including brine shrimp (Tucker and Woodward, 1994). Diet information for newly settled Nassau grouper is based on visual observations indicating that young fish (20.2–27.2 mm SL) feed on a variety of plankton, including pteropods, ostracods, amphipods, and copepods (Greenwood, 1991; Grover *et al.*, 1998). A similar invertebrate diet has been described for recently settled and post-settlement stage (25–35 mm TL) Nassau grouper in the Bahamas that live within the macroalgae and seagrass blades and forage for xanthid crabs, hippolytid shrimp, bivalves, and gastropods (Eggleston, 1995).

More detailed diet information is available for juveniles and adults. Stomach contents of juvenile Nassau grouper (5–19 cm TL) collected from seagrass beds near Panama contained primarily porcellanid and xanthid crabs with minor amounts of fish (Heck and Weinstein, 1989). Four dominant prey were ingested by small (<20 cm TL) Nassau grouper in the Bahamas: stomatopods, palaemonid shrimp, and spider and portunid crabs (Eggleston *et al.*, 1998). Fish and spider crabs made up the bulk of the diet for both mid-size (20.0 cm–29.9 cm TL) and large (≤30 cm TL) Nassau grouper in opposite proportion: spider crabs dominated the diet of the mid-size fish while fish were the most important prey for large Nassau grouper (Eggleston *et al.*, 1998). Juveniles generally engulfed their prey whole (Eggleston *et al.* 1998). Smaller juveniles ate greater numbers of prey than larger grouper, but the individual prey items ingested by larger grouper weighed more (Eggleston *et al.*, 1998). Similar ontogenetic changes in the Nassau grouper diet were reported by Randall (1965) and Eggleston *et al.* (1998) who analyzed stomach contents and determined that juveniles fed mostly on crustaceans, while adults foraged mainly on fishes.

As adults, Nassau grouper are unspecialized-ambush-suction predators (Randall, 1965; Thompson and Munro, 1978) that lie under shelter, wait for prey, and then quickly expand their gill covers to create a current to engulf prey by suction (Thompson and Munro, 1978; Carter, 1986) and swallow their prey whole (Werner, 1974, 1977). Numerous studies describe adult Nassau groupers as piscivores, with their diet dominated by reef fishes: parrotfish (Scaridae), wrasses (Labridae),

damsel-fishes (Pomacentridae), squirrelfishes (Holocentridae), snappers (Lutjanidae), groupers (Epinephelidae) and grunts (Haemulidae) (Randall and Brock, 1960; Randall, 1965, 1967; Parrish, 1987; Carter *et al.*, 1994; Eggleston *et al.*, 1998). The propensity for adult Nassau grouper to consume primarily fish (Randall, 1965; Eggleston *et al.*, 1998) may be due to increased visual perception and swimming-burst speed with increasing body size (*e.g.*, Kao *et al.*, 1985; Ryer, 1988). Large Nassau grouper are probably foraging on reef-fish prey that are either associated with a reef (Eggleston *et al.*, 1997) or adjacent seagrass meadows. In general, groupers have been characterized from gut content studies as generalist opportunistic carnivores that forage throughout the day (Randall, 1965, 1967; Goldman and Talbot, 1976; Parrish, 1987) perhaps being more active near dawn and dusk (Parrish, 1987; Carter *et al.*, 1994). Comparison of Nassau grouper stomach contents from natural and artificial reefs were found to be generally similar (Eggleston *et al.*, 1999). While Smith and Tyler (1972) classified Nassau grouper as nocturnally active residents, Randall (1967) investigated Nassau grouper gut contents and determined that feeding can take place around the clock although most fresh food is found in stomachs collected in the early morning and at dusk. Silva Lee (1974) reported Nassau grouper with empty stomachs throughout daylight hours.

Spawning

The most recognized Nassau grouper habitats are the sites where adult males and females assemble briefly at predictable times during winter full moons for the sole purpose of reproduction. These spawning aggregation sites are occupied by Nassau grouper during winter full moon periods, from about November and perhaps extending to May (USVI) (Nemeth *et al.*, 2006). Aggregations consist of hundreds, thousands, or, historically, tens of thousands of individuals. Some aggregations have consistently formed at the same locations for 90 years or more (see references in Hill and Sadovy de Mitcheson 2013). All known reproductive activity for Nassau grouper occurs in aggregations; pair spawning has not been observed. About 50 spawning aggregation sites have been recorded, mostly from insular areas in the Bahamas, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cuba, Honduras, Jamaica, Mexico, Puerto Rico, Turks and Caicos, and the USVI; however, many of these may no longer

form (Figure 10 in Hill and Sadovy de Mitcheson, 2013). While both the size and number of spawning aggregations has diminished, spawning is still occurring in some locations (NMFS, 2013).

Spawning aggregation sites typically occur near the edge of insular platforms in a wide (6–50 m) depth range, as little as 350 m from the shore, and close to a drop-off into deep water. Sites are characteristically small, highly circumscribed areas, measuring several hundred meters in diameter, with a diversity of bottom types: soft corals, sponges, stony coral outcrops, and sandy depressions (Craig, 1966; Smith 1990; Beets and Friedlander, 1992; Colin, 1992; Aguilar-Perera, 1994).

Fidelity at one aggregation site (Grammanik Bank, USVI) has been investigated (Bernard *et al.*, 2016) revealing some adults will return to the same location across years. Adults are known to travel hundreds of kilometers (Bolden, 2000) to gather at specific locations to spawn. While aggregated, the Nassau grouper are extremely vulnerable to overfishing (Sadovy de Mitcheson *et al.*, 2008).

It is not known how Nassau grouper select and locate aggregation sites or why they aggregate to spawn. Variables that are considered to influence spawning site suitability include geomorphological characteristics of the seabed, hydrodynamics including current speed and prevailing direction of flow to disperse eggs and larvae, seawater temperature, and proximity to suitable benthic habitats for settlement. The link between spawning sites and settlement sites is not well understood. The geomorphology of spawning sites has led researchers to assume that offshore transport was a desirable property of selected sites. However, currents in the vicinity of aggregation sites do not necessarily favor offshore egg transport, leaving open the possibility that some stocks are at least partially self-recruiting. Additional research is needed to understand these spatial dynamics.

The biological cues known to be associated with Nassau grouper spawning include photoperiod (*i.e.*, length of day), water temperature, and lunar phase (Colin, 1992). The timing and synchronization of spawning may be to accommodate immigration of widely dispersed adults, facilitate egg dispersal, or reduce predation on adults or eggs.

Movement

“Spawning runs,” or movements of adult Nassau grouper from coral reefs to spawning aggregation sites, were first

described in Cuba in 1884 by Vilaro Diaz, and later by Guitart-Manday and Juarez-Fernandez (1966). Nassau grouper migrate to aggregation sites in groups numbering between 25 and 500, moving parallel to the coast or along shelf edges or even inshore reefs (Colin, 1992; Carter *et al.*, 1994; Aguilar-Perera and Aguilar-Davila, 1996; Nemeth *et al.*, 2009). Distance traveled by Nassau grouper to aggregation sites is highly variable; some fish move only a few kilometers, while others move up to several hundred kilometers (Colin, 1992; Carter *et al.*, 1994; Bolden, 2000). Observations suggest that individuals may return to their original home reef following spawning.

Larger fish are more likely to return to aggregation sites and spawn in successive months than smaller fish (Semmens *et al.*, 2007). Nassau grouper have been shown to have high site fidelity to an aggregation site with 80 percent of tagged Nassau grouper returning to the same aggregation site, Bajo de Sico, each year over the 2014–2016 tracking period in Puerto Rico (Tuohy *et al.*, 2016). The area occupied during spawning by Nassau grouper is smaller at Bajo de Sico compared to Grammanik Bank off St. Thomas. Acoustic detections of tagged Nassau grouper revealed a southwesterly movement from the Puerto Rican shelf to the Bajo de Sico in a narrow corridor (Tuohy *et al.*, 2017).

Activity and Behavior

Spawning occurs for up to 1.5 hours around sunset for several days (Whaylen *et al.*, 2007). At spawning aggregation sites, Nassau grouper tend to mill around for a day or two in a “staging area” adjacent to the core area where spawning activity later occurs (Colin, 1992; Kadison *et al.*, 2010; Nemeth, 2012). Courtship is indicated by two behaviors that occur late in the afternoon: “following” and “circling” (Colin, 1992). The aggregation then moves into deeper water shortly before spawning (Colin, 1992; Tucker *et al.*, 1993; Carter *et al.*, 1994). Progression from courtship to spawning may depend on aggregation size, but generally fish move up in the water column, with an increasing number exhibiting the bicolor phase (*i.e.*, when spawning animals change to solid dark and white colors, temporarily losing their characteristic stripes) (Colin, 1992; Carter *et al.*, 1994). Following the release of sperm and eggs, there is a rapid return of the fragmented subgroup to the bottom. All spawning events have been recorded within 20 minutes of sunset, with most within 10 minutes of sunset (Colin, 1992).

Repeated spawning occurs at the same site for up to three consecutive months generally around the full moon or between the full and new moons (Smith, 1971; Colin, 1992; Tucker *et al.*, 1993; Aguilar-Perera, 1994; Carter *et al.*, 1994; Tucker and Woodward, 1994). Examination of female reproductive tissue suggests multiple spawning events across several days at a single aggregation (Smith, 1972). A video recording shows a single female in repeated spawning rushes during a single night, repeatedly releasing eggs (Colin, 1992).

Spawning Aggregations in U.S. Waters

The best available information suggests that spawning in U.S. waters occurs at two sites that may be reconstituted or novel spawning sites in both Puerto Rico and the USVI (Hill and Sadovy de Mitcheson, 2013): Bajo de Sico in Puerto Rico (Scharer *et al.*, 2012) and Grammanik Bank in the USVI (Nemeth *et al.*, 2006). A spawning aggregation site historically existed on the eastern tip of Lang Bank, USVI that was extirpated in the early 1980s; however, we have insufficient information regarding its current value to Nassau grouper spawning and are seeking additional information through this proposed rule.

Bajo de Sico, Puerto Rico

Bajo de Sico, Puerto Rico is a submerged offshore seamount located in the Mona Passage off the insular platform of western Puerto Rico approximately 29 km west of Mayaguez (Scharer-Umpierre *et al.*, 2014). Reef bathymetry is characterized by a ridge of highly rugose rock promontories ranging in depths from 25 to 45 m, which rises from a mostly flat, gradually sloping shelf that extends to 100 m. Below this depth, the shelf ends in a vertical wall that reaches depths of 200–300 m to the southeast and over 1,000 m to the north (Tuohy *et al.*, 2015). Most of the shallow (<180 m depth) areas of this 11 km² seamount are located in the U.S. exclusive economic zone (EEZ). Bajo de Sico is considered mesophotic coral ecosystems due to the range of depths and coral/algae development. The area less than 50 m depth includes a reef top, vertical reef wall and rock promontories, colonized hardbottom with sand channels, uncolonized gravel, and substantial areas of rhodolith reef habitat (Garcia-Sais *et al.*, 2007).

In 1996, NMFS approved a 3-month seasonal fishing closure (December 1 through February 28) in Federal waters at Bajo de Sico to protect spawning aggregations of red hind (61 FR 64485, December 5, 1996), although the closure

also protects Nassau grouper spawning aggregations (Scharer *et al.*, 2012). During the closure period, all fishing was prohibited (61 FR 64485). A later rule prohibited the use of bottom-tending gear, including traps, pots, gillnets, trammel nets, and bottom longlines, in Bajo de Sico year-round (70 FR 62073, October 28, 2005). In 2010, NMFS approved a modification to the Bajo de Sico seasonal closure, extending the closure period to 6-months (October 1 through March 31), altering the restriction to prohibit fishing for and possessing Caribbean reef fish in or from Federal waters at Bajo de Sico during the closure period, and prohibiting anchoring by fishing vessels year-round in the area (75 FR 67247, November 2, 2010). The 2010 rule is still in place.

In February 2012, a Nassau grouper spawning aggregation was identified at Bajo de Sico when at least 60 individuals were observed via video and audio recordings exhibiting reproductive behaviors (Scharer *et al.*, 2012). While actual spawning was not observed on the 2012 video recordings, all four Nassau grouper spawning coloration patterns and phases (Smith, 1972; Colin, 1992; Archer *et al.*, 2012) were observed, including the bi-color phase associated with peak spawning times (Scharer *et al.*, 2012). Subsequent diver surveys conducted between January 25 to April 5, 2016, indicated between 5–107 individuals at the site, with the greatest number occurring in February (Scharer *et al.*, 2017). The highest detection rate from tags ($n = 29$) inserted into Nassau grouper occurred in February and March, with other detections in January and April, all peaking following the full moon (Scharer *et al.*, 2017). The depth range (40 to 155 m) being used by Nassau grouper at the Bajo de Sico exceeds other locations (Scharer *et al.*, 2017).

Grammanik Bank, USVI

Grammanik Bank, USVI is located approximately 4 km east of the Hind Bank Marine Conservation District (MCD), on the southern edge of the Puerto Rican Shelf. Grammanik Bank is a narrow deep coral reef bank (35–40 m) about 1.69 km long and 100 m wide at the widest point located on the shelf edge about 14 miles south of St. Thomas. It is bordered to the north by extensive mesophotic reef and to the south by a steep drop-off and a deep *Agaricea* reef at 200–220 ft (60–70 m) (Nemeth *et al.*, 2006; Scharer *et al.*, 2012). The benthic habitat is primarily composed of a mesophotic reef at depths between 30–60 m, which includes a combination of *Montastrea*

and *Orbicella* coral and hardbottom interspersed with gorgonians and sponges (Smith *et al.*, 2008). Corals are present on Grammanik Bank at depths between 35 and 40 m and the coral bank is bordered to the east and west by shallower (25 to 30 m) hardbottom ridges along the shelf edge sparsely colonized by corals, gorgonians and sponges (Nemeth *et al.*, 2006). When Hind Bank MCD was established in 1999 as the first no-take fishery reserve in the USVI to protect coral reef resources, reef fish stocks, including red hind (*E. guttatus*), and their habitats (64 FR 60132, November 4, 1999), fishing pressure is thought to have moved to the adjacent Grammanik Bank (Nemeth *et al.*, 2006). Fishing is prohibited for all species at Hind Bank MCD year-round. At Grammanik Bank, fishing is prohibited for all species, with an exception for highly migratory species, from February 1 to April 30 of each year to protect yellowfin grouper (*Mycteroperca venenosa*) when they aggregate to spawn (70 FR 62073, October 28, 2005; Scharer *et al.*, 2012).

Approximately 100 Nassau grouper were observed aggregating at the Grammanik Bank in 2004 between January and March (Nemeth *et al.*, 2006). This discovery marked the first documented appearance of a Nassau grouper spawning aggregation site within U.S. waters since the mid-1970s (Kadison *et al.*, 2009); however, commercial fishers were quick to target this new aggregation site and began to harvest both yellowfin and Nassau groupers (Nemeth *et al.*, 2006). In 2005, NMFS approved a measure developed by the Caribbean Fisheries Management Council (70 FR 62073, October 10, 2005) that closes the Grammanik Bank to fishing for all species, with an exception for highly migratory species, from February 1 through April 30 each year. Diver surveys and collection of fish in traps recorded 668 Nassau grouper at Grammanik Bank between 2004 and 2009 (Kadison *et al.*, 2010). The fish were of reproductive size and condition and arrived on and around the full moon in February, March, and April and then departed 10 to 12 days after the full moon. The number of Nassau grouper observed in diver visual surveys suggest that Nassau grouper spawning biomass has increased at the aggregation site from a maximum abundance of 30 individuals sighted per day in 2005, to 100 per day in 2009 (Kadison *et al.*, 2009). By 2013, a maximum abundance of 214 individuals was recorded per day (Scharer-Umpierre *et al.*, 2014). Since then the maximum number of Nassau grouper counted per day during

spawning periods has continued to increase, reaching over 500 in 2020, 750 in February 2021, and at least 800 in January 2022 (R. S. Nemeth, unpublished data). The behavior of Nassau grouper in the aggregation has also changed dramatically in the past few years. From 2004 to 2019, Nassau grouper were found aggregating in small groups of 10, 20, or maybe as high as 40 individuals, resting close to the bottom among the coral heads. Nassau grouper were also observed to swim down the slope to 60 to 80 m, presumably to spawn, to an extensive *Agaricia larmarki* reef that Nassau grouper also use for shelter (R.S. Nemeth, unpublished data). These deep movements were later verified with acoustic telemetry data, and Nassau grouper were suspected of spawning near this deep reef area. Since 2020, however, the Nassau grouper are now observed in groups of 100 to 300 fish aggregated 5 to 10 m above the bottom. On January 24, 2022 (7 days after full moon), researchers captured the first ever observation of Nassau grouper spawning at the Grammanik Bank at 17:40 and a second spawning rush at 18:10 (Nemeth Pers. Comm., February 13, 2022). Spawning occurred well above the bottom in 30 to 40 m depth. Vocalization by Nassau grouper has indicated that abundance and possibly inferred spawning of Nassau grouper peaked at Grammanik Bank after the full moons in January through May (Rowell *et al.*, 2013).

Nemeth *et al.* (2009) first reported synchronous movement of Nassau grouper during the spawning period between Hind Bank MCD and Grammanik Bank using acoustic telemetry. Both Nassau and yellowfin groupers primarily used two of three deep (50 m) parallel linear reefs that link Grammanik Bank with the Hind Bank MCD that lie in an east-west in orientation parallel to the shelf edge; the linear reef about 300 to 500 m north of the shelf edge was used mostly by Nassau grouper. Acoustic telemetry and bioacoustic recordings were later integrated by Rowell *et al.* (2015) to identify a synchronized pathway taken by pre- and post-spawning Nassau grouper to the Grammanik Bank spawning site from the nearby Hind Bank MCD. While not every Nassau grouper was found to use this spawning route, the majority (64 percent) of the tagged fish followed this specific route on a regular or often daily basis during the week when spawning was occurring at Grammanik Bank. Because 56 percent of the tagged Nassau grouper ($n = 10$) traversed between Hind Bank MCD and

Grammanik Bank during spawning, it was suggested by Nemeth *et al.* (2009) the boundary of the Grammanik Bank fishing closure area be expanded to the south, north and west to protect the moving fish.

It remains unknown whether the recovery of the Nassau grouper aggregation at Grammanik Bank is a result of: (1) Remnant adults from the nearby overfished aggregation site (the historical Grouper Bank, now located within the Red Hind Bank Marine Conservation District), shifting spawning locations to the Grammanik Bank, a distance of about 5 km (this scenario is supported by Heppel *et al.* (2013) who found that Nassau grouper visit multiple aggregation sites during the spawning season, yet all fish aggregate and spawn at a single location); (2) larvae dispersed from distant spawning aggregations elsewhere in the Eastern Caribbean that have settled on the St. Thomas/St. John shelf, matured, and migrated to Grammanik Bank spawning site (this is supported by Jackson *et al.* (2014) who found strong genetic mixing of Nassau grouper populations among Lesser and Greater Antilles, including Turks and Caicos; Bernard *et al.* (2015) also found that external recruitment is an important driver of the Grammanik Bank spawning aggregation recovery); and/or (3) self-recruitment by local reproduction from the remnant population.

Critical Habitat Identification

In the following sections, we describe the relevant definitions and requirements in the ESA and implementing regulations at 50 CFR part 424 and the key information and criteria used to prepare this proposed critical habitat designation. In accordance with section 4(b)(2) of the ESA, this proposed critical habitat designation is based on the best scientific data available and takes into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. Scientific data used to identify potential critical habitat includes the information contained in the biological report for the Nassau grouper (Hill and Sadovy de Mitcheson, 2013), the proposed and final rules to list the Nassau grouper under the ESA (79 FR 51929, September 2, 2014; 81 FR 42268, June 29, 2016), articles in peer-reviewed journals, other scientific reports and fishery management plans, and relevant Geographic Information System (GIS) data (e.g., shoreline data, U.S. maritime limits and boundaries data) for geographic area calculations and

mapping. To identify specific areas that may qualify as critical habitat for Nassau grouper, in accordance with 50 CFR 424.12(b), we included the following considerations in the process: Identifying the geographical area occupied by the species at the time of listing; identifying physical or biological habitat features essential to the conservation of the species; identifying the specific areas within the geographical area occupied by the species that contain one or more of the physical or biological features essential to the conservation of the species; determining which of these essential features may require special management considerations or protection; and identifying specific areas outside the geographical area occupied by the species that are essential for the species' conservation. Our evaluation and conclusions are described in detail in the following sections.

Geographical Area Occupied

The phrase "geographical areas occupied by the species," which appears in the statutory definition of critical habitat (16 U.S.C. 1532(5)(A)(i)), is defined by regulation as "an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals) (50 CFR 424.02).

Nassau grouper are found in tropical and subtropical waters of the western North Atlantic. The 2016 listing rule identified the distribution or range of the Nassau grouper as "Bermuda and Florida (USA), throughout the Bahamas and Caribbean Sea" (81 FR 42268, 42271; June 29, 2016) based on existing literature (*e.g.*, Heemstra and Randall, 1993). They generally live among shallow reefs, but can be found in depths to 426 feet (130 m). Many earlier reports of Nassau grouper up the Atlantic coast of Florida to North Carolina have not been confirmed (Hill and Sadovy de Mitcheson, 2013).

We investigated the distribution of Nassau grouper in the Gulf of Mexico. As summarized in the 2016 listing rule, Nassau grouper is generally replaced ecologically in the eastern Gulf of Mexico by red grouper (*E. morio*) in areas north of Key West or the Tortugas (Smith, 1971). Nassau grouper are considered a rare or transient species off Texas in the northwestern Gulf of Mexico (Gunter and Knapp, 1951 in

Hoese and Moore, 1998). The first confirmed sighting of Nassau grouper in the Flower Garden Banks National Marine Sanctuary (FGBNMS), which is located in the northwest Gulf of Mexico approximately 180 km southeast of Galveston, Texas, was reported by Foley *et al.* (2007). Since then, no additional Nassau grouper have been reported in the FGBNMS despite an extensive survey by remote operated vehicles (E. Hickerson, FGBNMS, personal communication, 2021). There are two records (1996 and 2006) of Nassau grouper in the Gulf of Mexico from the NMFS Southeast Area Monitoring and Assessment Program (SEAMAP) reef fish video (RFV) survey. This RFV survey of hardbottom habitats in the Gulf of Mexico has been conducted annually since 1992 (with the exception of 1998–2000 and 2020) at approximately 300 sites targeting snappers and groupers at mesophotic reefs out to the 200 m depth contour between the Florida Keys and Texas. Both sightings were presumed adult Nassau grouper and both occurred off the Florida west coast: one off the panhandle and one west of the Dry Tortugas (K. Rademacher, NMFS, personal communication 2021). We conclude from the paucity of these reports that the Nassau grouper does not regularly occur in the Gulf of Mexico.

Because we cannot designate critical habitat areas outside of U.S. jurisdiction (50 CFR 424.12(g)), the geographical area under consideration for this designation is limited to areas under the jurisdiction of the United States that Nassau grouper occupied at the time of listing. At the time of listing, the range of the Nassau grouper spanned the wider Caribbean, and specifically the east coast of Florida including the Florida Keys, Puerto Rico, and USVI in the United States.

Physical and Biological Features

The statutory definition of critical habitat refers to "physical or biological features essential to the conservation of the species," (16 U.S.C. 1532(3)), but the ESA does not specifically define or further describe these features. ESA implementing regulations at 50 CFR 424.02, however, define such features as follows:

The features that occur in specific areas and that are essential to support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics

that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

To assess habitat features that may qualify as "essential to the conservation" of Nassau grouper, we considered the physical and biological features that are essential to support the life history needs and are essential to the conservation of Nassau grouper within the areas they occupy within U.S. waters. Section 3 of the ESA defines the terms "conserve," "conserving," and "conservation" to mean: "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary." 16 U.S.C. 1532(3).

Because the reduction in the number of Nassau grouper through historical harvest and fishing at spawning aggregations was a major factor in the listing determination (81 FR 42286, June 26, 2016), Nassau grouper conservation clearly necessitates increasing the number of individuals, particularly the spawning population. Therefore, we have identified physical and biological features that support reproduction, recruitment, and growth as essential to conservation. For the Nassau grouper, critical habitat includes physical and biological features to support adult reproduction at the spawning aggregations, and settlement of larvae, and subsequent growth to maturity. These features are essential to the conservation of the species because long-term population recovery relies on successful recruitment and the existence of individuals across a broad size range. Nassau grouper populations are dependent on settlement of pelagic larvae to coastal locations and rely on a contiguous reef system to accommodate ontogenetic habitat shifts from inshore locations to nearshore patch reefs and hardbottom areas and subsequent movement into offshore reef habitats as the individuals mature. Both natural and artificial reefs are used. While in nursery habitats, juvenile grouper associate with a variety of microhabitats, including macroalgae, seagrass, empty conch shells, coral patches, sponges, rubble mounds produced by sand tilefish, *Malcanthus plumieri*, (Bloch 1786), artificial structures, and debris (Eggleston 1995; Colin *et al.* 1997; Eggleston *et al.* 1998; Aguilar-Perera *et al.* 2006; Claydon and Kroetz 2008; Claydon *et al.* 2009, 2011). Nassau grouper conservation requires habitat to support ontogenetic growth

from larval settlement in the nearshore to maturity, with appropriate inter-habitat connectivity to support ontogenetic movement from nearshore habitat used for larval settlement, to intermediate areas used by juveniles, and finally to offshore areas used by adults.

The following essential features have been identified:

1. Recruitment and developmental habitat. Areas from nearshore to offshore necessary for recruitment, development, and growth of Nassau grouper containing a variety of benthic types that provide cover from predators and habitat for prey, consisting of the following:

a. Nearshore shallow subtidal marine nursery areas with substrate that consists of unconsolidated calcareous medium to very coarse sediments (not fine sand) and shell and coral fragments and may also include cobble, boulders, whole corals and shells, or rubble mounds, to support larval settlement and provide shelter from predators during growth and habitat for prey.

b. Intermediate hardbottom and seagrass areas in close proximity to the nearshore shallow subtidal marine nursery areas that provide refuge and prey resources for juvenile fish. The areas include seagrass interspersed with areas of rubble, boulders, shell fragments, or other forms of cover; inshore patch and fore reefs that provide crevices and holes; or substrates interspersed with scattered sponges, octocorals, rock and macroalgal patches, or stony corals.

c. Offshore Linear and Patch Reefs in close proximity to intermediate hardbottom and seagrass areas that contain multiple benthic types, for example, coral reef, colonized hardbottom, sponge habitat, coral rubble, rocky outcrops, or ledges, to provide shelter from predation during maturation and habitat for prey.

d. Structures between the subtidal nearshore area and the intermediate hardbottom and seagrass area and the offshore reef area including overhangs, crevices, depressions, blowout ledges, holes, and other types of formations of varying sizes and complexity to support juveniles and adults as movement corridors that include temporary refuge that reduces predation risk as Nassau grouper move from nearshore to offshore habitats.

2. Spawning Habitat. Marine sites used for spawning and adjacent waters that support movement and staging associated with spawning.

Need for Special Management Considerations or Protection

Specific areas within the geographical area occupied by a species may be designated as critical habitat only if they contain essential features that “may require special management considerations or protection” (16 U.S.C. 1532(5)(A)(i)(II)). Special management considerations or protection are any “methods or procedures useful in protecting the physical or biological features essential to the conservation of listed species” (50 CFR 424.02). Only those essential features that may need special management considerations or protection are considered further.

The essential feature components that support settlement, development, refuge, and foraging (essential feature 1, components a through d) are particularly susceptible to impacts from human activity because of the relatively shallow water depth range where these features occur as well as their proximity to the coast. As a result, these features may be impacted by activities such as coastal and in-water construction, dredging and disposal activities, beach nourishment, stormwater run-off, wastewater and sewage outflow discharges, point and non-point source pollutant discharges, and fishing activities. Coastal and in-water construction, dredging and disposal, and beach nourishment activities can directly remove the essential feature that supports settlement, development, refuge, and foraging by dredging or by depositing sediments, making habitat unavailable. These same activities can impact the essential feature by creating turbidity during operations. Stormwater run-off, wastewater and sewage outflow discharges, and point and non-point source pollutant discharges can adversely impact the essential feature by allowing nutrients and sediments from point and non-point sources, including sewage, stormwater and agricultural runoff, river discharge, and groundwater, to alter the natural levels of nutrients or sediments in the water column, which could negatively impact the substrate characteristics or health (e.g., seagrass and corals). Further, the global oceans are being impacted by climate change from greenhouse gas emissions. The impacts from all these activities, combined with those from natural factors (e.g., major storm events) affect the habitat, including the components described for this essential feature. We conclude that this essential feature is currently and will likely continue to be negatively impacted by some or all of these factors.

The spawning aggregation sites essential feature (essential feature 2) is affected by activities that may make the sites unsuitable for reproductive activity, such as activities that inhibit fish movement to and from the sites or within the sites during the period the fish are expected to spawn, or create conditions that deter the fish from selecting the site for reproduction. Further, because the spawning aggregation sites are so discrete and rare and the species’ reproduction depends on their use of aggregation sites, the species is highly vulnerable at these locations and loss of an aggregation site could lead to significant population impacts.

Based on the above, we determined that the essential features may require special management considerations or protection.

Specific Areas Within the Geographic Area Occupied by the Species Containing the Essential Features

To determine what areas qualify as critical habitat within the geographical area occupied by the species, we are required to identify “specific areas” within the geographical area occupied by the species that contain the physical or biological features essential to the conservation of the species (50 CFR 424.12(b)(1)(iii)). Delineation of the specific areas is done “at a scale determined by the Secretary [of Commerce] to be appropriate” (50 CFR 424.12(b)(1)). Regulations at 50 CFR 424.12(c) also require that each critical habitat area be shown on a map. Because the ESA implementing regulations allow for discretion in determining the appropriate scale at which specific areas are drawn (50 CFR 424.12(b)(1)), we are not required to, nor was it possible to, determine that each square inch, acre, or even square mile independently meets the definition of “critical habitat.” A main goal in determining and mapping the boundaries of the specific areas is to provide a clear description and documentation of the areas containing the identified essential feature. This is ultimately crucial to ensuring that Federal action agencies are able to determine whether their particular actions may affect the critical habitat.

Available habitat and bathymetric data layers were examined with the help of databases from Florida Fish and Wildlife Conservation Commission Unified Florida Reef Tract, the Nature Conservancy, and NOAA to determine the contiguous areas of appropriate habitat complexity that contained a combination of habitat characteristics relevant to the Nassau grouper essential

feature related to habitat providing for development, refuge, and foraging. For example, we used information from the National Centers for Coastal Ocean Science Benthic Habitat Mapping program that provides data and maps at <http://products.coastalscience.noaa.gov/collections/benthic/default.aspx> and the Unified Florida Reef Tract Map found at <https://myfwc.com/research/gis/regional-projects/unified-reef-map/.projects/unified-reef-map/.projects/unified-reef-map/>.

These resources provide maps and information on the location of seagrass; unconsolidated calcareous sediment of medium to very coarse sediments (not fine sand) including shell and coral fragments interspersed with cobble, boulders, corals, and rubble mounds; continuous and discontinuous areas of seagrass and inshore patch and fore reefs; coral reef; and, colonized hardbottom. Areas of these habitat types that were not sufficiently close to satisfy the need for contiguous habitat that could support nearshore to offshore movement of the species from larva to adult were excluded. Species presence or absence was also used to inform the decision making. Expert opinion was important to identifying areas that contain the feature. These experts included a NMFS regional GIS lead, a NMFS Nassau Grouper Recovery Coordinator with 30 years of protected species experience and who did research on Nassau grouper, and other Nassau grouper researchers. NMFS staff jointly reviewed all data prior to delineating proposed units, consulting with these experts.

To map these specific areas we reviewed available species occurrence, bathymetric, substrate, and water quality data. The highest resolution bathymetric data available from multiple sources were used depending on the geographic location. In Florida and the FGBNMS, contours created from National Ocean Service Hydrographic Survey Data and NOAA ENCDirect bathymetric point data National Park Service (NPS) and contours created from NOAA's Coastal Relief Model were used. In Puerto Rico, contours were derived from the National Geophysical Data Center's (NGDC) 2005 U.S. Coastal Relief Model. In USVI, contours derived from NOAA's 2004–2015 Bathymetric Compilation were used. In Navassa, contours were derived from NOAA's NGDC 2006 bathymetric data. These bathymetric data were used with other geographic or management boundaries to draw the boundaries of each specific area on the maps in the proposed critical habitat designation.

Within the geographical and depth ranges of the species, certain areas contain the appropriate substrates, however, due to their consistently disturbed nature, these areas do not provide the quality of substrate essential for the conservation of the threatened Nassau grouper. These disturbances are caused by human activities. While these areas may provide substrate for recruitment and growth, the periodic nature of direct human disturbance renders them poor habitat. In some of these areas, the substrate has been persistently disturbed by planned management activities authorized by local, state, or Federal governmental entities at the time of critical habitat designation. For the purpose of this proposed rule, we refer to the areas disturbed by planned management activities as “managed areas.” We expect that these areas will continue to be periodically disturbed by such planned management activities. Examples include dredged navigation channels, vessel berths, and active anchorages. These managed areas are not under consideration for critical habitat designation.

NMFS is aware that dredging may result in sedimentation impacts beyond the actual dredge channel. To the extent that these impacts are persistent, are expected to recur whenever the channel is dredged, and are of such a level that the areas in question have already been made unsuitable, we consider them to be included as part of the managed area and therefore are not proposing to designate them as critical habitat.

GIS data of the locations of some managed areas were available and extracted from the maps of the specific areas being considered for critical habitat designation. These data were not available for every managed area. Regardless of whether the managed area is extracted from the maps depicting the specific areas being proposed as critical habitat, no managed areas are part of the specific areas within the geographical area occupied by the species that contain the essential feature 1.

Spawning site locations were identified and mapped based on review of literature, including existing maps used in Caribbean Fishery Management Council management measures, codified in the Code of Federal Regulations (CFR), and confirmation with species experts. The identified marine sites used for spawning and adjacent waters that support movement and staging associated with spawning are: Bajo de Sico (waters encompassed by 100 m isobath bounded in the Bajo de Sico spawning area off the west coast of Puerto Rico) and Grammanik Bank and

Hind Bank (waters which make up the Grammanik Bank and the Hind Bank, interconnecting waters between these banks, and waters extending out to 366 m directly south from Grammanik Bank, located south of St. Croix). The species has been known to spawn in the waters of the Grammanik Bank and to use the nearby Hind Bank for staging and movement to and from the spawning area.

Areas Outside of the Geographical Areas Occupied by the Species at the Time of Listing That Are Essential for Conservation

ESA section 3(5)(A)(ii) defines critical habitat to include specific areas outside the geographical area occupied by the species at the time of listing if the areas are determined by the Secretary to be essential for the conservation of the species. Our regulations at 50 CFR 424.12(b)(2) further explain that the Secretary will identify, at a scale determined by the Secretary to be appropriate, specific areas outside the geographical area occupied by the species only upon a determination that such areas are essential for the conservation of the species.

While the most serious threats to Nassau grouper are historical harvest, fishing at spawning aggregations, and inadequate law enforcement (81 FR 42268, 42280–81, June 29, 2016), loss of the habitats used by groupers during various life stages may influence their distribution, abundance, and survival. For example, alterations or destruction of nearshore nursery areas and degradation of hardbottom habitat can affect Nassau grouper's ability to grow and survive. The proposed critical habitat will help conservation of spawning areas within U.S. jurisdiction (but not address fishing at the spawning aggregations or enforcement of any spawning area protections as that cannot be addressed by this rule). The critical habitat identified in this proposed rule identifies key habitat necessary for promoting the recruitment, refuge, and forage habitat necessary for the conservation of the species. Based on our current understanding of the species' biology and conservation needs, we have not identified specific areas outside the geographical area occupied by the species that are essential for its conservation. The protection of the specific areas identified in this proposed rule from destruction and adverse modification stemming from federal actions will help support the species' habitat-based conservation needs.

Application of ESA Section 4(a)(3)(B)(i) (Military Lands)

Section 4(a)(3)(B)(i) of the ESA prohibits designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DoD), or designated for its use, that are subject to an Integrated Natural Resources Management Plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary [of Commerce] determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. Our regulations at 50 CFR 424.12(h) provide that, in determining whether an applicable benefit is provided, we will consider:

(1) The extent of the area and features present;

(2) The type and frequency of use of the area by the species;

(3) The relevant elements of the INRMP in terms of management objectives, activities covered, and best management practices, and the certainty that the relevant elements will be implemented; and

(4) The degree to which the relevant elements of the INRMP will protect the habitat from the types of effects that would be addressed through a destruction-or-adverse-modification analysis.

NMFS contacted the Department of Defense to determine if any areas controlled by the DoD coincide with any of the areas under consideration for critical habitat. Naval Air Station Key West (NASKW) is the only installation controlled by the DoD, specifically the Department of the Navy (Navy), that coincides with any of the areas under consideration for critical habitat. On July 14, 2022, the Navy requested in writing that the areas covered by the 2020 INRMP for NASKW not be designated as critical habitat, pursuant to ESA section 4(a)(3)(B)(i).

The NASKW INRMP covers the lands and waters (generally out to 50 yards (45.7 m)) adjacent to NASKW, including several designated restricted areas. The total area of the waters covered by the INRMP that overlaps with areas considered for the proposed critical habitat is approximately 800 acres (3.2 sq km). Within this area, the species and proposed essential feature 1 are present, specifically young juvenile fish and nearshore shallow subtidal marine nursery and intermediate hardbottom and seagrass areas in close proximity to the nearshore shallow subtidal marine nursery areas. As detailed in the INRMP, the plan provides benefits to the threatened Nassau grouper and areas

included in the proposed critical habitat through the following NASKW broad programs and activities: wetlands management; floodplains management; soil conservation and erosion control; stormwater and water quality control; coastal and marine management; threatened species and natural communities management; wetlands protection and shoreline enhancement; federally listed species assessments; community outreach and awareness; fish and wildlife conservation signage; marine resources surveys. These types of best management practices have been ongoing at NASKW since 1983; thus, they are likely to continue into the future. Further, the plan specifically provides assurances that all NASKW staff have the authority and funding (subject to appropriations) to implement the plan. The plan also provides assurances that the conservation efforts will be effective through annual reviews conducted by state and Federal natural resource agencies. These activities address some of the particular conservation and protection needs that critical habitat would afford. These activities are similar to those that we describe for avoiding or reducing effects to the proposed critical habitat. Further, the INRMP includes provisions for monitoring and evaluating conservation effectiveness, which will ensure continued benefits to the species. Therefore, pursuant to section 4(a)(3)(B)(i) of the ESA, we determined that the INRMP provides a benefit to Nassau grouper, and areas within the boundaries covered by the INRMP are ineligible for designation as critical habitat.

Application of ESA Section 4(b)(2)

Section 4(b)(2) of the ESA requires that we consider the economic impact, impact on national security, and any other relevant impact, of designating any particular area as critical habitat.

Additionally, the Secretary has the discretion to exclude any area from critical habitat if the Secretary determines the benefits of exclusion (that is, avoiding some or all of the impacts that would result from designation) outweigh the benefits of designation. The Secretary may not exclude an area from designation if the Secretary determines, based upon the best scientific and commercial data available, exclusion will result in the extinction of the species. Because the authority to exclude is discretionary, exclusion is not required for any particular area.

The ESA provides the Secretary broad discretion in how to consider impacts. (See H.R. Rep. No. 95–1625, at 17,

reprinted in 1978 U.S.C.C.A.N. 9453, 9467 (1978)). Regulations at 50 CFR 424.19(b) specify that the Secretary will consider the probable impacts of the designation at a scale that the Secretary determines to be appropriate, and that such impacts may be qualitatively or quantitatively described. The Secretary is also required to compare impacts with and without the designation (50 CFR 424.19(b)). In other words, we are required to assess the incremental impacts attributable to the critical habitat designation relative to a baseline that reflects existing regulatory impacts in the absence of the critical habitat. The consideration and weight given to any particular impact is determined by the Secretary. Courts have noted the ESA does not contain requirements for any particular methods or approaches. (See, e.g., *Bldg. Indus. Ass'n of the Bay Area et al. v U.S. Dept. of Commerce et al.*, 792 F.3d 1027 (9th Cir. 2015), upholding district court's ruling that the ESA does not require the agency to follow a specific methodology when designating critical habitat under section 4(b)(2)). NMFS and the U.S. Fish and Wildlife Service have adopted a joint policy setting out non-binding guidance explaining generally how we exercise our discretion under 4(b)(2). See Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act ("4(b)(2) Policy," 81 FR 7226, February 11, 2016). For this proposed rule, we followed the same basic approach to describing and evaluating impacts as we have for several recent critical habitat rulemakings, as informed by our 4(b)(2) Policy.

The following discussion of impacts is summarized from our Critical Habitat Report, which identifies the economic, national security, and other relevant impacts that we project would result from including each of the specific areas in the proposed critical habitat designations. We considered these impacts when deciding whether to exercise our discretion to propose excluding particular areas from the designations. Both positive and negative impacts were identified and considered (these terms are used interchangeably with benefits and costs, respectively). Impacts were evaluated in quantitative terms where feasible, but qualitative appraisals were used where that is more appropriate to particular impacts. The primary impacts of a critical habitat designation result from the ESA section 7(a)(2) requirement that Federal agencies ensure their actions are not likely to result in the destruction or adverse modification of critical habitat,

and that they consult with NMFS in fulfilling this requirement. Determining these impacts is complicated by the fact that section 7(a)(2) also requires that Federal agencies ensure their actions are not likely to jeopardize the species' continued existence. One incremental impact of designation is the extent to which Federal agencies modify their proposed actions to ensure they are not likely to destroy or adversely modify the critical habitat beyond any modifications the agencies would make because of listing and the requirement to avoid jeopardy to the listed Nassau grouper. When the same modification would be required due to impacts to both the species and critical habitat, there would be no additional or incremental impact attributable to the critical habitat designation beyond the administrative impact associated with conducting the critical habitat analysis.

Relevant, existing regulatory protections are referred to as the "baseline" for the analysis and are discussed in the Critical Habitat Report. In this case, notable baseline protections include the ESA listing of the species (81 FR 42268, June 29, 2016), and other species listings and critical habitat designations (*e.g.*, elkhorn and staghorn coral, 73 FR 72209, November, 26, 2008).

The Critical Habitat Report describes the projected future Federal activities that would trigger ESA section 7 consultation requirements if they are implemented in the future because the activities may affect the essential features. These activities and the ESA consultation consequently may result in economic costs or negative impacts. The report also identifies the potential national security and other relevant impacts that may arise due to the proposed critical habitat designation, such as positive impacts that may arise from conservation of the species and its habitat, state and local protections that may be triggered as a result of designation, and educating the public about the importance of an area for species conservation.

Economic Impacts

Economic impacts of the critical habitat designations primarily occur through implementation of section 7 of the ESA in consultations with Federal agencies to ensure their proposed actions are not likely to destroy or adversely modify critical habitat. The economic impacts of consultation may include both administrative and project modification costs; economic impacts that may be associated with the conservation benefits resulting from designation are described later.

To identify the types and geographic distribution of activities that may trigger section 7 consultation on Nassau grouper critical habitat, we first reviewed the NMFS Southeast Region's section 7 consultation history from 2011 to 2021 for:

- Activities consulted on in the areas being proposed as critical habitat for the Nassau grouper and
- Activities that take place outside of the proposed critical habitat but whose effects extend into the critical habitat and are therefore subject to consultation.

In addition, we conducted stakeholder outreach to identify future activities that may affect Nassau grouper critical habitat that may not have been captured by relying on the section 7 consultation history. Through this outreach, we did not identify any additional activities that may affect Nassau grouper critical habitat. Stakeholders included the U.S. Army Corps of Engineers (USACE), the U.S. Air Force, the Department of the Navy, and the U.S. Coast Guard (USCG). We reviewed the USACE's Jacksonville District permit application database to identify all permit applications for projects located within the proposed critical habitat area. We also will review more recent consultation information provided by these or other agencies prior to the publication of any final rule. We determined all categories of the activities identified have potential routes of effects to both the threatened Nassau grouper and the proposed Nassau grouper critical habitat, or to other species or designated critical habitat and the proposed Nassau grouper critical habitat. We did not identify and we do not anticipate Federal actions that have the potential to affect only the Nassau grouper critical habitat.

We identified the following eight categories of activities implemented by seven different Federal entities as having the potential to affect the essential features of the Nassau grouper critical habitat:

- Coastal and in-water construction (*e.g.*, docks, seawalls, piers, marinas, port expansions, anchorages, pipelines/cables, bridge repairs, aids to navigation, *etc.*) conducted or authorized by USACE or USCG;
- Shipwreck and Marine Debris Removal (USCG, NOAA);
- Scientific Research and Monitoring (NOAA);
- Water quality management (revision of state water quality standards, issuance of National Pollutant Discharge Elimination System (NPDES) permits and Total Maximum daily load (TMDL)

standards under the Clean Water Act and ecological risk assessments associated with pesticide registrations under the Federal Insecticide, Fungicide and Rodenticide Act) authorized by the Environmental Protection Agency (EPA);

- Protected area management (development of management plans for national parks, marine sanctuaries, wildlife refuges, *etc.*) conducted by the National Park Service (NPS) and NOAA National Ocean Service (NOS);
- Fishery management (development of fishery management plans under the Magnuson-Stevens Fishery Conservation and Management Act) conducted or approved by NMFS;
- Aquaculture (development of aquaculture facilities) authorized by EPA and USACE, and funded by NMFS; and

- Military activities (*e.g.*, training exercises) conducted by DoD.

Future consultations were projected based on the frequency and distribution of section 7 consultations conducted from 2011 to 2021, review of USACE permit applications over the same time frame, and outreach to Federal stakeholders. We consider it a reasonable assumption that the breakdown of past consultations by type (into informal, formal, and programmatic consultations) and activity category (*e.g.*, in-water and coastal construction, water quality management) from the previous 10 years coupled with information provided by federal stakeholders likely reflects the breakdown of future consultations. We accordingly assume that the number and type of activities occurring within or affecting Nassau grouper critical habitat will not change in the future.

As discussed in more detail in our Critical Habitat Report, all categories of activities identified as having the potential to affect the proposed essential features also have the potential to affect Nassau grouper, which is listed as a threatened species, or other listed species or critical habitat. To estimate the economic impacts of critical habitat designation, our analysis compares the state of the world with and without the designation of critical habitat. The "without critical habitat" scenario represents the baseline for the analysis, considering protections already afforded the proposed critical habitat as a result of the listing of Nassau grouper as threatened and as a result of other Federal, state, and local regulations or protections, including other species listings and critical habitat determinations. The "with critical habitat" scenario describes the state of the world with the critical habitat

designation. The incremental impacts that will be associated specifically with the critical habitat designation if finalized as proposed are the difference between the two scenarios. Baseline protections exist in large areas proposed for designation. In particular, areas proposed for Nassau grouper critical habitat designation overlap to varying degrees with the presence of the threatened or endangered Nassau grouper, green sea turtle, loggerhead sea turtle, hawksbill sea turtle, corals, and smalltooth sawfish; and critical habitat designated for green, loggerhead, and hawksbill sea turtles and *Acropora* coral species. These areas already receive significant protections related to these listings and designations, and these protections may also protect the essential features of the proposed Nassau grouper critical habitat (please refer to Critical Habitat Report). Importantly, we do not expect designation of critical habitat for the Nassau grouper to result in project

modifications for any of the activities that may affect the critical habitat.

Administrative Section 7 Costs

The effort required to address adverse effects to the proposed critical habitat is assumed to be the same, on average, across categories of activities. Informal consultations are expected to require comparatively low levels of administrative effort, while formal and programmatic consultations are expected to require comparatively higher levels of administrative effort. For all formal and informal consultations, we anticipate that incremental administrative costs will be incurred by NMFS, the consulting Federal action agencies, and, potentially, third parties. For programmatic consultations, we anticipate that costs will be incurred by NMFS and the consulting Federal action agencies. Incremental administrative costs per consultation effort are expected on average to be \$10,000 for programmatic, \$5,400 for formal

consultations, and \$2,600 for informal consultations (NMFS 2022).

We estimate the incremental administrative costs of section 7 consultation by applying these per consultation costs to the forecasted number of consultations. We anticipate that there will be approximately 12 programmatic consultations, 10 formal consultations, and 117 informal consultations that will require incremental administrative effort. Incremental costs are expected to total approximately \$380,000 over the next 10 years (discounted at 7 percent), at an annualized cost of \$54,000. We conservatively assume that there will be approximately eight re-initiations of existing consultations to address effects to Nassau grouper critical habitat. We anticipate the re-initiations to be on consultations related to fishery management, military, construction, and scientific research and monitoring activities.

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Table 1 - Projected Incremental Costs of Nassau Grouper Critical Habitat Designation (Incremental Cost of ESA Section 7 Consultation), By Activity Type and Unit 2023-2032 (\$2022; 7 percent Discount Rate)¹

Unit	Coastal and In-Water Construction	Water Quality Management	Protected Area Management	Fishery Management	Aquaculture	Military	Shipwreck and Marine Debris Removal	Scientific Research and Monitoring	Total
Biscayne/Key Largo	\$40,000	\$1,100	\$25,000	\$2,400	\$0	\$2,600	\$3,100	\$1,700	\$75,000
Marathon	\$27,000	\$1,100	\$0	\$2,400	\$0	\$2,600	\$3,100	\$0	\$36,000
Big Pine Key	\$51,000	\$1,100	\$0	\$2,400	\$0	\$2,600	\$3,100	\$0	\$60,000
Key West	\$1,500	\$1,100	\$0	\$2,400	\$1,700	\$7,500	\$3,100	\$0	\$17,000
New Ground Shoal	\$1,500	\$1,100	\$0	\$2,400	\$0	\$2,600	\$3,100	\$0	\$11,000
Florida, All	\$120,000	\$5,300	\$25,000	\$12,000	\$1,700	\$18,000	\$16,000	\$1,700	\$200,000
Mona Island	\$1,500	\$3,200	\$0	\$2,300	\$0	\$0	\$1,500	\$5,100	\$14,000
Desecheo	\$1,500	\$3,200	\$0	\$2,300	\$0	\$0	\$1,500	\$0	\$8,500
Southwest	\$6,500	\$3,200	\$0	\$2,300	\$0	\$0	\$6,400	\$3,300	\$22,000
Northeast	\$13,000	\$4,900	\$0	\$2,300	\$0	\$5,000	\$1,500	\$1,700	\$28,000
Vieques	\$1,500	\$3,200	\$0	\$2,300	\$0	\$19,000	\$1,500	\$1,700	\$30,000
Isla de Culebra/Culebrita	\$1,500	\$3,200	\$0	\$2,300	\$0	\$0	\$1,500	\$0	\$8,500
Puerto Rico, All	\$26,000	\$21,000	\$0	\$14,000	\$0	\$24,000	\$14,000	\$12,000	\$110,000
Navassa	\$1,500	\$910	\$0	\$710	\$0	\$0	\$1,500	\$0	\$4,600
USVI - STT	\$13,000	\$5,400	\$0	\$2,000	\$0	\$0	\$3,000	\$0	\$24,000
USVI - STJ	\$1,500	\$5,400	\$0	\$2,000	\$0	\$0	\$3,000	\$0	\$12,000
USVI - STX	\$6,500	\$7,000	\$0	\$2,000	\$0	\$0	\$3,000	\$0	\$19,000
USVI, All	\$21,000	\$18,000	\$0	\$6,100	\$0	\$0	\$9,100	\$0	\$54,000
Bajo de Sico²	\$1,500	\$910	\$0	\$710	\$0	\$0	\$1,500	\$0	\$4,600
Grammanik Bank/Hind Bank²	\$1,500	\$910	\$0	\$710	\$0	\$0	\$1,500	\$0	\$4,600
Total	\$170,000	\$47,000	\$25,000	\$34,000	\$1,700	\$42,000	\$43,000	\$13,000	\$380,000

Source: NMFS Section 7 consultation database.

¹ The estimates may not sum to totals due to rounding.² We analyzed the incremental costs of consultation on effects to the Bajo de Sico and Grammanik Bank/Hind Bank spawning site feature separately from costs of consultation on effects to the essential feature related to settlement, development, refuge, and foraging.

In summary, significant baseline protections exist in the areas proposed for the Nassau grouper critical habitat. The incremental impacts for the proposed designation are projected to reflect the incremental administrative effort required for section 7 consultations to consider effects to the critical habitat. Taking into consideration several assumptions and uncertainties, total projected incremental costs are approximately \$380,000 over the next ten years (\$54,000 annualized), applying a discount rate of 7 percent. Notwithstanding the uncertainty underlying the projection of incremental costs, the results provide an indication of the potential activities that may be affected and a reasonable projection of future costs.

National Security Impacts

Impacts to national security could occur if a designation triggers future ESA section 7 consultations because a proposed military activity “may affect” the physical or biological feature(s) essential to the listed species’ conservation. Interference with mission-essential training or testing or unit readiness could result from the additional commitment of resources by the DoD or USCG to modify the action to prevent adverse modification of critical habitat or implement Reasonable and Prudent Alternatives. Whether national security impacts result from the designation also depends on whether future consultations and associated project modifications and/or implementation of Reasonable and Prudent Measures and Terms and Conditions would otherwise be required due to potential effects to Nassau grouper or other ESA-listed species or designated critical habitat, regardless of the Nassau grouper critical habitat designation, and whether the Nassau grouper designation would add costs beyond those related to the consultation on effects to Nassau grouper or other species or critical habitat.

As described previously, we identified DoD military operations as a category of activity that has the potential to affect the essential features of the proposed critical habitat. However, for the actions that may affect Nassau grouper critical habitat, designating critical habitat for Nassau grouper would not result in incremental impacts beyond administrative costs because the consultations would otherwise be required to address effects to either the Nassau grouper or other listed species or the substrate feature of designated critical habitat for *Acropora* corals. In 2022, we requested

descriptions and locations of any geographical areas owned or controlled by the DoD or the USCG that may overlap with the areas under consideration for critical habitat that they would like considered for exclusion due to impacts to national security. The USCG responded that maintenance and replacement of fixed Aids to Navigation (AToNs) may affect the proposed habitat by generating sedimentation of the seafloor surrounding piling or other foundations. USCG further indicated that use of floating AToNs may result in removal of the essential feature related to development, refuge, and foraging through chain scouring and placement of the sinker. However, USCG already implements measures to mitigate the impacts of AToN operations to corals, hardbottom, and seagrass, per the programmatic biological opinion on USCG’s AToN program (National Marine Fisheries Service, 2018a). While we do not anticipate that the proposed critical habitat designation would result in incremental modifications to USCG’s AToN operations or affect national security matters, we expect USCG would be required to re-initiate consultation on the programmatic biological opinion to address impacts to the Nassau grouper critical habitat. This would represent an incremental administrative impact of the proposed rule, which is considered in the economic analysis, but would not affect national security.

The Navy suggested that NMFS consider areas around Naval Air Station Key West for exclusion under ESA section 4(b)(2), however, Navy concerns have been addressed through the previously described INRMP exclusion. No areas managed by other DoD branches were identified as potentially of concern.

Other Relevant Impacts

We identified three broad categories of other relevant impacts of this proposed critical habitat: Conservation benefits, both to the species and to the ecosystem; impacts on governmental or private entities that are implementing existing management plans that provide benefits to the listed species; and educational and awareness benefits. Our Impacts Analysis discusses conservation benefits of designating the areas, and the benefits of conserving the species to society.

Conservation Benefits

The primary benefit of critical habitat designation is the contribution to conservation and recovery. That is, in protecting the features essential to the

conservation of the species, critical habitat directly contributes to the conservation and recovery of the species. This analysis contemplates two broad categories of conservation benefits of critical habitat designation:

(1) Increased probability of conservation and recovery of the species, and

(2) Ecosystem service benefits.

The most direct benefits of the critical habitat designations stem from the enhanced probability of conservation and recovery of the species. From an economic perspective, the appropriate measure of the value of this benefit is people’s “willingness-to-pay” for the incremental change. While the existing economics literature is insufficient to provide a quantitative estimate of the extent to which people value incremental changes in recovery potential, the literature does provide evidence that people have a positive preference for listed species conservation, even beyond any direct (e.g., recreation, such as viewing the species while snorkeling or diving) or indirect (e.g., fishing that is supported by the presence of healthy ecosystems) use for the species.

In addition, designating critical habitat can benefit the ecosystem. Overall, coral reef and benthic ecosystems, including those comprising Nassau grouper proposed critical habitat, provide important ecosystem services of value to individuals, communities, and economies. These include recreational opportunities (and associated tourism spending in the regional economy), habitat and nursery functions for recreationally and commercially valuable fish species, shoreline protection in the form of wave attenuation and reduced beach erosion, and climate stabilization via carbon sequestration. Critical habitat most directly influences the recovery potential of the species and protects ecosystem services through its implementation under section 7 of the ESA. Our analysis finds that the proposed rule is not anticipated to result in incremental project modifications. However, the protections afforded reefs and seagrasses as subcomponents of an essential feature of proposed Nassau grouper critical habitat could increase awareness of the importance of these habitat types, which in turn could lead to additional conservation efforts.

In addition, critical habitat designation may generate ancillary environmental improvements and associated ecosystem service benefits (i.e., to commercial fishing and recreational activities).

While neither benefit can be directly monetized, existing information on the value of coral reefs provides an indication of the value placed on those ecosystems.

Impacts to Governmental and Private Entities With Existing Management Plans Benefitting the Listed Species

Among other relevant impacts of the critical habitat designations that we considered under section 4(b)(2) of the ESA are impacts on the efforts of private and public entities involved in management or conservation efforts benefiting listed species. In cases where there is a federal nexus (e.g., a federal grant or permit), critical habitat designation could necessitate consultation with NMFS to incrementally address the effects of the management or conservation activities on critical habitat. In such cases, these entities may have to allocate resources to fulfill their section 7 consultation obligations as third parties to the consultation—including the administrative effort of consultation and, potentially, modification of projects or conservation measures to avoid adverse modification to the critical habitat—that, absent critical habitat designation, would be applied to management or conservation efforts benefiting listed species. Thus, the potential for reallocation of these private and public entities' resources would be limited to the incremental administrative costs of section 7 consultations that would occur absent Nassau grouper critical habitat. Therefore, we do not expect that designating critical habitat for the Nassau grouper would diminish private and public entities' ability to provide for the conservation of the Nassau grouper.

Education and Awareness Benefits

The critical habitat designation could potentially have benefits associated with education and awareness. The potential for such benefits stems from three sources: (1) entities that engage in section 7 consultation, including Federal action agencies and, in some cases, third party applicants; (2) members of the general public interested in conservation; and (3) state and local governments that take action to complement the critical habitat designation. Certain entities, such as applicants for particular permits, may alter their activities to benefit the essential features of the critical habitat because they were made aware of the critical habitat designation through the section 7 consultation process. Similarly, Federal action agencies that undertake activities that affect the

critical habitat may alter their activities to benefit the critical habitat. Members of the public interested in conservation also may adjust their behavior to benefit critical habitat because they learned of the critical habitat designation through outreach materials or the regulatory process. In our experience, designation raises the public's awareness that there are special considerations to be taken within the area identified as critical habitat. Similarly, state and local governments may be prompted to enact laws or rules to complement the critical habitat designations and benefit the listed species. Those laws would likely result in additional impacts of the designations.

However, it is not possible to quantify the beneficial effects of the awareness gained through, or the impacts from state and local regulations resulting from, the proposed critical habitat designation.

Exclusions Under Section 4(b)(2)

We are not exercising our discretion to exclude any particular areas from designation based on economic, national security, and other relevant impacts. In summary, there are significant baseline protections that exist in the areas proposed for the Nassau grouper critical habitat, and as a result, the incremental impacts of the proposed designation are low and reflect the incremental administrative effort required for section 7 consultations to consider the critical habitat. Taking into consideration several assumptions and uncertainties, the total projected incremental costs are approximately \$380,000 over the next 10 years (\$54,000 annualized), applying a discount rate of 7 percent. Further, the analysis indicates that there is no particular area within the proposed critical habitat units where these costs would be highly concentrated. Moreover, we anticipate that no particular industry would be disproportionately impacted. We are not proposing to exclude any areas on the basis of national security impacts as no national security concerns exist related to the proposed critical habitat designation. We are not proposing to exclude any particular area based on other relevant impacts. Other relevant impacts include conservation benefits of the designation, both to the species and to the ecosystem. We expect that designation of critical habitat will support conservation and recovery of the species. Future section 7 consultations on some of the activities that may affect Nassau grouper will also consider effects to the critical habitat. While we do not expect these

consultations to result in additional conservation measures, the additional consideration of effects to the critical habitat will increase overall awareness of the importance of Nassau grouper and its habitat. For these reasons, we are not proposing to exclude any areas as a result of these other relevant impacts.

Proposed Critical Habitat Designation

Our critical habitat regulations state that we will show critical habitat on a map with more detailed information discussed in the preamble of the critical habitat rulemaking and made available from NMFS (50 CFR 424.12(c)). When several habitats, each satisfying the requirements for designation as critical habitat, are located in proximity to one another, an inclusive area may be designated as critical habitat (50 CFR 424.12(d)). The habitat containing the essential features, and that may require special management considerations or protection, is marine habitat of particular benthic composition and structure in the Atlantic Ocean and Caribbean Sea. The boundaries of each specific area were determined by the presence of the essential features and Nassau grouper, as described earlier within this document. Because the quality of the available GIS data varies based on collection method, resolution, and processing, the proposed critical habitat boundaries are defined by the maps in combination with the textual information included in the proposed regulation. This textual information clarifies and refines the location and boundaries of each specific area.

Occupied Critical Habitat Unit Descriptions

Based on the available data, we identified specific areas that contain the essential features. The specific areas or "units" can generally be grouped as the: Navassa Island unit, Puerto Rico units, USVI units, Florida units, and spawning units. The units and their general location are listed here (refer to the maps and regulation text for more details).

Navassa Island Unit. Waters surrounding Navassa Island. Area = 2.468 sq. km.

Puerto Rico Unit 1—Mona Island. Waters off the west and south coast of Mona Island. Area = 18.344 sq. km.

Puerto Rico Unit 2—Desecheo Island. Waters off the southwest coast of the island. Area = 0.468 sq. km.

Puerto Rico Unit 3—Southwest. Waters off the southwest coast of the Puerto Rico main island. Area = 112.393 sq. km.

Puerto Rico Unit 4—Northeast. Waters off the northeast coast of the Puerto Rico main island. Area = 48.754 sq. km.

Puerto Rico Unit 5—Vieques Island. Waters off the west and northeast, east, and southeast coasts of the island. Area = 9.488 sq. km.

Puerto Rico Unit 6—Culebra/Culebrita Islands. The Culebra area consists of waters off the southeastern Culebra coastline. The Culebrita area consists of waters off the western and southern coasts of the island. Area = 4.149 sq. km.

United States Virgin Island Unit 1—St. Thomas. Waters off the east coast of St. Thomas Island and waters off the southwest, south, and southeast coast of the Water Island. Area = 9.183 sq. km.

United States Virgin Island Unit 2—St. John. Waters off the east coast of the island. Area = 6.552 sq. km.

United States Virgin Island Unit 3—St. Croix. Waters off the east end of St. Croix Island and waters off the north coast of Buck Island. Area = 50.35 sq. km.

Florida Unit 1—Biscayne Bay/Key Largo. Waters south of Rickenbacker Causeway, including portions of waters from the coastline into Biscayne Bay, and waters off the eastern coastline to 80°29'21" W, 25°01'59" N. Area = 1279.696.

Florida Unit 2—Marathon. Waters off the southern shoreline approximately between Knights Key to 80°55'51"W, 24°46'26" N. Area = 172.379.

Florida Unit 3—Big Pine Key to Geiger Key. Waters off the south side of coastline and US 1 from approximately Geiger Key to Big Pine Key. Area = 372.369 sq. km.

Florida Unit 4—Key West. Shoal waters south of Woman Key. Area = 127.078 sq. km.

Florida Unit 5—New Ground Shoal. New Ground Shoal waters. Area = 31.042 sq. km.

Florida Unit 6—Halfmoon Shoal. Halfmoon Shoal waters. Area = 33.615 sq. km.

Florida Unit 7—Dry Tortugas. Waters encompassing Loggerhead Key and waters surrounding Garden Key and Bush Key. Area = 4.437 sq. km.

Spawning Site Unit 1—Bajo de Sico. All waters encompassed by 100m isobath bounded in the Bajo de Sico spawning area bound within the following coordinates: (A) 67°26'13" W, 18°15'23" N, (B) 67°23'08" W, 18°15'26" N, (C) 67°26'06" W, 18°12'55" N, and (D) 67°26'13" W, 18°12'56" N. Area = 10.738 sq. km.

Spawning Site Unit 2—Grammanik Bank/Hind Bank. All waters which make up the Hind Bank and the Grammanik Bank, interconnecting

waters between these banks, and waters extending out to the 200 fathom line directly south from Grammanik Bank. Area = 58.77 sq. km.

Effects of Critical Habitat Designations

Section 7(a)(2) of the ESA requires Federal agencies, including NMFS, to insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify designated critical habitat. Federal agencies are also required to confer with NMFS regarding any actions likely to jeopardize the continued existence of any species proposed for listing under the ESA, or likely to destroy or adversely modify proposed critical habitat, pursuant to section 7(a)(4).

A conference involves informal discussions in which NMFS may recommend conservation measures to minimize or avoid adverse effects (50 CFR 402.02). The discussions and conservation recommendations are documented in a conference report provided to the Federal agency (50 CFR 402.10(e)). If requested by the Federal agency and deemed appropriate by NMFS, the conference may be conducted following the procedures for formal consultation in 50 CFR 402.14, and NMFS may issue an opinion at the conclusion of the conference. This opinion may be adopted as the biological opinion when the species is listed or critical habitat designated if no significant new information or changes to the action alter the content of the opinion (50 CFR 402.10(d)).

When a species is listed or critical habitat is designated, Federal agencies must consult with NMFS on any agency actions that may affect a listed species or its critical habitat. During the consultation, we evaluate the agency action to determine whether the action may adversely affect listed species or critical habitat and issue our findings in a letter of concurrence or in a biological opinion. If we conclude in the biological opinion that the action would likely result in the destruction or adverse modification of critical habitat, we would also identify any reasonable and prudent alternatives to the action. Reasonable and prudent alternatives are defined in 50 CFR 402.02 as alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that

we believe would avoid the likelihood of destruction or adverse modification of critical habitat.

Regulations at 50 CFR 402.16 require Federal agencies that have retained discretionary involvement or control over an action, or where such discretionary involvement or control is authorized by law, to reinstate consultation on previously reviewed actions in instances where:

(1) Critical habitat is subsequently designated that may be affected by the identified action; or

(2) New information or changes to the action may result in effects to critical habitat in a manner or to an extent not previously considered. Consequently, some Federal agencies may request reinitiation of consultation or conference with NMFS on actions that may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities subject to the ESA section 7 consultation process are those activities authorized, funded, or carried out by Federal action agencies, whether on Federal, state, or private lands or waters. ESA section 7 consultation would not be required for Federal actions that do not affect listed species or critical habitat and for actions that are not federally funded, authorized, or carried out.

Activities That May Be Affected

Section 4(b)(8) of the ESA requires that we describe briefly and evaluate in any proposed or final regulation to designate critical habitat those activities, whether public or private, that may adversely modify such habitat or that may be affected by such designation. As described in our Critical Habitat Report, a wide variety of Federal activities may require ESA section 7 consultation because they may affect the essential features of Nassau grouper critical habitat. Specific future activities will need to be evaluated with respect to their potential to destroy or adversely modify critical habitat, in addition to their potential to affect and jeopardize the continued existence of listed species. For example, activities may adversely modify the substrate portion of the development essential feature by removing or altering the substrate. These activities, whether public or private, would require ESA section 7 consultation when they are authorized, funded, or carried out by a Federal agency. A private entity may also be affected by these proposed critical habitat designations if it is a proponent of a project that requires a Federal permit or receives Federal funding. Categories of activities that may be

affected through section 7 consultation by designating Nassau grouper critical habitat include coastal and in-water construction, protected area management, fishery management, scientific research and monitoring, shipwreck and marine debris removal, aquaculture, water quality management, and military activities.

Questions regarding whether specific activities may constitute destruction or adverse modification of critical habitat should be directed to us (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

Identifying the extent or severity of an impact on the essential features at which the conservation value of habitat for the listed species may be affected is inherently complex. Consequently, the actual responses of the critical habitat to effects to the essential features resulting from future Federal actions will be case and site-specific, and predicting such responses will require case and site-specific data and analyses.

Public Comments Solicited

We request that interested persons submit comments, information, and data concerning this proposed rule during the comment period (see **DATES**). We are soliciting comments from the public, other concerned governments and agencies, the scientific community, industry, or any other interested party concerning the areas proposed for designation and appropriateness and description of the essential features. We also request comment on areas we are proposing for exclusion, including but not limited to the types of areas that qualify as managed area. We also solicit comments regarding specific, probable benefits and impacts stemming from this designation. We also seek comments on the identified geographic area occupied by the species. We seek information that would assist in further characterizing spawning aggregation sites (environmental parameters). We seek information about any additional sightings in the Gulf of Mexico not addressed in this proposed rule or supporting information, as well as information about any additional areas that might be spawning aggregation sites, and any additional information on larval dispersal and settlement areas. We seek any additional information about recent observations of Nassau grouper at the historical Nassau grouper spawning aggregation site on the eastern tip of Lang Bank, USVI that was extirpated in the early 1980s. We seek information regarding how the invasive seagrass, *Halophila stipulacea*, may impact the value of juvenile Nassau grouper habitat.

You may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). We will consider all comments pertaining to these designations received during the comment period in preparing the final rule. Accordingly, the final designations may differ from this proposal.

Information Quality Act and Peer Review

The data and analyses supporting this proposed action have undergone a pre-dissemination review and have been determined to be in compliance with applicable information quality guidelines implementing the Information Quality Act (Section 515 of Pub. L. 106-554). On December 16, 2004, OMB issued its Final Information Quality Bulletin for Peer Review (Bulletin). The Bulletin was published in the **Federal Register** on January 14, 2005 (70 FR 2664), and all of the requirements were effective by June 16, 2005. The primary purpose of the Bulletin is to improve the quality and credibility of scientific information disseminated by the Federal government by requiring peer review of “influential scientific information” and “highly influential scientific assessments” prior to public dissemination. “Influential scientific information” is defined as information that the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions. The Bulletin provides agencies broad discretion in determining the appropriate process and level of peer review of influential scientific information. Stricter standards were established for the peer review of highly influential scientific assessments, defined as information whose dissemination could have a potential impact of more than \$500 million in any one year on either the public or private sector or for which the dissemination is novel, controversial, or precedent-setting, or has significant interagency interest.

The information in the Critical Habitat Report supporting this proposed critical habitat rule is considered influential scientific information and subject to peer review. To satisfy our requirements under the OMB Bulletin, we obtained independent peer review of the information in the critical habitat report and incorporated the peer review comments into the report prior to dissemination of this proposed rulemaking. Comments received from peer reviewers are available on our website at http://www.cio.noaa.gov/services_programs/prplans/ID346.html.

Classification

Takings (Executive Order 12630)

Under E.O. 12630, Federal agencies must consider the effects of their actions on constitutionally protected private property rights and avoid unnecessary takings of private property. A taking of property includes actions that result in physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use. In accordance with E.O. 12630, this proposed rule would not have significant takings implications. A takings implication assessment is not required. These designations would affect only Federal agency actions (*i.e.*, those actions authorized, funded, or carried out by Federal agencies). Therefore, the critical habitat designations does not affect landowner actions that do not require Federal funding or permits.

Regulatory Planning and Review (Executive Order 12866)

This proposed rule has been determined to be not significant for purposes of E.O. 12866 review. A report evaluating the economic impacts of the proposed rule has been prepared and is included in the Critical Habitat Report, incorporating the principles of E.O. 12866. Based on the economic impacts evaluation in the Critical Habitat Report, total incremental costs resulting from the critical habitat are approximately \$380,000 over the next 10 years (\$54,000 annualized), applying a discount rate of 7 percent.

Federalism (Executive Order 13132)

Executive Order 13132 requires agencies to ensure state and local officials have the opportunity for meaningful and timely input when developing regulatory policies that have federalism implications. Policies that have federalism implications are those with substantial, direct effect on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. If the effects of the rule on state and local governments are sufficiently substantial, the agency must prepare a Federal assessment. Pursuant to the Executive Order on Federalism, E.O. 13132, we determined that this proposed rule does not have significant federalism effects and that a federalism assessment is not required. However, in keeping with Department of Commerce policies and consistent with ESA regulations at 50 CFR 424.16(c)(1)(ii), we will request information for this

proposed rule from state and territorial resource agencies in Florida, Puerto Rico, and USVI. The proposed designations may have some benefit to state and local resource agencies in that the proposed rule clearly defines the essential features and the areas in which those features are found. Clear definitions and information about the critical habitat may help local governments plan for activities that may require ESA section 7 consultation.

Energy Supply, Distribution, and Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking an action expected to lead to the promulgation of a final rule or regulation that is a significant regulatory action under E.O. 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule, if finalized, will not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, we have not prepared a Statement of Energy Effects.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)/Initial Regulatory Flexibility Analysis (IRFA)

We prepared an initial regulatory flexibility analysis (IRFA) in accordance with section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, et seq.). The IRFA analyzes the impacts to small entities that may be affected by the proposed designations and is included as Appendix B of the Critical Habitat Report and is available upon request (see **ADDRESSES** section), and is summarized below. We welcome public comment on this IRFA, which is summarized below, as required by section 603 of the RFA.

Our IRFA uses the best available information to identify the potential impacts of designating critical habitat on small entities. However, a number of uncertainties complicate quantification of these impacts. These include (1) the fact that the manner in which these potential impacts will be allocated between large and small entities is unknown; and (2) as discussed in the main body of the economic report, uncertainty regarding the potential effects of critical habitat designation, which requires some categories of potential impacts be described qualitatively. Absent specific knowledge regarding which small entities may be involved in consultations with NMFS over the next 10 years, this analysis relies on industry-and-location-specific information on small businesses with North American Industry Classification

System codes that were identified as relevant to the major activity categories and which operate within counties or territories that share a coastline with the proposed critical habitat. Activities considered in the economic report and the IRFA include in-water and coastal construction, water quality management, protected area management, fishery management, aquaculture, military, scientific research and monitoring, and shipwreck and marine debris removal. Based on the relevant consultation history and forecast of future activities that may affect the proposed critical habitat, only in-water and coastal construction activities are anticipated to involve third parties that qualify as small entities. Given the uncertainty regarding the proportion of consultations on construction activities that will involve third parties, the analysis conservatively assumes that all future consultations on these activities will involve third parties and that all of these third parties will be small entities. All of the counties and territories that share a coastline with the proposed critical habitat have populations of more than 50,000, so no impacts to small governmental jurisdictions are expected as a result of the critical habitat designation.

The maximum total annualized impacts to small entities are estimated to be \$4,073, which represents approximately 8 percent of the total quantified incremental impacts forecasted to result from the proposed rule. These impacts are anticipated to be borne by the small entities in the construction industry that obtain funds or permits from Federal agencies that will consult with NMFS regarding Nassau grouper critical habitat in the next 10 years. Given the uncertainty regarding which small entities in a given industry will need to consult with NMFS, the analysis estimates impacts to small entities under two different scenarios. These scenarios are intended to reflect the range of uncertainty regarding the number of small entities that may be affected by the designation and the potential impacts of critical habitat designation on their annual revenues. Under both scenarios, the IRFA assumes that entities conducting in-water and coastal construction activities in the Florida units are limited to those entities located in Miami-Dade and Monroe Counties, entities conducting in-water and coastal construction activities in the Puerto Rico units are limited to those entities located in Puerto Rico, and entities conducting in-water and coastal

construction activities in the USVI units are limited to those entities located in the USVI.

Under Scenario 1, the analysis assumes that all third parties involved in future consultations are small and that incremental impacts are distributed evenly across all of these entities. For the Florida units, where we estimate hundreds of small entities participate in the in-water and coastal construction industry, Scenario 1 accordingly reflects a high estimate of the number of potentially affected small entities (six) and a low estimate of the potential effect in terms of percent of revenue. The assumption under Scenario 1 that six small entities will be subject to consultation annually reflects the forecast that six consultations will occur annually on in-water and coastal construction activities involving third parties. This assumes that each consultation within the in-water and coastal construction industry involves a unique small entity. This scenario, therefore, may overstate the number of small entities based in Miami-Dade and Monroe counties that are likely to be affected by the rule and understate the revenue effect. Scenario 1 also assumes that each consultation within the in-water and coastal construction industry in the Puerto Rico and USVI units involves a unique small entity. For the Puerto Rico and the USVI units, because section 7 consultation on construction activities is anticipated to occur at a rate of 0.9 per year, or nine consultations over 10 years, we assume that 0.9 small entities will be impacted per year. Therefore, Scenario 1 does not yield the same overstatement of the number of small entities likely to be affected (unless the third party entities involved in the consultations on the construction activities in Puerto Rico and USVI are not small entities) or the same understatement of the revenue effect for these jurisdictions. The analysis anticipates that, across the three jurisdictions where there are small entities that are assumed to conduct in-water and coastal construction, approximately eight small entities will incur \$4,073 in annualized costs under Scenario 1, including \$523 in costs to Florida-based small entities and \$513 in costs each to Puerto Rico-based small entities and USVI-based small entities. Annualized impacts of the rule are estimated to make up less than 1 percent of average annual revenues of approximately \$1.29 million for each affected small entity.¹

¹ Average annual revenues were calculated based on company-specific revenue data sourced from the Dun & Bradstreet Hoovers database.

Under Scenario 2, the analysis assumes that all third parties participating in future consultations are small and that costs associated with each consultation action are borne each year by a single small entity within an industry. This method likely understates the number of small entities affected and overstates the likely impacts on an entity for the Florida units. As such, this method arrives at a low estimate of potentially affected entities in Florida units and a high estimate of potential effects on revenue, assuming that quantified costs represent a complete accounting of the costs likely to be borne by private entities. Under Scenario 2, \$3,141 in annualized impacts would be borne by a single small entity in Florida. For Puerto Rico and USVI, we maintain the assumption in Scenario 1 that 0.9 small entities per year bear the third party costs of consultation. This assumption reflects our forecast of nine consultations on construction projects over 10 years in both Puerto Rico and USVI. This scenario forecasts that annualized impacts to single entities in both Puerto Rico and USVI would be \$513. Though this scenario almost certainly overstates the costs borne by a single small entity in Florida, the impact is nonetheless expected to represent less than 1 percent of the average annual revenues for the single entity. Impacts to single small entities in Puerto Rico and USVI are also anticipated to be less than 1 percent of average annual revenues.

While these scenarios present a range of potentially affected entities and the associated revenue effects in Florida, we expect the actual number of small entities affected and revenue effects will be somewhere in the middle. In other words, some subset of the small entities in Florida greater than one and up to six will participate in section 7 consultations on Nassau grouper critical habitat and bear associated impacts annually. Regardless, our analysis demonstrates that the greatest potential revenue effect is less than 1 percent across scenarios and jurisdictions.

Even though we cannot definitively determine the numbers of small and large entities that may be affected by this proposed rule, there is no indication that affected project applicants would be only small entities or mostly small entities. It is unclear whether small entities would be placed at a competitive disadvantage compared to large entities.

There are no record-keeping requirements associated with the rule. Similarly, there are no reporting requirements.

No Federal laws or regulations duplicate or conflict with this proposed rule. However, other aspects of the ESA may overlap with the critical habitat designations. For instance, listing of the Nassau grouper under the ESA requires Federal agencies to consult with NMFS to ensure against jeopardy to the species. Overlap of the presence of other ESA-listed species, including listed corals, and *Acropora* critical habitat with the areas proposed for critical habitat designation protects the essential features of the proposed critical habitat to the extent that projects or activities that may adversely affect the proposed critical habitat also pose a threat to the listed species or to *Acropora* critical habitat. Several fishery management plans, developed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, serve to prevent overfishing of Nassau grouper prey and promote the spawning, breeding, feeding, and growth to maturity of reef fish such as the Nassau grouper. Overlap of the proposed Nassau grouper critical habitat with several Federal protected areas affords the critical habitat extensive protections against potentially damaging activities. Some of these consultations on activities associated with these protections will need to be reviewed to consider potential effects to Nassau grouper critical habitat.

The RFA requires consideration of alternatives to the proposed rule that would minimize significant economic impacts to small entities. We considered the following alternatives when developing the proposed critical habitat rule.

Alternative 1: No Action Alternative

No action (status quo): We would not designate critical habitat for the Nassau grouper. Under this alternative, conservation and recovery of the listed species would depend exclusively upon the protection provided under the “jeopardy” provisions of section 7 of the ESA. Under the status quo, there would be no increase in the number of ESA consultations in the future that would not otherwise be required due to the listing of the Nassau grouper. However, we have determined that the physical and biological features forming the basis for our critical habitat designation are essential to the Nassau grouper’s conservation, and conservation of the species will not succeed without these features being available. Thus, the lack of protection of the critical habitat features from adverse modification could result in continued declines in abundance of Nassau grouper, and loss of associated economic and other values

the grouper provide to society, such as commercial diving services. Small entities engaged in industries that depend on the presence of Nassau grouper or elements of the species’ critical habitat, particularly coral reefs, would be adversely affected by continued declines in the Nassau grouper. Thus, the no action alternative is not necessarily a “no cost” alternative for small entities. Moreover, this option would not be legally viable under the ESA.

Alternative 2: Preferred Alternative

Under this alternative, the areas designated are waters from the shoreline to depths ranging from 2 m to 30 m in seven units in Florida, six units in Puerto Rico, three units in USVI, and one unit at Navassa Island; and in deeper, offshore waters up to 200 fathoms (366 m) deep of the Bajo de Sico and Grammanik and Hind Banks spawning sites. An analysis of the costs and benefits of the preferred alternative designation is presented in Section 10.1 of the Economic Report. Relative to the no action alternative, this alternative will likely result in an increase in administrative costs of section 7 consultations that would already occur absent designation. We have determined that no categories of activities would require consultation, and no project modifications would be required, in the future solely due to this rule and the need to prevent adverse modification of the proposed critical habitat. However, due to the protections afforded the essential features of the proposed critical habitat under this alternative, it is likely that consultations on future Federal actions within those categories of activities will require additional administrative effort to address specific impacts to Nassau grouper critical habitat. This additional administrative effort would be an incremental impact of this rule. Consultation costs associated with those projects with larger or more diffuse action areas, *i.e.*, projects that may affect a wider range of listed species or critical habitats, would likely be largely coextensive with listings or other regulatory requirements.

The preferred alternative was selected because it best implements the critical habitat provisions of the ESA by including the well-defined environmental features that we can clearly state are essential to the species’ conservation, and because this alternative would reduce the economic impacts on entities relative to an alternative that encompasses a larger geographical area (see Alternative 3).

Alternative 3: Different Geographic Boundaries

We considered a third alternative that would have delineated the designation for all nearshore units containing the development, refuge, and foraging essential feature based a single depth contour of 30 m. We evaluated this alternative based on our experience with the 2008 *Acropora* critical habitat designation, which created a single designation for both acroporid corals species from 0 to 30 m depth, generally, and to ensure inclusion across units of areas where the growth and development essential feature is abundant. However, the areas in which the development, refuge, and foraging essential feature is sufficiently abundant and contiguously located to appreciably promote conservation of the species comprise variable depth swaths across units. Under Alternative 3, a larger number of future activities could affect the Nassau grouper critical habitat and trigger the need for ESA section 7 consultation, resulting in higher incremental administrative costs compared to the preferred alternative. Thus, we rejected this alternative because, relative to the preferred alternative, it would likely increase incremental costs of the proposed rule without incrementally promoting conservation of the species.

The agency seeks specific comments on its Initial Regulatory Flexibility Act analysis.

Coastal Zone Management Act

We have determined that this action will have no reasonably foreseeable effects on coastal uses or resources under the CZMA in Florida, Puerto Rico, and USVI. Upon publication of this proposed rule, these determinations will be submitted to responsible state agencies for review under section 307 of the Coastal Zone Management Act.

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

This proposed rule does not contain any new or revised collection of information requirements. This rule, if adopted, would not impose recordkeeping or reporting requirements

on state or local governments, individuals, businesses, or organizations. Therefore, the Paperwork Reduction Act does not apply.

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

This proposed rule will not produce a Federal mandate. The designation of critical habitat does not impose a legally-binding duty on non-Federal government entities or private parties. The only regulatory effect is that Federal agencies must ensure that their actions are not likely to destroy or adversely modify critical habitat under section 7 of the ESA. Non-Federal entities that receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, but the Federal agency has the legally binding duty to avoid destruction or adverse modification of critical habitat. We do not anticipate that this rule, if finalized, will significantly or uniquely affect small governments. Therefore, a Small Government Action Plan is not required.

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

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government.

This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Pursuant to these authorities, lands have been retained by Indian Tribes or have been set aside for tribal use. These lands are managed by Indian Tribes in accordance with tribal goals and objectives within the framework of applicable treaties and laws. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, outlines the

responsibilities of the Federal government in matters affecting tribal interests.

In developing this proposed rule, we reviewed maps and did not identify any areas under consideration for critical habitat that overlap with Indian lands. Based on this, we preliminarily found the proposed critical habitat does not have tribal implications.

References Cited

A complete list of all references cited in this rulemaking can be found on our website at <https://www.fisheries.noaa.gov/species/nassau-grouper#conservation-management> and is available upon request from NMFS (see ADDRESSES).

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

50 CFR Part 226

Endangered and threatened species.

Dated: October 6, 2022.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 223 and 226 as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 et seq.; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, amend the table in paragraph (e) by revising the entry for Nassau grouper under the “Fishes” subheading to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) The threatened species under the jurisdiction of the Secretary of Commerce are:

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
FISHES					
*	*	*	*	*	*
Grouper, Nassau	<i>Epinephelus striatus</i>	Entire species	81 FR 42268, June 29, 2016.	226.230	NA

Species ¹		Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name				Description of listed entity
*	*	*	*	*

¹ Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

PART 226—DESIGNATED CRITICAL HABITAT

■ 3. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 4. Add § 226.230 to read as follows:

§ 226.230 Critical habitat for the Nassau grouper.

Critical habitat is designated in the following state and territories as depicted in the maps below and described in paragraphs (a) through (d) of this section. The maps as clarified by the textual descriptions in this section are the definitive sources for determining the critical habitat boundaries.

(a) *Critical habitat boundaries.* Except as noted in paragraph (c) of this section, critical habitat is defined as:

(1) Navassa Island—All waters surrounding Navassa Island, from the shoreline to the 30 m isobath.

(2) Puerto Rico Unit 1—Isla de Mona—All waters from the western and southern shorelines out to the coral reef edge in 20–30 m depths.

(3) Puerto Rico Unit 2—Desecheo Island—All waters from the southwest shoreline out to the edge of the coral reef habitat in about 30 m depth.

(4) Puerto Rico Unit 3—Southwest—All waters from the southwestern shoreline of Puerto Rico, between Playa Tres Tubos just south Mayaquez and Punta Ballena in Guanica, extending offshore to depths of about 10m and, near La Parguera, to depths of about 15 m.

(5) Puerto Rico Unit 4—Northeast—All waters from the northeastern shoreline of Puerto Rico out to depths of about 10 m between Cabeza Chiquita and Punta Lima.

(6) Puerto Rico Unit 5—Vieques Island—There are two areas that make up this unit. First, all waters from the southwestern shoreline out to the inner reef in depths of about 2 m between Punta Boca Quebrada and Punta Vaca. Second, all waters from the southeastern and northeastern shorelines out to the inner reef in depths of about 2 m between Punta Mulas and Ensenada Honda near Cayo Jalovita.

(7) Puerto Rico Unit 6—Isla de Culebra—There are two areas that make up this unit. First, all waters from the southeastern shoreline of Isla de Culebra out to the reef ledge in depths of about 15 m between Punta del Soldado and Cabeza de Perro, excluding the bays of Puerto del Manglar and Ensenada Honda. Second, all waters from the southern shoreline of Isla Culebrita out to the nearshore reef in depths of about 5 m between the western point of the island and Punta del Este.

(8) United State Virgin Islands Unit 1—St. Thomas—There are two areas that make up this unit. First, all waters off the southeast end of St. Thomas between Stalley Bay and Cabrita Point out to the reef ledge in depths of about 15 m and surrounding Great St. James, Little St. James, and Dog Islands. Second, all waters on the south side of Water Island from the shoreline out to the coral reef in depths of about 5 m between Druif Point and the south end of Sand Bay.

(9) United State Virgin Islands Unit 2—St. John—All waters on the east end of St. John from the shoreline out to the inner coral reef in depths of about 2 m between White Point on the south coast and Leinster Point on the north coast.

(10) United State Virgin Islands Unit 3—St. Croix—There are two areas that make up this unit. First, all waters on the east end of St. Croix from the shoreline to the outer coral reef edge in depths of about 10 m on the north coast and 15 m on the eastern point and south coast between Batiste Point and Pelican Cove Beach, excluding the Christiansted navigation channel. Second, all waters on the north side of Buck Island between the shoreline and the coral reef in depths of about 5 m.

(11) Florida Unit 1—Biscayne Bay/Key Largo—All waters of Biscayne Bay (bounded on the north by the Rickenbacker Causeway), Card Sound (bounded on the south by Card Sound Road), and the Atlantic Ocean out to the coral reef and hardbottom in depths of about 20m between Stiltsville, south of Cape Florida, and Harry Harris Beach Park near the south end of Key Largo, excluding the Intracoastal Waterway; unit overlaps areas of Miami-Dade and Monroe County.

(12) Florida Unit 2—Marathon—All waters from the southern shoreline of the City of Marathon in Monroe County out to the 15 m isobath between Knights Key and Grassy Key, excluding the Boot Key navigation channel.

(13) Florida Unit 3—Big Pine Key to Geiger Key—All waters south of U.S. Highway 1 out to the 15 m isobath between the eastern point of Big Pine Key and Geiger Key in Monroe County.

(14) Florida Unit 4—Key West—All shoal waters south of Woman Key between 5 and 30 m depth that contain coral reef and hardbottom and seagrass habitat in Monroe County.

(15) Florida Unit 5—New Ground Shoal—All New Ground Shoal waters shown in the map below for this unit in Monroe County.

(16) Florida Unit 6—Halfmoon Shoal—All Halfmoon Shoal Waters shown in the map below for this unit in Monroe County.

(17) Florida Unit 7—Dry Tortugas—There are three areas which make up this unit located in Monroe County. First, all waters surrounding Loggerhead Key to depths of about 2 m. Second, all waters surrounding Garden Key to depths out to about 3.5 m. Third, all waters surrounding Bush Key to depths out to about 5.5 m.

(18) Spawning Site Unit 1—Bajo de Sico—All waters encompassed by the 100m isobath in the Bajo de Sico area.

(19) Spawning Site Unit 2—Grammanik Bank/Hind Bank—All waters which make up the Hind Bank and the Grammanik Bank, interconnecting waters between these banks, and waters extending out to the 200 fathom line directly south from Grammanik Bank.

(b) *Essential features.* The features essential to the conservation of Nassau grouper are: are:

(1) Recruitment and developmental habitat. Areas from nearshore to offshore necessary for recruitment, development, and growth of Nassau grouper containing a variety of benthic types that provide cover from predators and habitat for prey, consisting of the following:

(i) *Nearshore shallow subtidal marine nursery areas* with substrate that consists of unconsolidated calcareous medium to very coarse sediments (not

fine sand) and shell and coral fragments and may also include cobble, boulders, whole corals and shells, or rubble mounds, to support larval settlement and provide shelter from predators during growth and habitat for prey.

(ii) *Intermediate hardbottom and seagrass areas* in close proximity to the nearshore shallow subtidal marine nursery areas that protect growing fish from predation as they move from nearshore nursery areas into deeper waters and provide habitat for prey. The areas include seagrass interspersed with areas of rubble, boulders, shell fragments, or other forms of cover; inshore patch and fore reefs that provide crevices and holes; or substrates interspersed with scattered sponges, octocorals, rock and macroalgal patches, or stony corals.

(iii) *Offshore Linear and Patch Reefs* in close proximity to intermediate hardbottom and seagrass areas that contain multiple benthic types, for

example, coral reef, colonized hardbottom, sponge habitat, coral rubble, rocky outcrops, or ledges, to provide shelter from predation during maturation and habitat for prey.

(iv) *Structures* between the subtidal nearshore area and the intermediate hardbottom and seagrass area and the offshore reef area including overhangs, crevices, depressions, blowout ledges, holes, and other types of formations of varying sizes and complexity to support juveniles and adults as movement corridors that include temporary refuge that reduce predation risk as Nassau grouper move from nearshore to offshore habitats.

(2) Spawning Habitat. Marine sites used for spawning and adjacent waters that support movement and staging associated with spawning.

(c) *Areas not included in critical habitat.* Critical habitat does not include: Managed areas where the substrate is continually disturbed by

planned management activities authorized by local, state, or Federal governmental entities at the time of critical habitat designation, and that will continue to be disturbed by such management. Examples include, but are not necessarily limited to, dredged navigation channels, shipping basins, vessel berths, and active anchorages. Pursuant to ESA section 4(a)(3)(B), all area subject to the Naval Air Station Key West Integrated Natural Resources Management Plan.

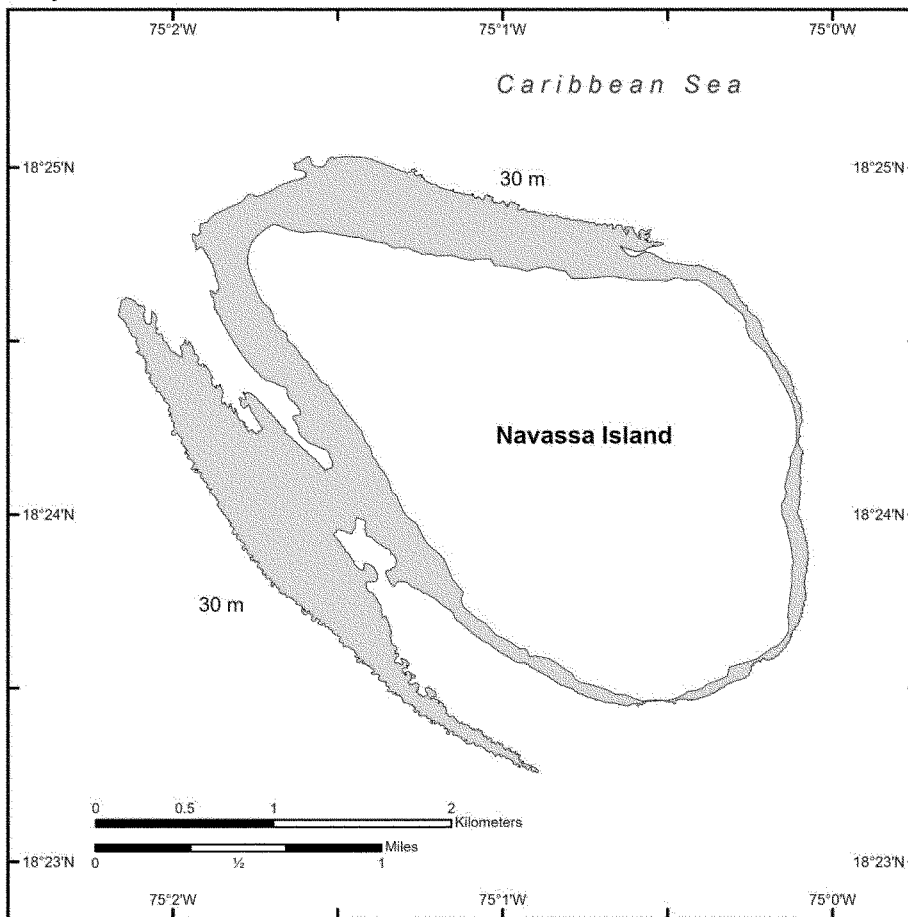
(d) *Maps of Nassau grouper critical habitat.*

(1) Spatial data for these critical habitats and mapping tools are maintained on our website and are available for public use ([www.fisheries.noaa.gov/national/](http://www.fisheries.noaa.gov/national/endangered-species-conservation/critical-habitat)*endangered-species-conservation/critical-habitat*).


(2) Overview maps of each proposed critical habitat unit follow.

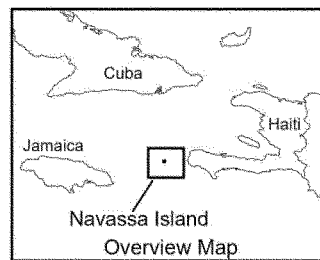
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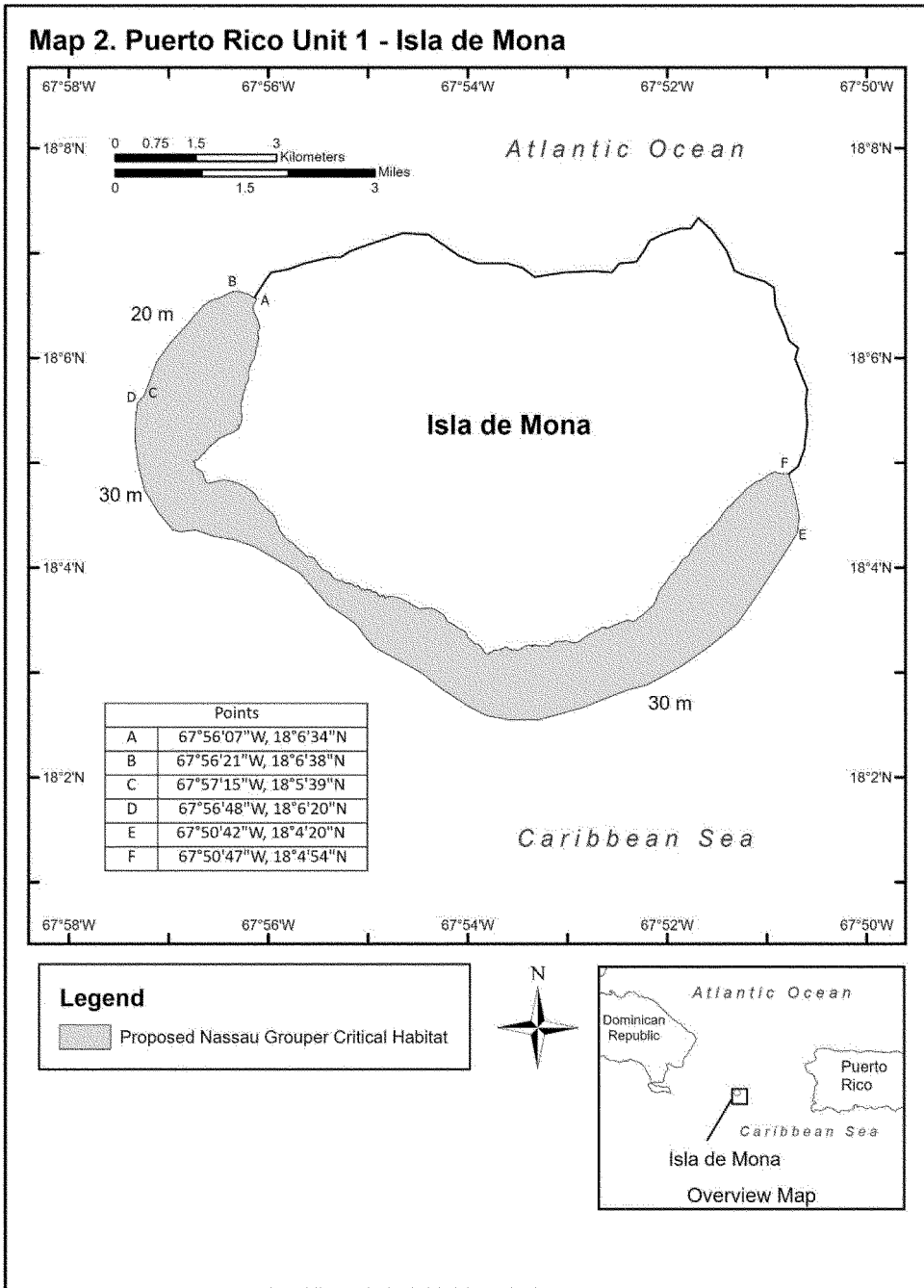
Map 1. Navassa Island Unit



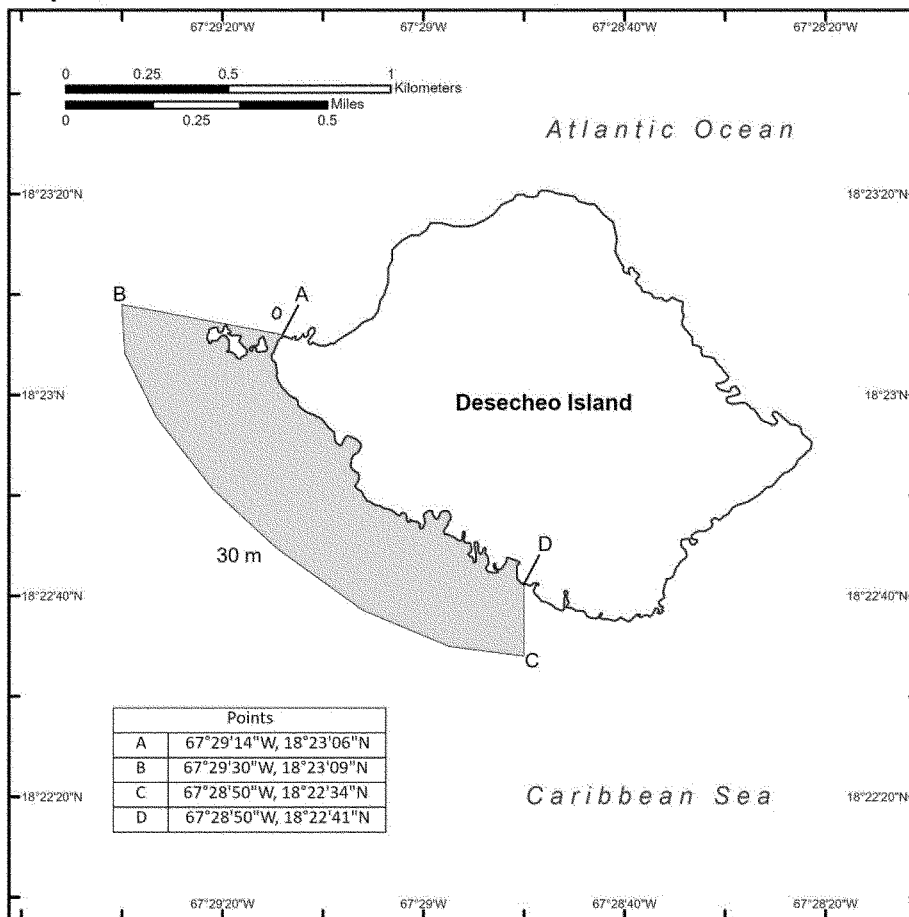
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 Proposed Nassau Grouper Critical Habitat




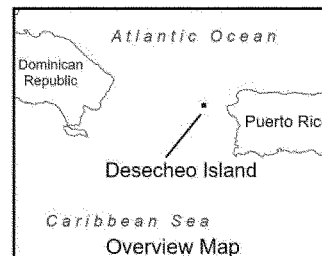


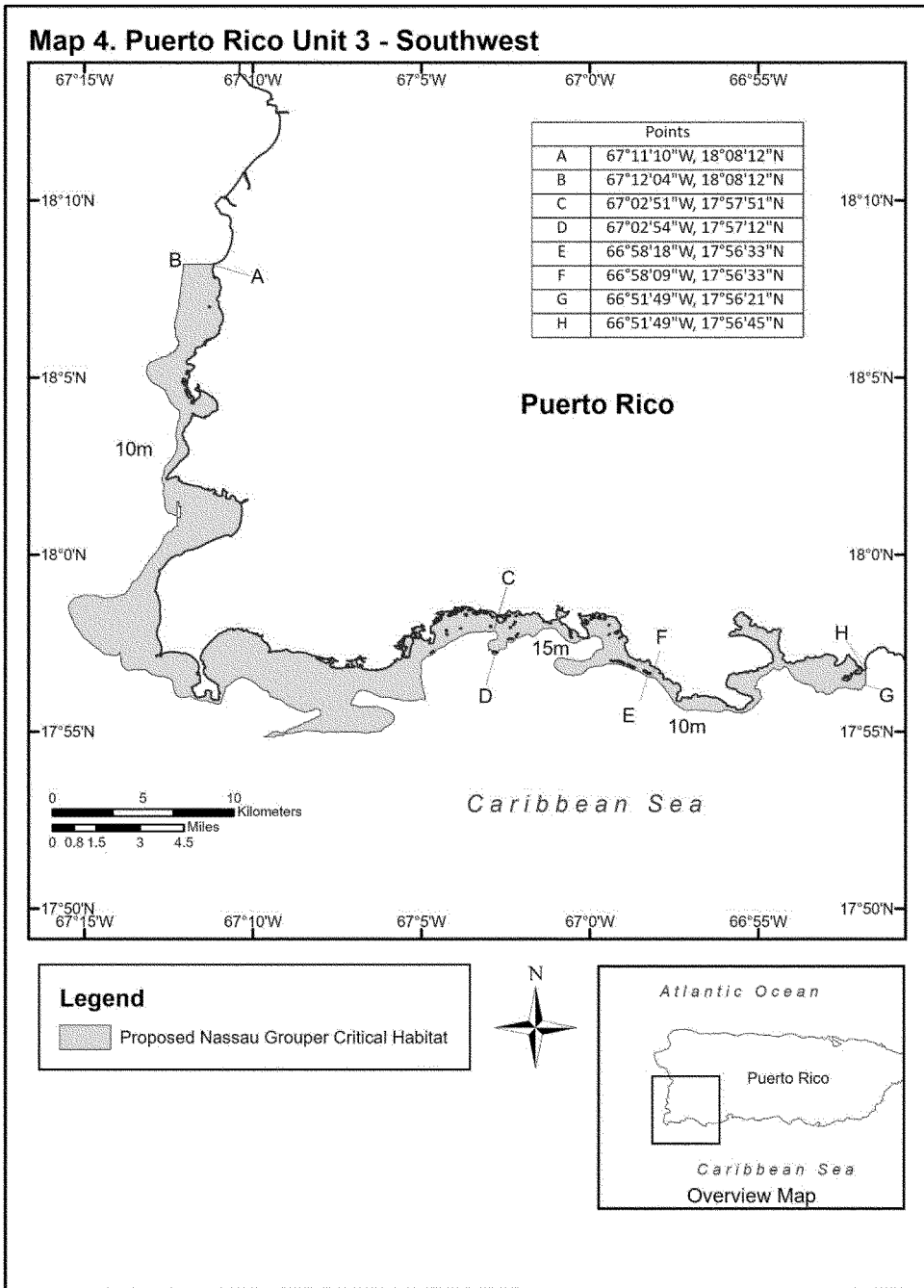
Map 3. Puerto Rico Unit 2 -Desecheo Island

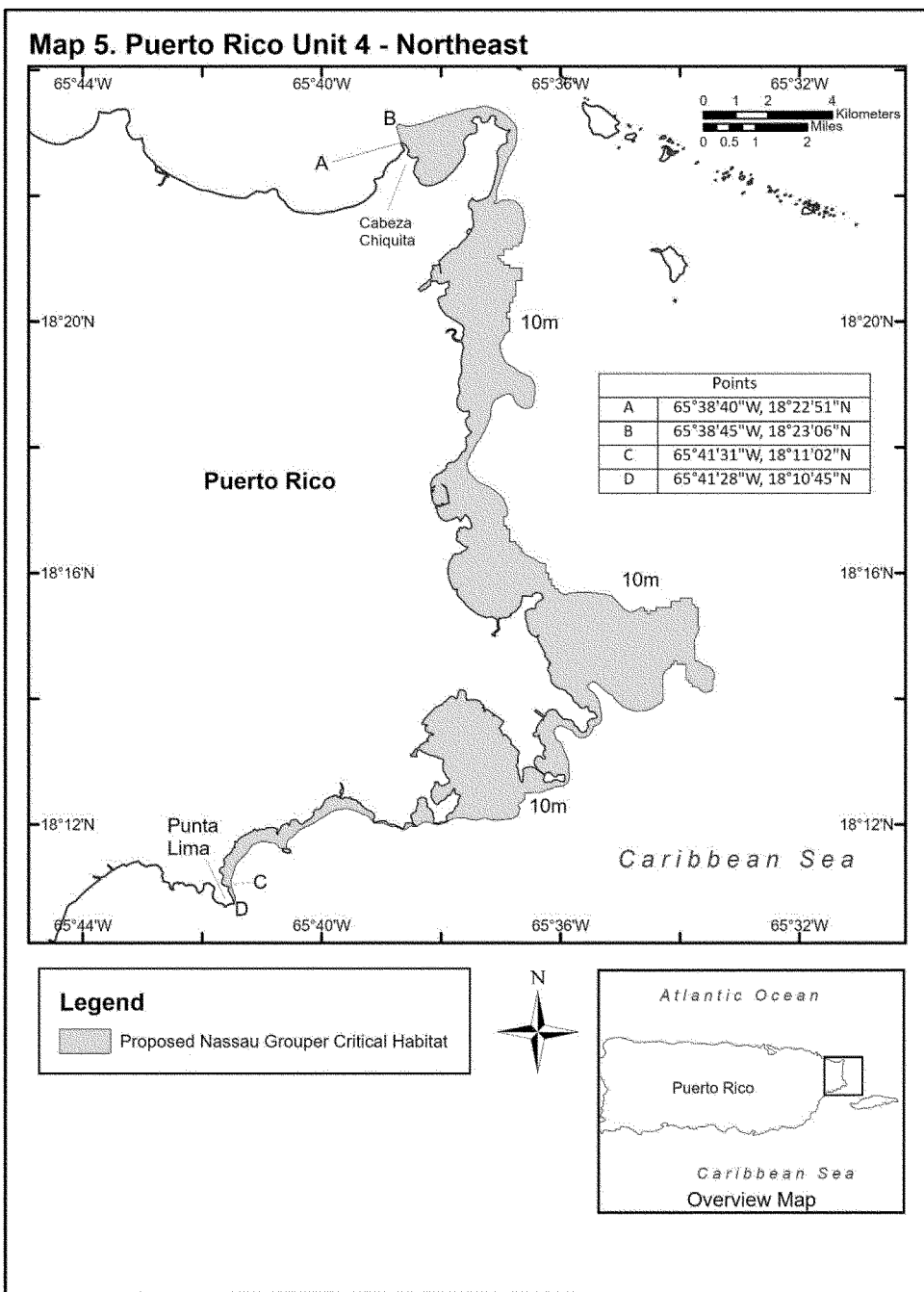


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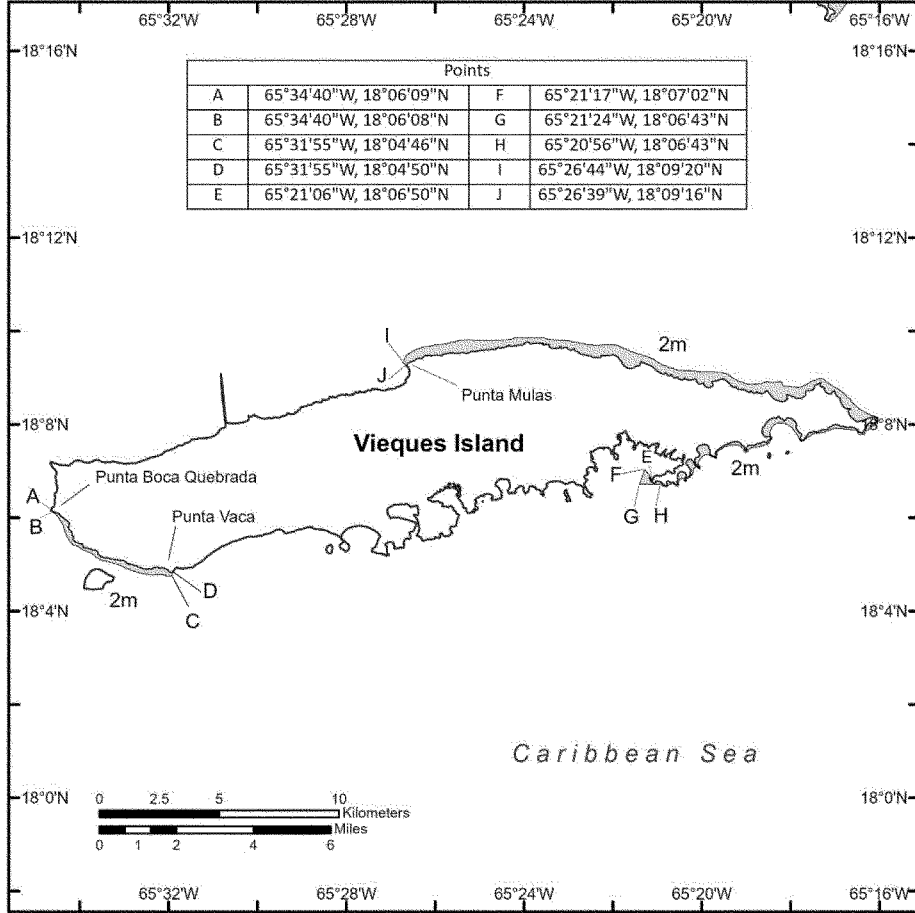
 Proposed Nassau Grouper Critical Habitat





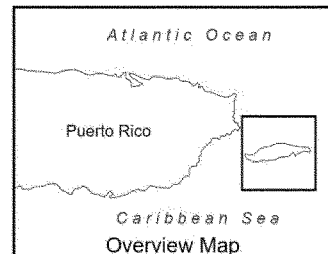


Map 6. Puerto Rico Unit 5 - Vieques Island

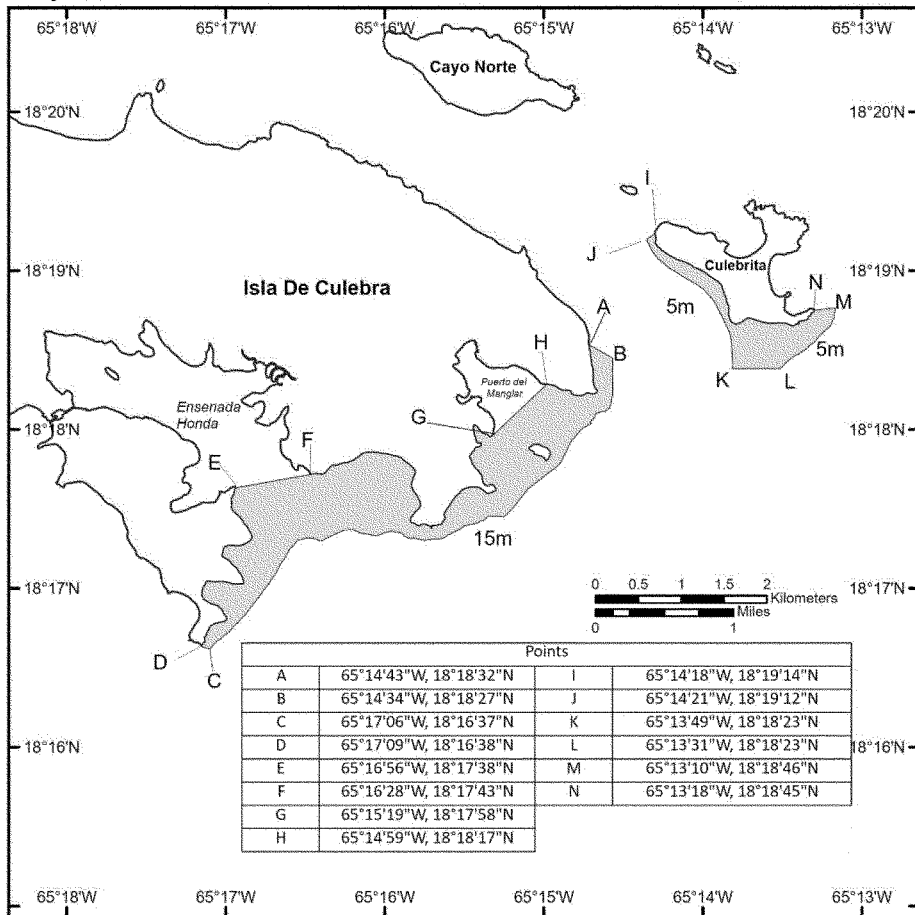


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Proposed Nassau Grouper Critical Habitat




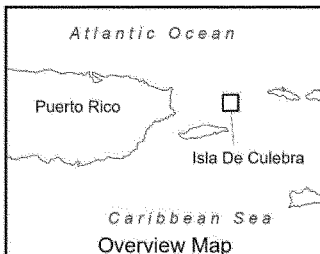
Map 7. Puerto Rico Unit 6 - Isla De Culebra/ Culebrita

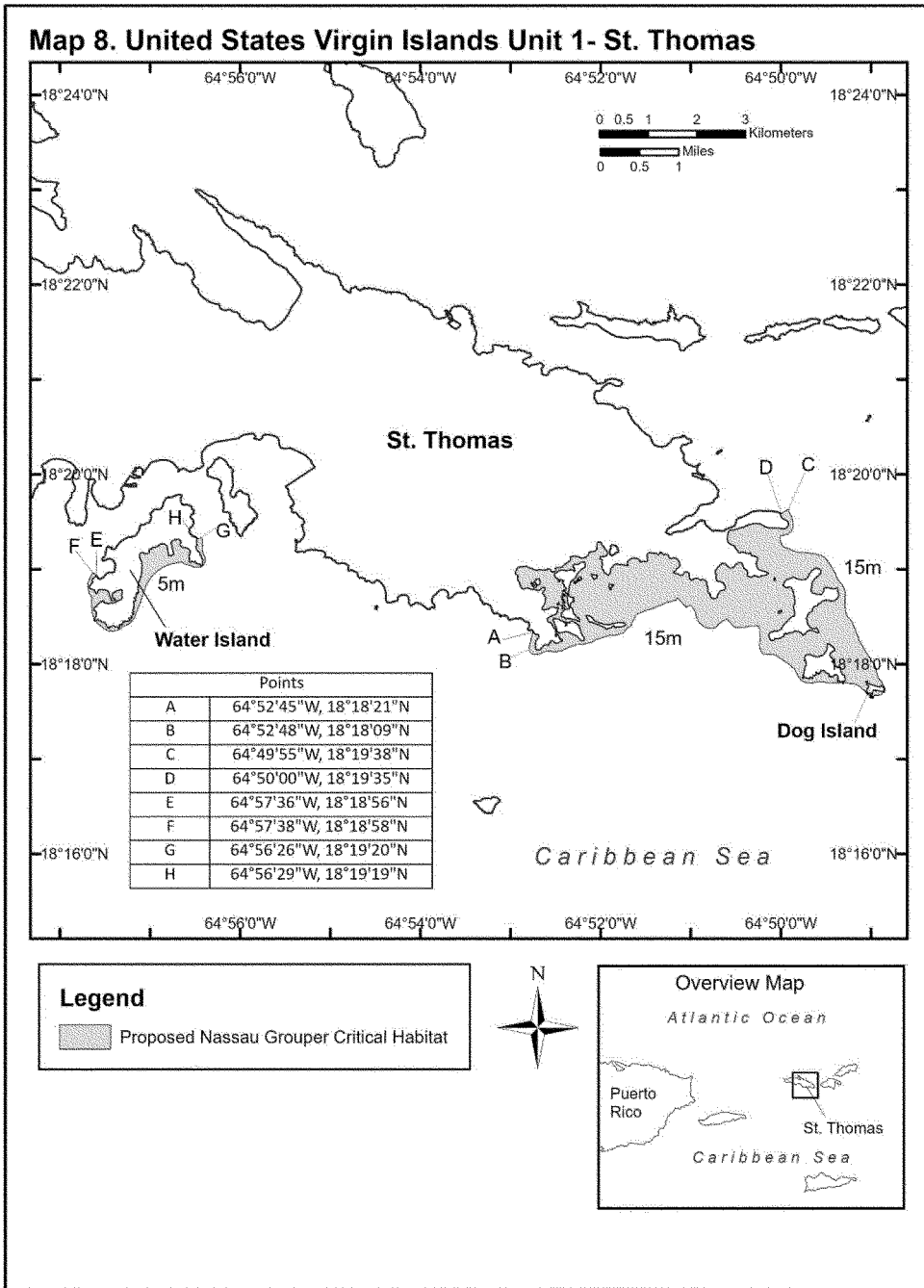


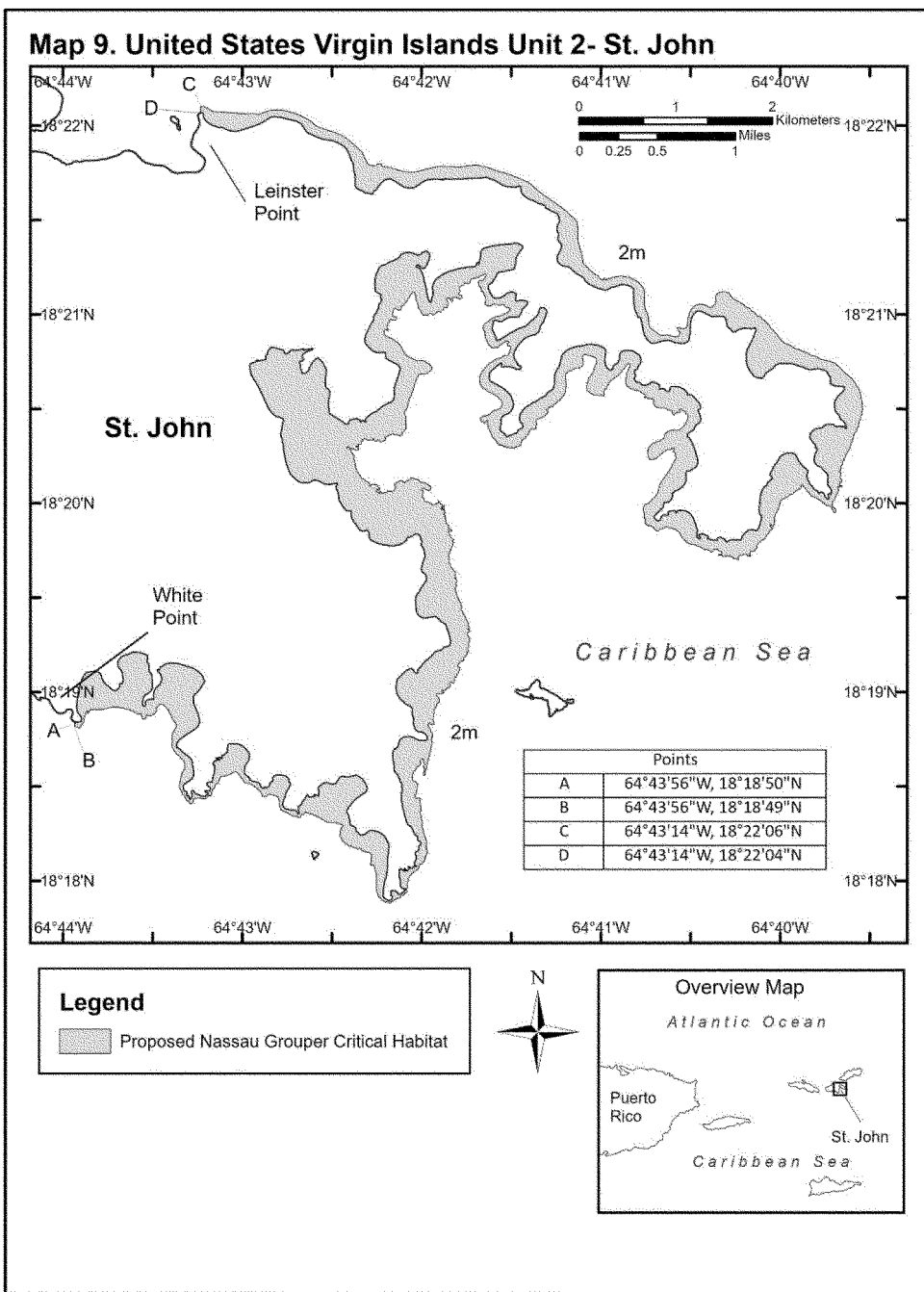
Points			
A	65°14'43"W, 18°18'32"N	I	65°14'18"W, 18°19'14"N
B	65°14'34"W, 18°18'27"N	J	65°14'21"W, 18°19'12"N
C	65°17'06"W, 18°16'37"N	K	65°13'49"W, 18°18'23"N
D	65°17'09"W, 18°16'38"N	L	65°13'31"W, 18°18'23"N
E	65°16'56"W, 18°17'38"N	M	65°13'10"W, 18°18'46"N
F	65°16'28"W, 18°17'43"N	N	65°13'18"W, 18°18'45"N
G	65°15'19"W, 18°17'58"N		
H	65°14'59"W, 18°18'17"N		

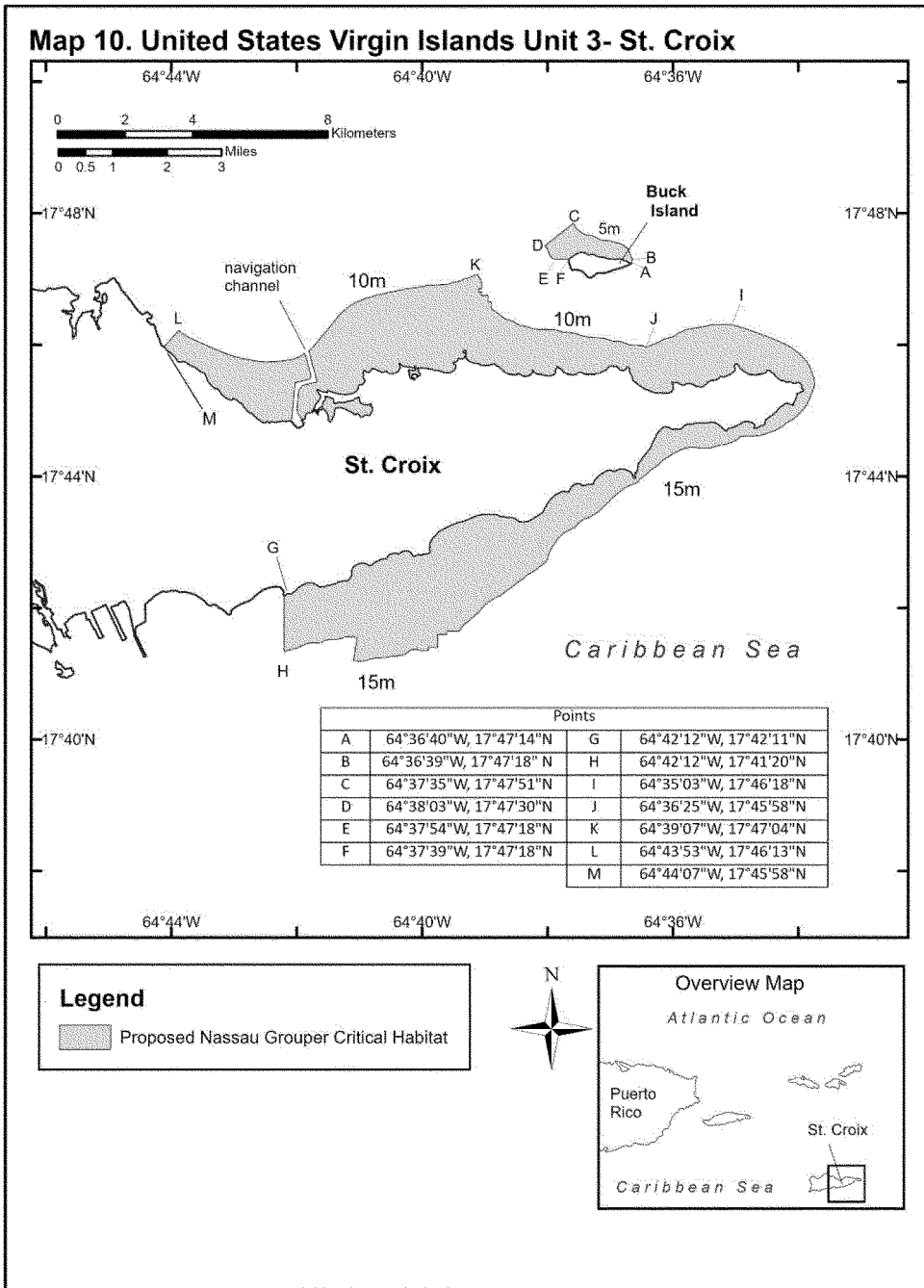
Legend

 Proposed Nassau Grouper Critical Habitat

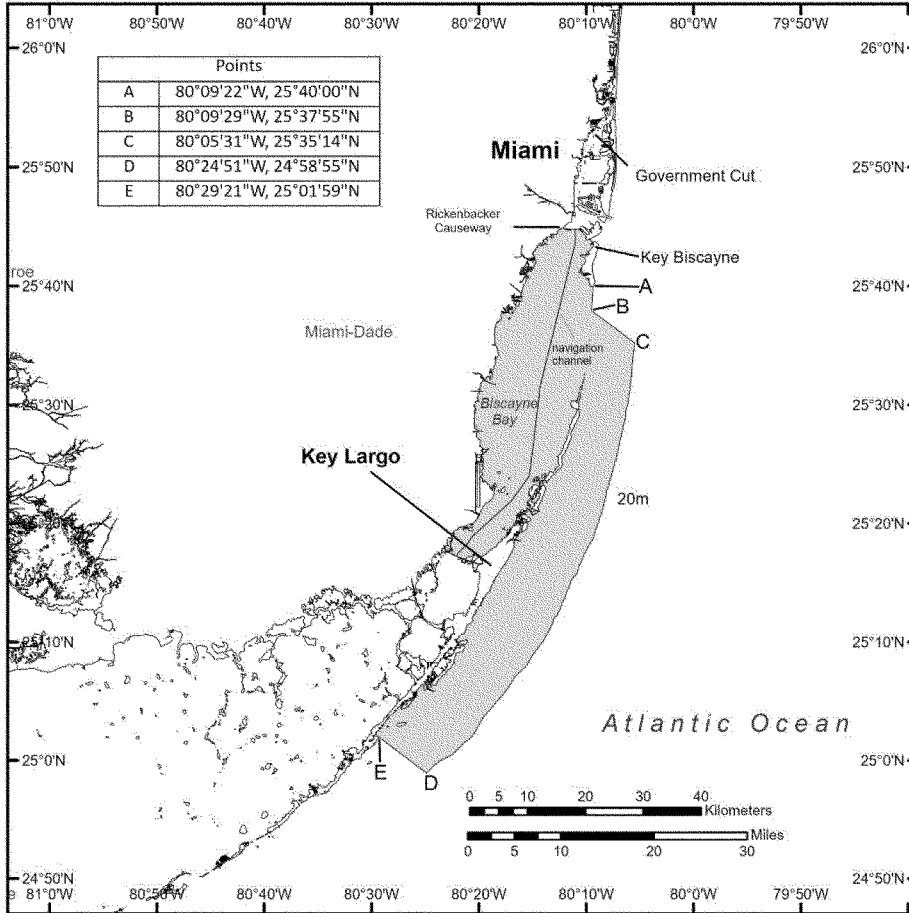








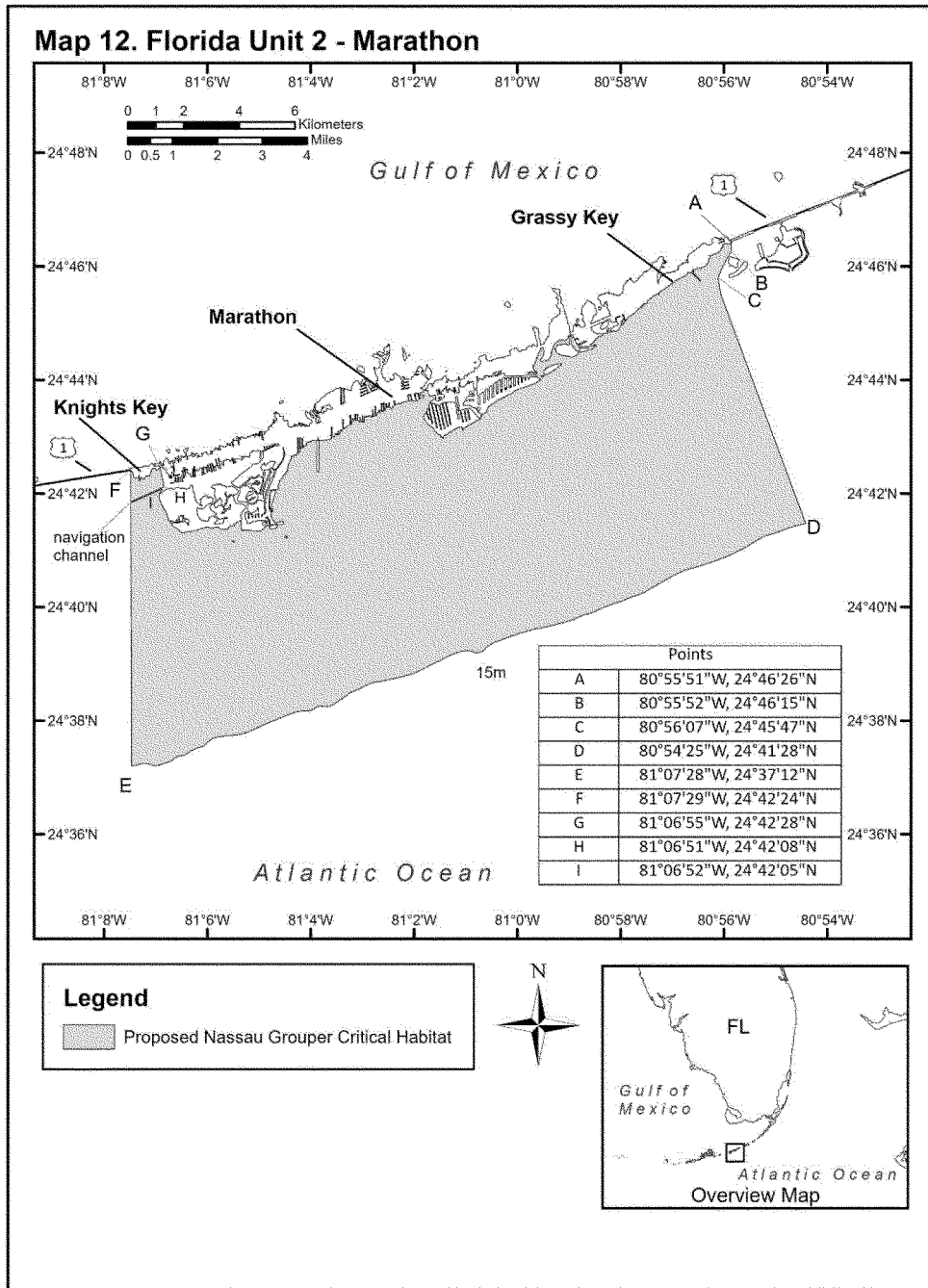
Map 11. Florida Unit 1 - Biscayne Bay/Key Largo



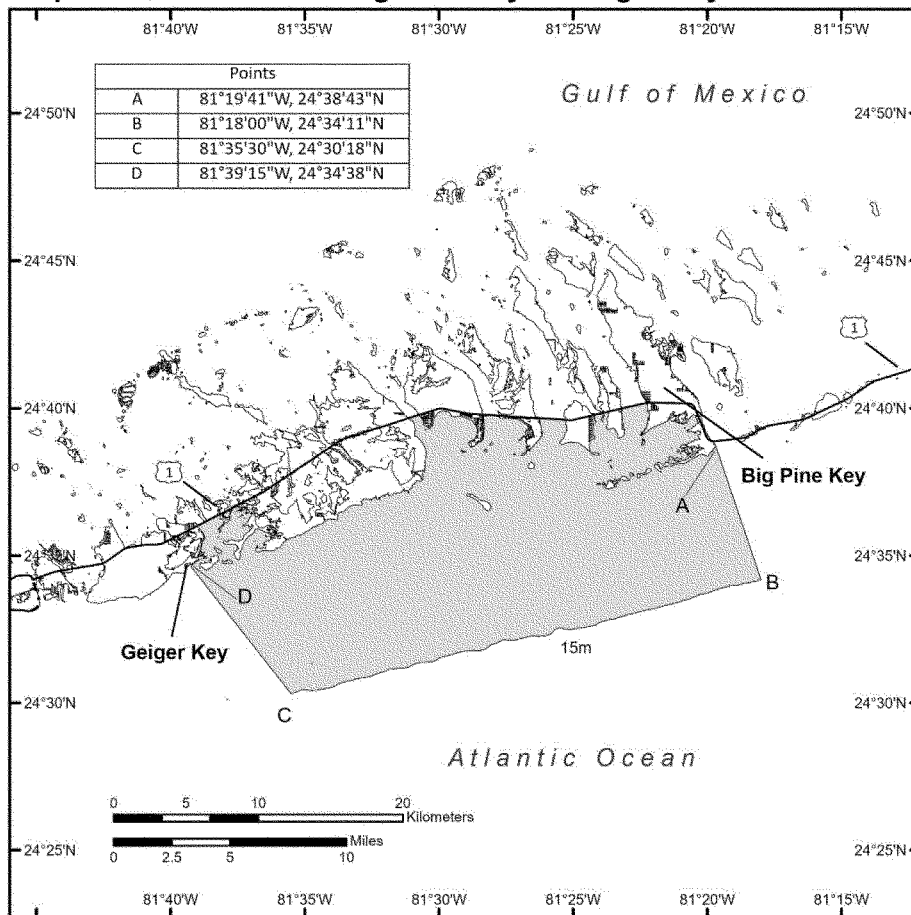
Legend

 Proposed Nassau Grouper Critical Habitat





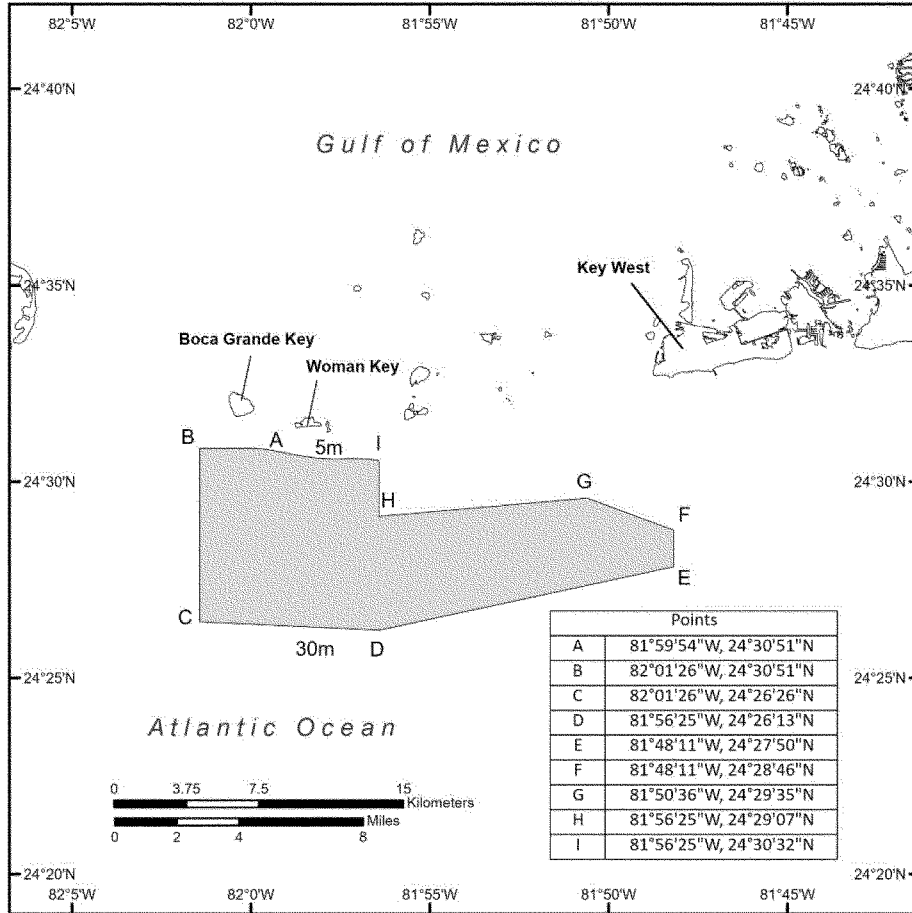
Map 13. Florida Unit 3 - Big Pine Key to Geiger Key



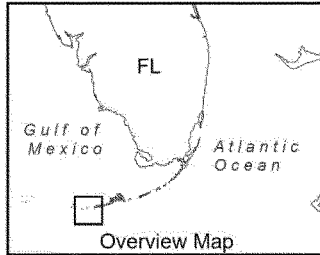
Legend
 Proposed Nassau Grouper Critical Habitat



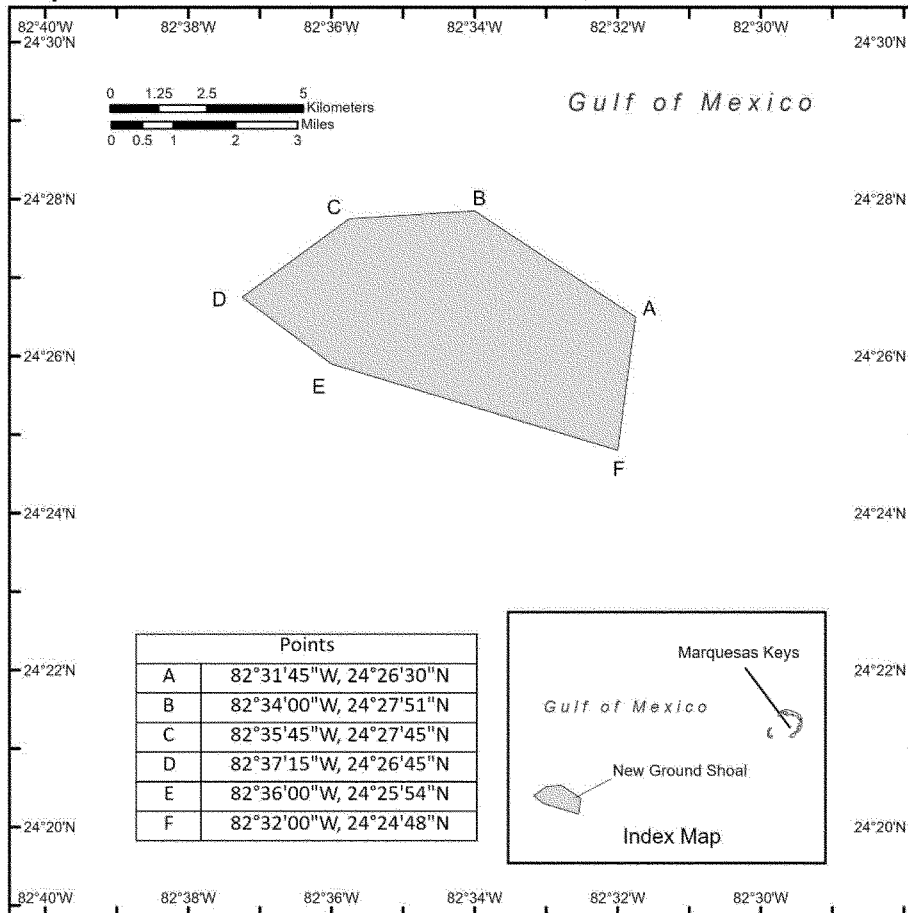
Map 14. Florida Unit 4 - Key West



Legend
[Shaded Box] Proposed Nassau Grouper Critical Habitat

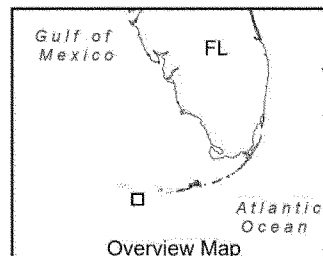


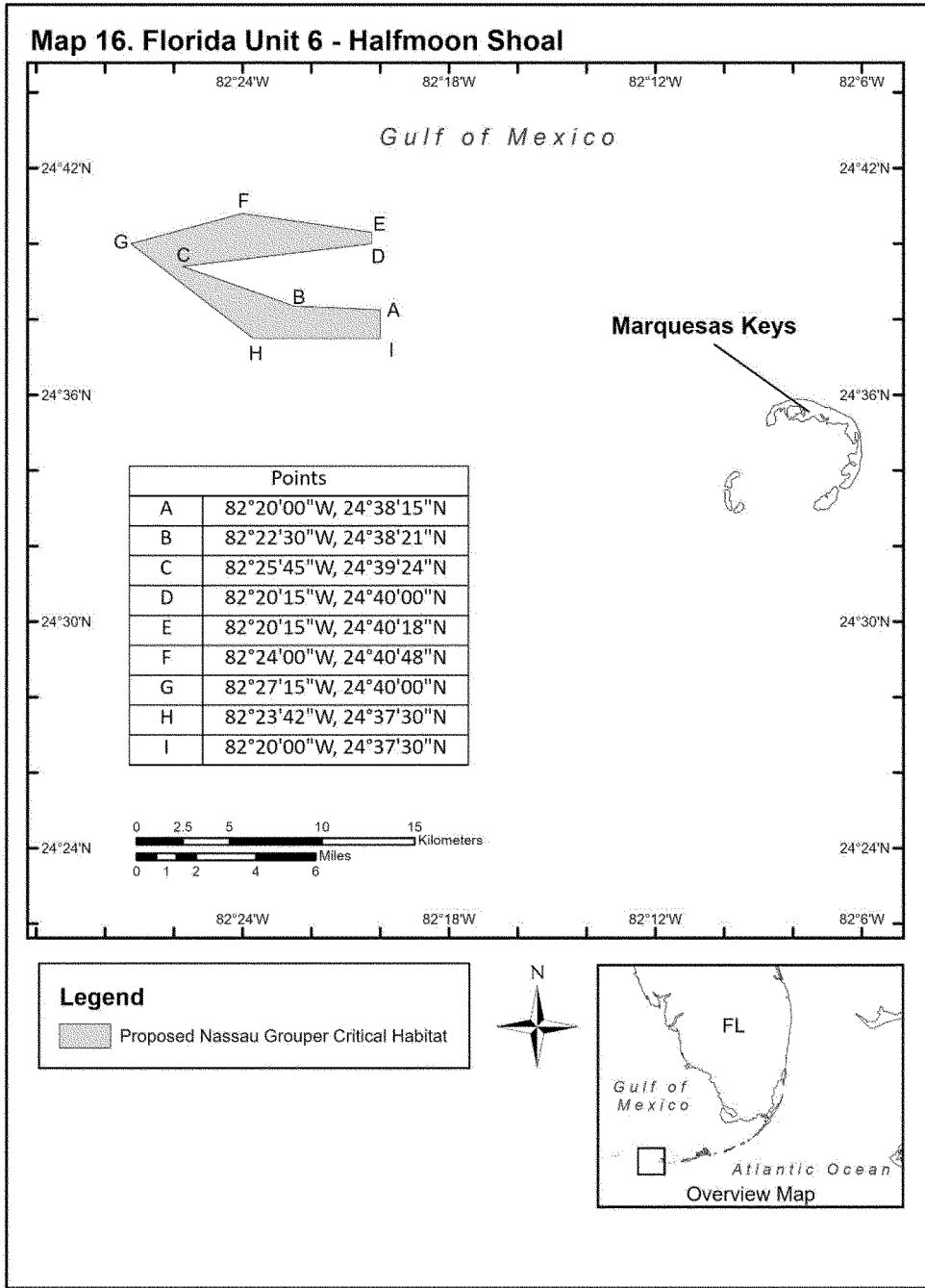
Map 15. Florida Unit 5 - New Ground Shoal



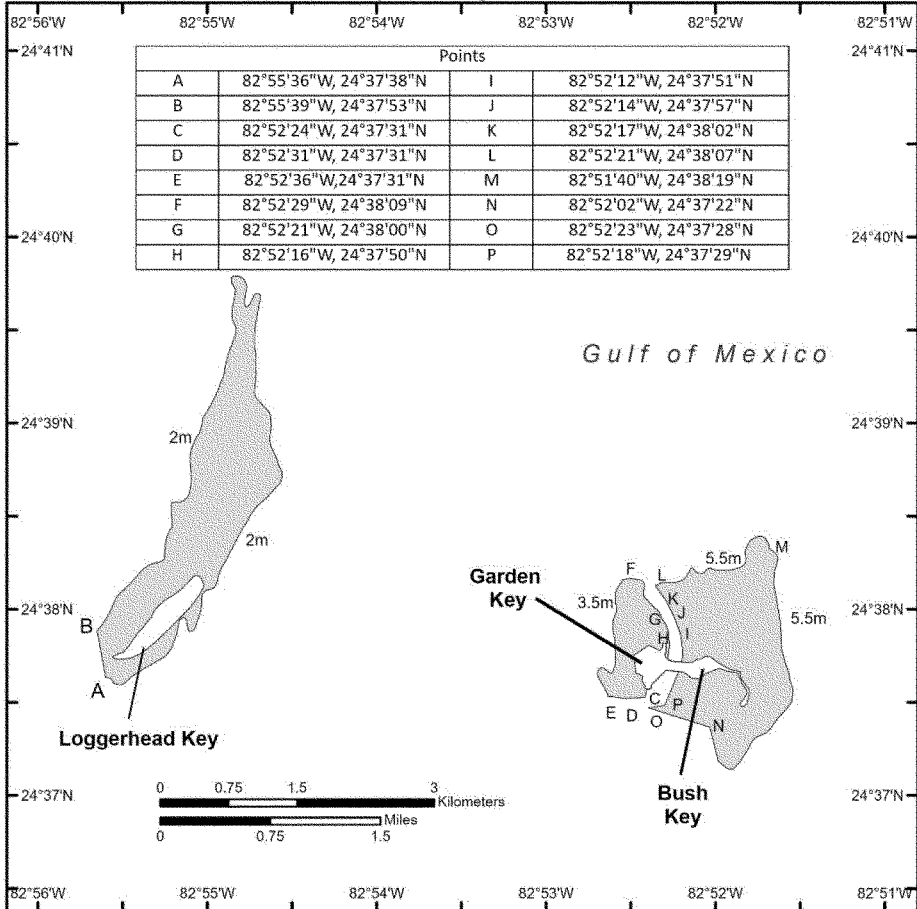
Legend

Proposed Nassau Grouper Critical Habitat



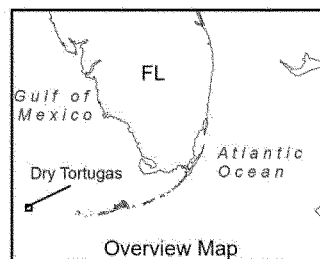


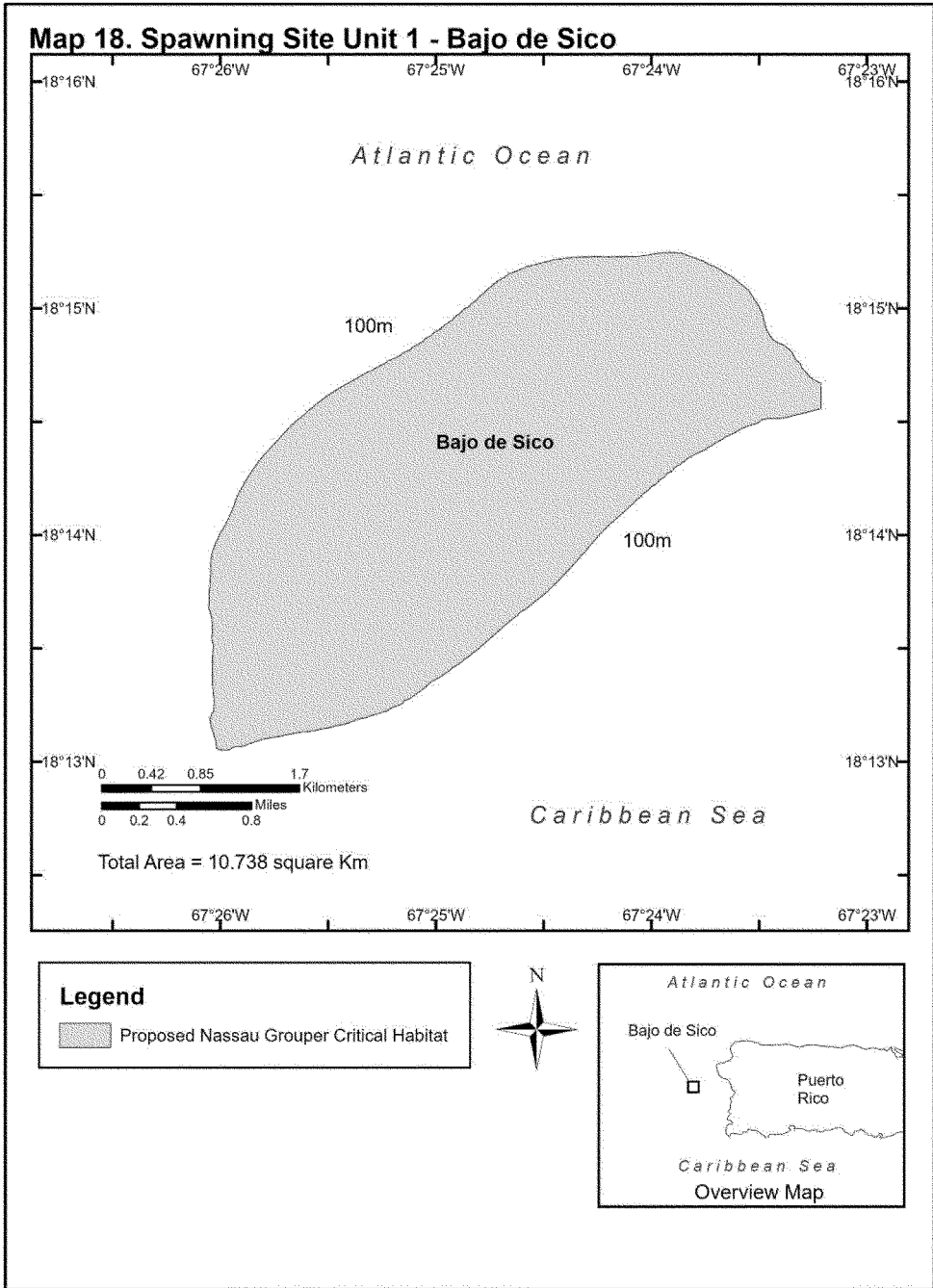
Map 17. Florida Unit 7 - Dry Tortugas

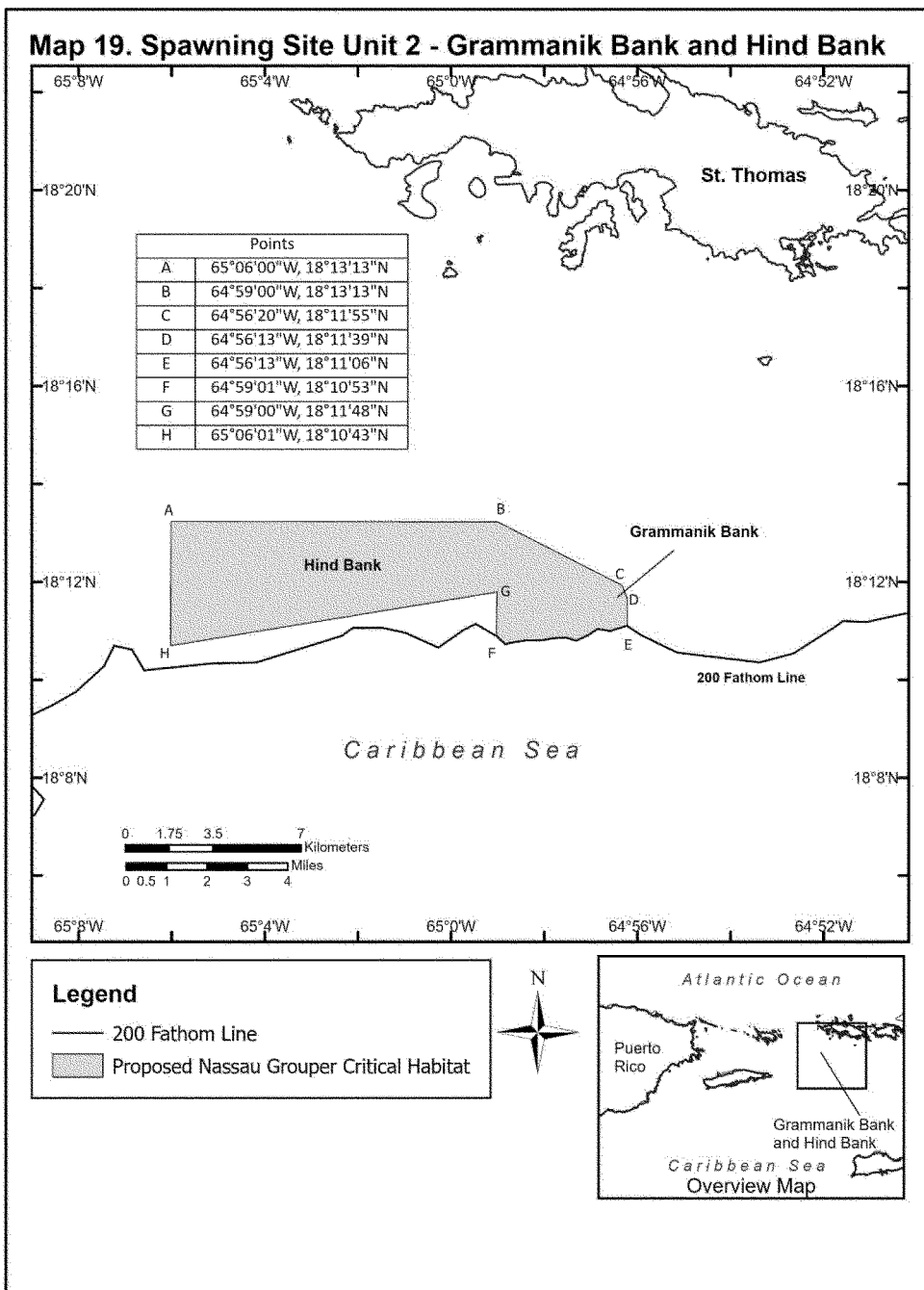


Legend

Proposed Nassau Grouper Critical Habitat







[FR Doc. 2022-22195 Filed 10-14-22; 8:45 am]

BILLING CODE 3510-22-C



FEDERAL REGISTER

Vol. 87

Monday,

No. 199

October 17, 2022

Part III

The President

Notice of October 13, 2022—Continuation of the National Emergency With Respect to the Democratic Republic of the Congo

Presidential Documents

Title 3—

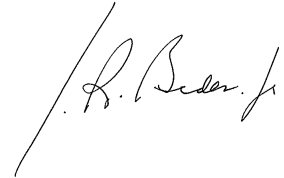
Notice of October 13, 2022

The President**Continuation of the National Emergency With Respect to the Democratic Republic of the Congo**

On October 27, 2006, by Executive Order 13413, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the situation in or in relation to the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability. The President took additional steps to address this national emergency in Executive Order 13671 of July 8, 2014.

The situation in or in relation to the Democratic Republic of the Congo continues to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13413 of October 27, 2006, as amended by Executive Order 13671 of July 8, 2014, must continue in effect beyond October 27, 2022. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo declared in Executive Order 13413, as amended by Executive Order 13671.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
October 13, 2022.

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